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Contents

Federal Register

Vol. 61, No. 68

Monday, April 8, 1996

Agency for Health Care Policy and Research
NOTICES
Meetings:
Health Care Policy and Research special emphasis panel, 15487

Agriculture Department
See Animal and Plant Health Inspection Service
See Cooperative State Research, Education, and Extension Service
See Rural Utilities Service
NOTICES
Import quotas and fees:
Sugar, raw cane, 15458

Animal and Plant Health Inspection Service
RULES
Phytosanitary export certification regulations; revision, 15365–15371
NOTICES
Environmental statements; availability, etc.:
Genetically engineered organisms; field test permits—
Metaseiulus occidentalis (predatory mites), etc., 15458–15459

Antitrust Division
NOTICES
National cooperative research notifications:
Bethlehem Steel Corp. et al., 15520–15521
Exxon Production Research Co., 15521
Healthcare Information Technology Enabling Community Care (HITECC), 15521
National Center for Manufacturing Sciences, Inc., 15521–15522
Spray Drift Task Force, 15522

Centers for Disease Control and Prevention
NOTICES
Meetings:
Prevention of HIV Infection Advisory Committee, 15487

Children and Families Administration
NOTICES
Medicaid:
Welfare reform and combined welfare reform/Medicaid demonstration projects—
March, 15487–15491

Civil Rights Commission
NOTICES
Meetings; Sunshine Act, 15459

Coast Guard
PROPOSED RULES
Drawbridge operations:
Louisiana, 15437–15438
International Conventions on Standards of Training, Certification and Watchkeeping for Seafarers
Meetings, 15438–15439
NOTICES
Committees; establishment, renewal, termination, etc.:
Commercial Fishing Industry Vessel Advisory Committee, 15555
National Offshore Safety Advisory Committee, 15555–15556
Meetings:
Chemical Transportation Advisory Committee, 15556

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
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 15459–15460
Voting age population; 1995 census count, 15460

Cooperative State Research, Education, and Extension Service
NOTICES
Meetings:
Committee of Nine, 15459

Defense Department
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities—
Submission for OMB review; comment request, 15470–15472

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Roxane Laboratories, Inc., 15522–15523
Stepan Co., 15523

Economic Development Administration
RULES
Federal regulatory review:
Public works impact program areas designation; regulations simplification and streamlining; correction, 15371–15372

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Elementary and secondary education—
Migratory children education, 15670–15671
Rehabilitation long-term training program, 15472
Section 504 Self-Evaluation; report availability, 15472–15473

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Hazardous waste:
Land disposal restrictions—
Decharacterized wastewaters, carbamate wastes, and spent potliners (Phase III); partial withdrawal and amendment, 15566–15668

NOTICES
Committees; establishment, renewal, termination, etc.:
Science Advisory Board, 15479–15480
Confidential business information and data transfer, 15480
Meetings:
National Environmental Justice Advisory Council, 15480–15481
Risk Assessment and Risk Management Commission; correction, 15481
Science Advisory Board, 15481–15482

Equal Employment Opportunity Commission
RULES
Age Discrimination in Employment Act:
Apprenticeship programs coverage, 15374–15378

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

Export Administration Bureau
NOTICES
Meetings:
Transportation and Related Equipment Technical Advisory Committee, 15460–15461

Federal Aviation Administration
RULES
Airworthiness standards:
Special conditions—
McDonnell Douglas model DC9–10, –20, –30, –40, –50 airplanes, 15372
PROPOSED RULES
Airworthiness directives:
Textron Lycoming, 15430–15432
Class E airspace, 15432–15434
NOTICES
Agency information collection activities:
Proposed collection; comment request, 15556–15557
Airport noise compatibility program:
Noise exposure map—
Chattanooga Metropolitan (Lovell Field) Airport, TN, 15557–15558
Environmental statements; availability, etc.:
Seattle-Tacoma International Airport, WA, 15558–15559
Exemption petitions; summary and disposition, 15559–15560
Meetings:
Aviation Rulemaking Advisory Committee, 15560

Federal Communications Commission
RULES
Radio services, special:
Amateur services—
219–220 MHz band; use allocation, 15382–15386
Television broadcasting:
Cable Television Consumer Protection and Competition Act of 1992—
Rate regulation, 15388–15389
Telecommunications Act of 1996; broadcast networks and cable television systems; cross-ownership restrictions elimination, etc., 15387–15388
PROPOSED RULES
Common carrier services:
U.S. network protection standard; harmonization with Canadian network protection standard, 15441–15442
Radio broadcasting:
Broadcast facilities; minor changes without construction permit, 15439–15441
Radio stations; table of assignments:
Iowa et al., 15442
Mississippi et al., 15443
Wyoming, 15442

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
IES Utilities, Inc., et al., 15474–15476
Environmental statements; availability, etc.:
Southern California Edison Co., 15476
Natural gas certificate filings:
Williston Basin Interstate Pipeline Co. et al., 15476–15477
Natural gas companies (Natural Gas Act):
Uniform system of accounts, forms, statements, and reporting requirements; revisions, 15477–15479
Applications, hearings, determinations, etc.:
e prime, inc., 15473
National Fuel Gas Supply Corp.; correction, 15564
Universal Power Services, L.L.C., 15473–15474

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 15483–15484
Formations, acquisitions, and mergers, 15483
Permissible nonbanking activities, 15482–15483

Federal Trade Commission
NOTICES
Prohibited trade practices:
Equifax Credit Information Services, Inc., 15484
Eskimo Pie Corp., 15484
First Data Corp., 15484–15485
IHI Clinics, Inc., et al., 15485
Jerry's Ford Sales, Inc., et al., 15485
Prohibited trade practices:
Original Marketing, Inc., et al., 15485–15486

Federal Transit Administration
NOTICES
Environmental statements; availability, etc.:
Canal Street Spine Streetcar Project, New Orleans, LA, 15560–15562
Salt Lake City, UT; transportation improvements, 15562

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Northern spotted owl, 15452
NOTICES
Environmental statements; availability, etc.:
Incidental take permits—
Travis County et al., TX; golden-cheeked warbler, etc., 15506–15507
Travis County, TX; golden-cheeked warbler, 15507
Williamson County, TX; golden-cheeked warbler, 15507–15508
Meetings:
Aquatic Nuisance Species Task Force, 15508–15509

Foreign Assets Control Office
RULES
Iranian assets control regulations:
Shams Pahlavi; assets unblocked
Correction, 15382

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Indiana
Thomson Consumer Electronics, Inc.; consumer electronics products warehouse/distribution facilities, 15461

General Services Administration
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities—
Submission for OMB review; comment request, 15470–15472

Government Printing Office
NOTICES
Meetings:
Online access to Federal Register and other Federal databases; demonstration, 15486

Health and Human Services Department
See Agency for Health Care Policy and Research
See Centers for Disease Control and Prevention
See Children and Families Administration
See Health Care Financing Administration
See National Institutes of Health
RULES
Grants administration:
Higher education institutions, hospitals, and other non-profit organizations; uniform administrative requirements and definitions, etc. (OMB A–110)
Correction, 15564
NOTICES
Agency information collection activities:
Proposed collection; comment request, 15486–15487

Health Care Financing Administration
NOTICES
Medicare and Medicaid:
Program issuances and coverage decisions; quarterly listing, 15491–15504

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Public and Indian housing—
Drug elimination program, 15674–15693

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service
See Reclamation Bureau
See Surface Mining Reclamation and Enforcement Office
RULES
Acquisition regulations:
Foreign acquisition, etc.; Federal regulatory reform, 15389–15390

International Trade Administration
NOTICES
Antidumping:
Large power transformers from—
France, 15461–15463
Porcelain-on-steel cookingware from—
Mexico, 15463–15464
Sparklers from—
China, 15464–15465
Tapered roller bearings and parts, finished and unfinished, from—
Romania, 15465–15468
Uranium from—
Kazakstan et al., 15468–15469
Applications, hearings, determinations, etc.:
University of—
California, Davis, 15469
Indiana, 15469
Tulane Hospital and Clinic et al., 15469

Justice Department
See Antitrust Division
See Drug Enforcement Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 15516–15517
Pollution control; consent judgments:
Fort Howard Corp., 15517–15518
International Paper Co. et al., 15518
USA Waste Services, Inc., 15518
Privacy Act:
Systems of records, 15518–15520

Labor Department
See Occupational Safety and Health Administration

Land Management Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 15509–15511
Committees; establishment, renewal, termination, etc.:
New Mexico Resource Advisory Council, 15511–15512
Realty actions; sales, leases, etc.:
Arizona, 15512
Nevada, 15512–15513
Recreation management restrictions, etc.:
Coos Bay District, OR; supplementary rules establishment, 15513
Withdrawal and reservation of lands:
Idaho, 15513–15514

National Aeronautics and Space Administration
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities—
Submission for OMB review; comment request, 15470–15472

National Archives and Records Administration
NOTICES
Agency records schedules; availability, 15525

National Credit Union Administration
NOTICES
Meetings; Sunshine Act, 15525

National Highway Traffic Safety Administration
RULES
Motor vehicle theft prevention standard:
High theft lines for 1997 model year; listing, 15390–15394
PROPOSED RULES
Insurer reporting requirements:
Insurers required to file reports; list, 15443–15446
Motor vehicle safety standards:
Windshield defrosting and defogging systems; Federal regulatory review, 15449–15452

Windshield wiping and washing systems; Federal regulatory review, 15446–15449

National Institutes of Health
NOTICES
Meetings:
National Institute of Dental Research, 15505
National Institute of Mental Health, 15505–15506
National Institute on Aging, 15504–15505
National Institute on Deafness and Other Communication Disorders, 15505
Research Grants Division special emphasis panels, 15506

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
Western Pacific crustacean, 15452–15457
NOTICES
Meetings:
Gulf of Mexico Fishery Management Council, 15469–15470

National Park Service
NOTICES
Environmental statements; availability, etc.:
Manhattan Sites, NY, 15514–15515
Meetings:
Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission, 15515

National Science Foundation
NOTICES
Meetings:
Cognitive, Psychological and Language Sciences Advisory Panel, 15525–15526
Economics, Decision and Management Sciences Advisory Panel, 15526
Social and Political Sciences Advisory Panel, 15526

Nuclear Regulatory Commission
PROPOSED RULES
Production and utilization facilities; domestic licensing:
Nuclear power plants—
Decommissioning; financial assurance requirements, 15427–15430
NOTICES
Applications, hearings, determinations, etc.:
Applied Health Physics, Inc., 15526–15529

Occupational Safety and Health Administration
PROPOSED RULES
Occupational injury and illness; recording and reporting requirements:
Meeting and comment period extended, 15435
NOTICES
Committees; establishment, renewal, termination, etc.:
Maritime Advisory Committee for Occupational Safety and Health, 15523–15524
Meetings:
Maritime Advisory Committee for Occupational Safety and Health, 15524

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

Personnel Management Office
NOTICES
Excepted service:
Schedules A, B, and C; positions placed or revoked—Update, 15529–15530

Presidential Documents
PROCLAMATIONS
Special observances:
Death of Those Aboard U.S. Air Force Aircraft in Croatia (Proc. 6878), 15363

Public Health Service
See Agency for Health Care Policy and Research
See Centers for Disease Control and Prevention
See National Institutes of Health

Railroad Retirement Board
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 15530

Reclamation Bureau
NOTICES
Meetings:
Bay-Delta Advisory Council, 15515–15516

Rural Utilities Service
PROPOSED RULES
Single family housing; reengineering and reinvention of direct section 502 and 504 programs, 15395–15427

Securities and Exchange Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 15530
Investment advisers; registration cancellations; list, 15533–15537
Meetings; Sunshine Act, 15537
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 15537–15539
Chicago Board Options Exchange, Inc., 15539–15544
Chicago Stock Exchange, Inc., 15544–15545
New York Stock Exchange, Inc., 15546–15549
Philadelphia Stock Exchange, Inc., 15549–15553
Applications, hearings, determinations, etc.:
SEI Institutional Managed Trust et al., 15530–15533

Social Security Administration
NOTICES
Organization, functions, and authority delegations:
Deputy Commissioner for Systems, 15553–15554

State Department
NOTICES
International airports; ineffective security measures:
Hellenikon International Airport, Athens, Greece, 15554

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program and abandoned mine land reclamation plan submissions:
Indiana, 15378–15380
Texas, 15380–15382
PROPOSED RULES
Permanent program and abandoned mine land reclamation plan submissions:
Indiana, 15435
Oklahoma, 15435–15437

Surface Transportation Board
NOTICES
Railroad operation, acquisition, construction, etc.:
Kansas City Southern Railway Co., 15562–15563

Trade Representative, Office of United States
NOTICES
Meetings:
Trade and Environment Policy Advisory Committee, 15554–15555

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Transit Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board

Treasury Department
See Foreign Assets Control Office
NOTICES
Boycotts, international:
Countries requiring cooperation; list, 15563

United States Information Agency
RULES
Exchange visitor program:
Program extension procedures, research programs design and conduct, etc., 15372–15374

Separate Parts In This Issue

Part II
Environmental Protection Agency, 15566–15668

Part III
Department of Education, 15670–15671

Part IV
Department of Housing and Urban Development, 15674–15693

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

Electronic Bulletin Board
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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:

6878.....15363

7 CFR

353.....15365

354.....15365

Proposed Rules:

3550.....15395

10 CFR

Proposed Rules:

50.....15427

13 CFR

301.....15371

14 CFR

25.....15372

Proposed Rules:

39.....15430

71 (2 documents) 15432, 15434

22 CFR

514.....15372

29 CFR

1625.....15374

Proposed Rules:

1904.....15435

1952.....15435

30 CFR

914.....15378

943.....15380

Proposed Rules:

914.....15435

936.....15435

31 CFR

535.....15382

33 CFR

Proposed Rules:

117.....15437

40 CFR

148 (2 documents) 15566, 15660

268 (2 documents) 15566, 15660

271.....15566

403 (2 documents) 15566, 15660

45 CFR

74.....15564

46 CFR

Proposed Rules:

10.....15438

12.....15438

15.....15438

47 CFR

2.....15382

21.....15387

76 (2 documents) 15387, 15388

97.....15382

Proposed Rules:

1.....15439

68.....15441

73 (4 documents) 15439, 15442, 15443

74.....15439

48 CFR

1425.....15389

1452.....15389

49 CFR

541.....15390

Proposed Rules:

544.....15443

571 (2 documents) 15446, 15449

50 CFR

Proposed Rules:

17.....15452

681.....15452

Federal Register
Vol. 61, No. 68
Monday, April 8, 1996

Presidential Documents

Title 3—

The President

Proclamation 6878 of April 4, 1996

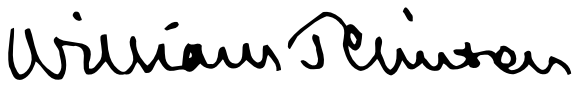
Death of Those Aboard U.S. Air Force Aircraft in Croatia

By the President of the United States of America

A Proclamation

As a mark of respect for Secretary Ronald H. Brown and all those killed in the April 3, 1996, crash of the U.S. Air Force aircraft in Croatia, I hereby order, by the authority vested in me as President of the United States of America by section 175 of title 36 of the United States Code, that the flag of the United States shall be flown at half-staff at the White House and upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions through Wednesday, April 10, 1996. I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of April, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twentieth.



[FR Doc. 96–8828
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Rules and Regulations

Federal Register
Vol. 61, No. 68
Monday, April 8, 1996

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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 353 and 354

[Docket No. 90–117–3]

RIN 0579–AA54

Export Certificates

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are revising the ''Phytosanitary Export Certification'' regulations, which concern inspection and phytosanitary certification of plants and plant products offered for export.

The changes we are making will: Revise the requirements for qualifying as an inspector; allow persons other than inspectors, to be known as ''agents,'' to perform phytosanitary field inspections; provide for use of a form specifically for certification of processed plant products offered for export; provide for phytosanitary certification of plants and plant products that are offered for reexport from the United States after having been legally imported into the United States; provide for industry-issued certification of certain plant products under terms of an agreement between the industry and the Animal and Plant Health Inspection Service; and specify that we will issue only one certificate for any export consignment.

These actions will facilitate the export of American agricultural products by providing additional types of certifications and ensuring that a sufficient number of qualified individuals are available to carry out Federal certification activities. We are also making minor editorial changes to our user fee regulations for imports and exports.

EFFECTIVE DATE: May 8, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Narcy Klag, Senior Operations Officer, Port Operations, PPQ, APHIS, 4700 River Road Unit 139, Riverdale, Maryland 20737–1236; (301) 734–8537.

SUPPLEMENTARY INFORMATION:

Background

The Phytosanitary Export Certification regulations, contained in 7 CFR part 353 (referred to below as the regulations), set forth procedures for obtaining phytosanitary certificates for domestic plants and plant products offered for export.

On August 16, 1995, we published in the Federal Register (60 FR 42472–42479, Docket No. 90–117–1) a proposal to amend the regulations to: (1) Revise the requirements for qualifying as an inspector; (2) allow persons other than inspectors to perform phytosanitary field inspections; (3) provide for use of a form specifically for certification of processed plant products offered for export; (4) provide for phytosanitary certification of plants and plant products that are offered for reexport from the United States after having been legally imported into the United States; (5) provide for industry-issued certification of certain plant products under terms of an agreement between the industry and the Animal and Plant Health Inspection Service; and (6) specify that we will issue only one certificate for any export consignment.

Comments and Responses

We solicited comments concerning our proposal for 30 days ending September 15, 1995. We reopened and extended the deadline for comments until October 16, 1995, in a document published in the Federal Register on September 18, 1995 (Docket No. 90–117–2, 60 FR 48056). We received 14 comments by that date. They were from producers, exporters, researchers, and representatives of State and foreign governments. They are discussed below by topic.

Training of Agents

Several commenters suggested that the Animal and Plant Health Inspection Service (APHIS) should take more responsibility for providing, funding, and ensuring the quality of the annual training required of agents by proposed § 353.6(a)(2)(iii). They felt it was an unwarranted strain on State resources to provide training for agents engaged primarily in activities connected with the issuance of Federal export certificates. Some also felt that APHIS should establish standards for this training to ensure that agents trained in all States have the necessary skills to perform their duties.

APHIS intends to provide some assistance to States including technical expertise and assistance in developing training materials with respect to the training of agents; however, the extent of assistance will vary from year to year. While providing training is no doubt a strain on some States' resources, we believe that the benefits of the Cooperative Phytosanitary Export Certification Program (the program) will outweigh its costs for most or all States. States may withdraw from the voluntary program if they find this is not the case. Because participation is voluntary, requirements of the program do not constitute an unfunded Federal mandate.

Regarding standards for the content of agent training courses, the proposal specified the standard course requirements we consider necessary for agents. Section 353.6(a)(3) states that the required training must include instruction in inspection procedures, identification of plant pests of quarantine importance to importing countries, methods of collection and submission of specimens (organisms and/or plants or plant parts) for identification, and preparation and submission of inspection report forms approved by the State plant regulatory agency. We cannot provide more detailed training guidance because of the wide variation between States with regard to crops and pests of concern and State regulatory agency procedures. We believe the proposed paragraph will ensure that agents receive training in the necessary skills, without being unnecessarily restrictive.

One commenter suggested that the training requirement for agents should specify that they should successfully complete the training, not just receive the training. We agree, and are changing § 353.6(a)(3) to incorporate this suggestion.

Allowing State Employees Who Are Not Agents to Perform Field Inspections

Regarding the use of trained and authorized agents to perform phytosanitary field inspections as the

basis for certification, one commenter questioned whether employees of State plant protection agencies who are not agents could perform this work, under the supervision of an inspector. The commenter stated that this approach would be more acceptable because most field inspections are done by seasonal employees, such as college students who have not yet completed the education or experience requirements to be agents.

The commenter believed that while such employees might not be able to be certified as agents under the regulations, they could undergo the annual training required for agents and could successfully perform field inspections under the supervision of inspectors.

This comment distinguishes between field inspections which are performed by official employees of a State agency, and inspections performed by agents in general (e.g., agents employed by private businesses).

We agree that properly trained and supervised State plant protection agency employees could effectively perform field inspections, even if they do not have all the qualifications necessary to be designated as agents. State agencies have employed students to do this type of work for many years, with good results. We believe that State agencies, through long experience, have developed the management controls, degree of supervision, and training programs that allow them to use temporary or seasonal employees effectively in support of regulatory programs.

Therefore we are changing the first sentence of § 353.6 to permit agents, inspectors, or employees of a State plant regulatory agency who are authorized by the agency to perform field inspections. Authorized State employees are required to successfully complete annual training provided by the State plant regulatory agency in accordance with paragraph (a)(2)(iii) of § 353.6. Employees of a State plant protection agency who are not agents may perform field inspections only under the supervision of an inspector.

This change in response to comments will allow the effective use of State employees in conducting field inspections, while ensuring these employees have the training and supervision to conduct proper inspections. Regarding field inspections performed by persons other than State plant protection agency employees, this final rule continues to require that only agents may perform field inspections. We established the training and experience standards for agents precisely to prevent the use of employees whose skills are undetermined, and who are not bound by the well-established management controls of State agencies, from performing field inspections. We believe that private agents must possess the skills and experience described in this rule if the program is to operate successfully and be accepted with confidence.

Enforcement and Penalties

Two commenters suggested that a significant number of industry-issued certificates (non-phytosanitary certificates issued by a company or industry association under § 353.7(d)) might be inaccurate or fraudulent, unless there is close monitoring and visible enforcement of the regulatory requirements.

APHIS acknowledges the possibility that some inaccurate or fraudulent certificates may be issued by industry. However, as one commenter pointed out, it is in the long-term best interest of the exporting industries to issue certificates accurately. The threat of loss of business, if an inaccurate or fraudulent certificate is discovered, is an effective deterrent.

In addition, APHIS intends to monitor the accuracy of industry-issued certificates, and to investigate reports of inaccurate or fraudulent certificates. Foreign plant protection services routinely report to APHIS inaccurate information found in certificates. APHIS can immediately terminate an agreement, and therefore, the authority of a company to issue certificates, upon a determination that articles were moved in violation of the regulations or any provision of the required agreement. If an agreement has been withdrawn, the individual or company representative cannot obtain a new agreement to issue certificates for at least 12 months, in accordance with § 353.7(d)(2).

Loss of business and the possible withdrawal of authority to issue certificates are therefore two strong motivations for companies to comply with the regulations. In addition, civil and criminal penalties may apply for willful violation of the regulations. For example, 18 U.S.C. 1001 provides that anyone who makes false, fictitious, or fraudulent statements or representations regarding a matter within the jurisdiction of a Federal agency is subject to a fine of up to $10,000, imprisonment for up to five years, or both.

Several commenters stated that the major part of the expense and the enforcement burden for this program seems to fall upon the States, because their inspectors and agents will be delivering most of the front-line services. Commenters especially noted the responsibilities of States to coordinate use of agents and to use State inspectors to issue phytosanitary certificates.

We believe that States will play an important role in providing services, ensuring the integrity of the program, and identifying possible violations. It is expected that for most States, the benefits of participating in this program will outweigh the costs. If a State finds this is not the case, the State may withdraw from this voluntary program. In addition to the States, the involved industries, foreign plant protection services, and APHIS also play important roles in sharing information and conducting enforcement activities. In the long run, APHIS hopes to work with States and industry to establish a level of cooperation and compliance in this program that does not require a heavy investment, State or Federal, in traditional enforcement activities. This program will not succeed if compliance depends mainly on continuing strict monitoring and enforcement activities; it will only succeed if a majority of the governments, organizations, and companies involved all perceive continuing benefits in complying with program standards.

Allowing Only One Certificate To Be Issued for Each Consignment

Two commenters suggested changing proposed § 353.5(c), which states that only one certificate for any consignment shall be issued. These commenters believe that this provision could cause problems for both inspectors and exporters because large consignments are sometimes broken up and shipped on separate vessels after the certificate is issued. For example, an inspector might issue one certificate for a consignment which is then shipped in multiple railcars to an ocean port, where the contents could be transferred to more than one ocean vessel for export. Under these circumstances, enough certificates are needed to accompany multiple vessels.

We believe that issuing one certificate per consignment is an important part of our effort to reform and improve export certification. Limiting the number of certificates in circulation increases control over the authenticity and accuracy of the certificates, reduces the demand on APHIS and State resources, and in some instances saves the exporter the cost of obtaining multiple certificates. In addition, issuing one certificate per consignment is consistent with the International Plant Protection Convention standards for issuing

certificates and safeguarding their integrity.

The program has enough operational flexibility to avoid the types of problems described in the commenters' examples. In the case described above, the shipment would actually constitute multiple consignments because the term ''consignment'' is defined as ''One shipment of plants or plant products, from one exporter, to one consignee, in one country, on one means of conveyance; or any mail shipment to one consignee.'' Therefore, multiple certificates could be issued. It is true that exporters would have to know the number of consignments involved in their transaction when they request the certificates, but we believe that most exporters possess this information as part of the normal business planning process. Also, if the exporter discovers when a shipment is being repacked, containerized, or loaded at a seaport that the shipment will be sent on multiple vessels, there will usually be enough time for the exporter to request any necessary replacement certificates from the inspector who issued the original certificate. The replacement certificates could be sent by express mail to the port of arrival where the certified shipment is destined. Therefore, we are not making any change based on this comment.

Definition of Phytosanitary Certificate

One commenter noted that the revised definition of phytosanitary certificate states that the certificate will be issued based on inspection of the entire lot, which is not inconsistent with the current practice of inspecting a representative sample. We agree, and are changing the definition of phytosanitary certificate in § 353.1 and § 354.3 to retain the sense of the language prior to the proposal, ''based on inspection of the entire lot or representative samples.'' For clarity, we are adding a description of who may draw representative samples. The revised definition of phytosanitary certificate states that the certificate will be issued ''based on inspection of the entire lot or representative samples drawn by a Federal or State employee authorized to conduct such sampling.''

Qualifying Experience for Inspectors

One commenter pointed out that § 353.6(b)(2)(i) stated that inspectors must have experience in State or county regulatory activities. This commenter suggested that experience in Federal regulatory activities should also qualify.

We agree, and are changing the regulation to include experience in Federal regulatory activities as qualifying experience.

Participation by Puerto Rico

One commenter asked whether the Commonwealth of Puerto Rico would be eligible to participate in the Cooperative Phytosanitary Export Certification Program. The answer is yes; the Commonwealth is considered a State under the definition employed in this rule.

Other Comments

Several commenters submitted comments and suggestions outside the scope of the current rulemaking. We are evaluating these comments in the context of possible rulemaking on other subjects in the future.

One commenter seemed to misunderstand the relationship of phytosanitary certification, which is for plants or plant products, and the export certificate for processed plant products, which is not a phytosanitary certificate. This commenter seemed to think that the export certificate was a certification of the quality and consistency of the processed product, similar to the marketing standards documentation issued by the Agricultural Marketing Service. Since this comment did not address issues raised in the proposal, no changes were made in response to this comment.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule with the changes discussed in this document.

Review of Existing Regulations

This final rule is part of the cyclical review of Part 353—Phytosanitary Export Certification, to meet regulatory review requirements and in support of the President's Regulatory Reinvention Initiative. Executive Order 12866 and Departmental Regulation 1512–1 require that agencies initiate reviews of currently effective rules to reduce regulatory burdens and minimize impacts on small entities.

Executive Order 12866 and Regulatory Flexibility Act

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

Our changes to the requirements for qualifying as an inspector, and the change allowing additional individuals to perform phytosanitary field inspections, will have no measurable financial impact on those entities involved in exporting plants and plant products. The changes will help ensure that sufficient qualified personnel are available to perform inspections.

In addition, allowing use of additional individuals to perform phytosanitary field inspections could result in a cost savings to industry through reduced duplication of effort in field inspection activities. Currently, seed certifying agencies inspect crops for genetic purity. Inspectors make a separate inspection of the crops in the field to determine their phytosanitary condition under part 353. Under this rule, ''agents'' can perform a single inspection for both purposes. Large commercial seed companies will be the primary beneficiaries of this change because their crops would be inspected in a more efficient manner and will avoid the double inspection described above.

This rule is not expected to significantly increase the number of certificates for reexport issued by APHIS. APHIS currently issues approximately 9,000 certificates for reexport each year. We estimate that approximately 10 percent (900) of these certificates are issued to small businesses, based on the size and value of the shipments.

We anticipate that allowing industry-issued certificates, and inspector-issued export certificates specifically for processed plant products (PPQ Form 578) will benefit exporters, including small businesses, by facilitating exportation of plants and plant products. Most of the articles eligible for such certificates are exported by larger businesses, and we estimate that each year small businesses will probably be issued fewer than 1,000 industry-issued certificates and inspector-issued export certificates specifically for processed plant products.

Exporters will be charged a user fee as stated in § 354.3 upon the issuance of commercial, private, and re-issued (voided and returned certificates) export certificates, respectively. The justification for and the analysis of the user fees can be found in the regulatory impact analysis accompanying the final rule published on January 9, 1992 (57 FR 755–773, Docket No. 91–135).

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance

under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

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

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule have been approved by the Office of Management and Budget (OMB). The assigned OMB control number is 0579–0052. Unfunded Mandate Reform Act of 1995.

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, APHIS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires APHIS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) that may result in expenditures to State local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

List of Subjects

7 CFR Part 353

Exports, Plant diseases and pests, Reporting and recordkeeping requirements.

7 CFR Part 354

Exports, Government employees, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Travel and transportation expenses.

Accordingly, 7 CFR parts 353 and 354 are amended as follows:

1. Part 353 is revised to read as follows:

PART 353—EXPORT CERTIFICATION

Sec.

353.1 Definitions.
353.2 Purpose and administration.
353.3 Where service is offered.
353.4 Products covered.
353.5 Application for certification.
353.6 Inspection.
353.7 Certificates.

Authority: 7 U.S.C. 147a; 21 U.S.C. 136 and 136a; 44 U.S.C. 35; 7 CFR 2.22, 2.80, and 371.2(c).

§ 353.1 Definitions.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Agent. An individual who meets the eligibility requirements set forth in § 353.6, and who is designated by the Animal and Plant Health Inspection Service to conduct phytosanitary field inspections of seed crops to serve as a basis for the issuance of phytosanitary certificates.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

Consignment. One shipment of plants or plant products, from one exporter, to one consignee, in one country, on one means of conveyance; or any mail shipment to one consignee.

Export certificate for processed plant products. A certificate (PPQ Form 578) issued by an inspector, describing the plant health condition of processed or manufactured plant products based on inspection of submitted samples and/or by virtue of the processing received.

Family. An inspector or agent and his or her spouse, their parents, children, and first cousins.

Industry-issued certificate. A certificate issued by a representative of the concerned agricultural or forestry industry under the terms of a written agreement with the Animal and Plant Health Inspection Service, giving assurance that a plant product has been handled, processed, or inspected in a manner required by a foreign government.

Inspector. An employee of the Animal and Plant Health Inspection Service, or a State or county plant regulatory official designated by the Secretary of Agriculture to inspect and certify to shippers and other interested parties, as to the phytosanitary condition of plant products inspected under the Act.

Office of inspection. The office of an inspector of plants and plant products covered by this part.

Phytosanitary certificate. A certificate (PPQ Form 577) issued by an inspector, giving the phytosanitary condition of domestic plants or unprocessed or unmanufactured plant products based on inspection of the entire lot or representative samples drawn by a Federal or State employee authorized to conduct such sampling.

Phytosanitary certificate for reexport. A certificate (PPQ Form 579) issued by an inspector, giving the phytosanitary condition of foreign plants and plant products legally imported into the United States and subsequently offered for reexport. The certificate certifies that, based on the original foreign phytosanitary certificate and/or additional inspection or treatment in the United States, the plants and plant products are considered to conform to the current phytosanitary regulations of the receiving country and have not been subjected to the risk of infestation or infection during storage in the United States. Plants and plant products which transit the United States under Customs bond are not eligible to receive the phytosanitary certificate for reexport.

Plant pests. Any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or other products of plants.

Plant products. Products derived from nursery stock, other plants, plant parts, roots, bulbs, seeds, fruits, nuts, and vegetables, including manufactured or processed products.

Plants and plant products. Nursery stock, other plants, plant parts, roots, bulbs, seeds, fruits, nuts, vegetables and other plant products, including manufactured or processed products.

State. Any of the States of the United States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, or the Virgin Islands of the United States.

The Act. The act of Congress entitled ''Department of Agriculture Organic Act of 1944,'' approved September 21, 1944 (58 Stat. 735), section 102.

§ 353.2 Purpose and administration.

The export certification program does not require certification of any exports, but does provide certification of plants and plant products as a service to exporters. After assessing the phytosanitary condition of the plants or plant products intended for export, relative to the receiving country's regulations, an inspector issues an internationally recognized phytosanitary certificate (PPQ Form 577), a phytosanitary certificate for reexport (PPQ Form 579), or an export certificate for processed plant products (PPQ Form 578), if warranted. APHIS also enters into written agreements with industry to allow the issuance of industry-issued certificates giving assurance that a plant product has been handled, processed, or inspected in a manner required by a foreign government.

§ 353.3 Where service is offered.

(a) Information concerning the location of inspectors who may issue certificates for plants and plant products may be obtained by contacting one of the following regional offices:

Region	States
Northeastern, Blason II, 1st Floor, 505 South Lenola Road, Moorestown, NJ 08057.	CT, ME, MA, NH, RI, VT, NY, NJ, PA, MD, DE, VA, WI, MN, IL, IN, OH, MI, WV.
Southeastern, 3505 25th Avenue, Building 1, North, Gulfport, MS 39501.	FL, AL, GA, KY, MS, TN, NC, SC, PR, US VI.
Central, 3505 Boca Chica Blvd., Suite 360, Brownsville, TX 78521–4065.	TX, OK, NE, AR, KS, LA, IA, MO, ND, SD.
Western, 9580 Micron Avenue, Suite I, Sacramento, CA 95827.	HI, CA, CO, ID, MT, UT, WY, WA, OR, NV, NM, AZ, AK.

(b) Inspectors who may issue phytosanitary certificates for terrestrial plants listed in 50 CFR part 17 or 23 are available only at a port designated for export in 50 CFR part 24, or at a nondesignated port if allowed by the U.S. Department of the Interior pursuant to section 9 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1538). The following locations are designated in 50 CFR part 24 as ports for export of terrestrial plants listed in 50 CFR part 17 or 23:

(1) Any terrestrial plant listed in 50 CFR part 17 or 23:

Nogales, AZ
Los Angeles, CA
San Diego, CA
San Francisco, CA
Miami, FL
Orlando, FL
Honolulu, HI
New Orleans, LA
Hoboken, NJ (Port of New York)
Jamaica, NY
San Juan, PR
Brownsville, TX
El Paso, TX
Houston, TX
Laredo, TX
Seattle, WA

(2) Any plant of the family Orchidaceae (orchids) listed in 50 CFR part 17 or 23:

Hilo, HI
Chicago, IL

(3) Roots of American ginseng (*Panax quinquefolius*) listed in 50 CFR 23.23:

Atlanta, GA
Chicago, IL
Baltimore, MD
St. Louis, MO
Milwaukee, WI

(4) Any plant listed in 50 CFR 17.12 or 23.23 and offered for exportation to Canada:

Detroit, MI
Buffalo, NY
Rouses Point, NY
Blaine, WA

(5) Any logs and lumber from trees listed in 50 CFR 17.12 or 23.23:

Mobile, AL
Savannah, GA
Baltimore, MD
Gulfport, MS
Wilmington and Morehead City, NC
Portland, OR
Philadelphia, PA
Charleston, SC
Norfolk, VA
Vancouver, WA

(6) Plants of the species *Dionaea muscipula* (Venus flytrap):

Wilmington, NC

§ 353.4 Products covered.

Plants and plant products when offered for export or re-export.

§ 353.5 Application for certification.

(a) To request the services of an inspector, a written application (PPQ Form 572) shall be made as far in advance as possible, and shall be filed in the office of inspection at the port of certification.

(b) Each application shall be deemed filed when delivered to the proper office of inspection at the port of certification. When an application is filed, a record showing the date and time of filing shall be made in such office.

(c) Only one application for any consignment shall be accepted, and only one certificate for any consignment shall be issued.

(Approved by the Office of Management and Budget under control number 0579–0052)

§ 353.6 Inspection.

Inspections shall be performed by agents, by inspectors, or by employees of a State plant protection agency who are authorized by the agency to perform field inspections in accordance with this part and who have successfully completed training in accordance with paragraph (a)(2)(iii) of this section. Employees of a State plant protection agency who are not agents may perform field inspections only under the supervision of an inspector.

(a) *Agent.* (1) Agents may conduct phytosanitary field inspections of seed crops in cooperation with and on behalf of those State plant regulatory agencies electing to use agents and maintaining a Memorandum of Understanding with the Animal and Plant Health Inspection Service in accordance with the regulations. The Memorandum of Understanding must state that agents shall be used in accordance with the regulations in this part. Agents are not authorized to issue Federal phytosanitary certificates, but are only authorized to conduct the field inspections of seed crops required as a basis for determining phytosanitary condition prior to the issuance of a phytosanitary certificate for the crops.

(2) To be eligible for designation as an agent, an individual must:

(i) Have the ability to recognize, in the crops he or she is responsible for inspecting, plant pests, including symptoms and/or signs of disease-causing organisms, of concern to importing countries.

(ii) Have a bachelor's degree in the biological sciences, and a minimum of 1 year's experience in identifying plant pests endemic to crops of commercial importance within the cooperating State, or a combination of higher education in the biological sciences and experience in identifying such plant pests, as follows:

0 years education and 5 years experience;
1 year education and 4 years experience;
2 years education and 3 years experience;
3 years education and 2 years experience; or
4 years education and 1 year experience.

The years of education and experience do not have to be acquired consecutively.

(iii) Successfully complete annual training provided by the State plant regulatory agency. The required training must include instruction in inspection procedures, identification of plant pests of quarantine importance to importing countries, methods of collection and submission of specimens (organisms and/or plants or plant parts) for identification, and preparation and submission of inspection report forms

approved by the State plant regulatory agency.

(iv) Have access to Federal or State laboratories for the positive identification of plants pests detected.

(3) No agents shall inspect any plants or plant products in which they or a member of their family are directly or indirectly financially interested.

(b) *Inspector.* (1) An employee of the Animal and Plant Health Inspection Service, or a State or county regulatory official designated by the Secretary of Agriculture to inspect and certify to shippers and other interested parties, as to the phytosanitary condition of plants and plant products inspected under the Act.

(2) To be eligible for designation as an inspector, a State or county plant regulatory official must:

(i) Have a bachelor's degree in the biological sciences, and a minimum of 1 year's experience in Federal, State or county plant regulatory activities, or a combination of higher education in the biological sciences and experience in State plant regulatory activities, as follows:

0 years education and 5 years experience;
1 year education and 4 years experience;
2 years education and 3 years experience;
3 years education and 2 years experience; or
4 years education and 1 year experience.

The years of education and experience do not have to be acquired consecutively.

(ii) Successfully complete, as indicated by receipt of a passing grade, the Animal and Plant Health Inspection Service training course on phytosanitary certification.

(3) No inspectors shall inspect any plants or plant products in which they or a member of their family are directly or indirectly financially interested.

(c) *Applicant responsibility.* (1) When the services of an agent or an inspector are requested, the applicant shall make the plant or plant product accessible for inspection and identification and so place the plant or plant product to permit physical inspection of the lot for plant pests.

(2) The applicant must furnish all labor involved in the inspection, including the moving, opening, and closing of containers.

(3) Certificates may be refused for failure to comply with any of the foregoing provisions.

§ 353.7 Certificates.

(a) *Phytosanitary certificate (PPQ Form 577).* (1) For each consignment of domestic plants or unprocessed plant products for which certification is requested, the inspector shall sign and issue a separate certificate based on the findings of the inspection.

(2) The original certificate shall immediately upon its issuance be delivered or mailed to the applicant or a person designated by the applicant.

(3) One copy of each certificate shall be filed in the office of inspection at the port of certification, and one forwarded to the Administrator.

(4) The Administrator may authorize inspectors to issue certificates on the basis of inspections made by cooperating Federal, State, and county agencies.

(5) Inspectors may issue new certificates on the basis of inspections for previous certifications when the previously issued certificates can be canceled before they have been accepted by the phytopathological authorities of the country of destination involved.

(b) *Export certificate for processed plant products (PPQ Form 578).* (1) For each consignment of processed plant products for which certification is requested, the inspector shall sign and issue a certificate based on the inspector's findings after inspecting submitted samples and/or by virtue of processing received.

(2) The original certificate shall immediately upon its issuance be delivered or mailed to the applicant or a person designated by the applicant.

(3) One copy of each certificate shall be filed in the office of inspection at the port of certification.

(4) The Administrator may authorize inspectors to issue certificates on the basis of inspections made by cooperating Federal, State, and county agencies.

(5) Inspectors may issue new certificates on the basis of inspections/processing used for previous certifications.

(c) *Phytosanitary certificate for reexport (PPQ Form 579).* (1) For each consignment of foreign origin plants or unprocessed plant products for which certification is requested, the inspector shall sign and issue a certificate based on the original foreign phytosanitary certificate and/or additional inspection or treatment in the United States after determining that the consignment conforms to the current phytosanitary regulations of the receiving country and has not been subjected to the risk of infestation or infection during storage in the United States.

(2) The original certificate shall immediately upon its issuance be delivered or mailed to the applicant or a person designated by the applicant.

(3) One copy of each certificate shall be filed in the office of inspection at the port of certification, and one forwarded to the Administrator.

(4) The Administrator may authorize inspectors to issue certificates on the basis of inspections made by cooperating Federal, State, and county agencies.

(5) Inspectors may issue new certificates on the basis of inspections for previous certifications when the previously issued certificates can be canceled before they have been accepted by the phytopathological authorities of the country of destination involved.

(d) *Industry-issued certificate.* A certificate issued under the terms of a written agreement between the Animal and Plant Health Inspection Service and an agricultural or forestry company or association giving assurance that a plant product has been handled, processed, or inspected in a manner required by a foreign government. The certificate may be issued by the individual who signs the agreement or his/her delegate.

(1) *Contents of written agreement.* In each written agreement, APHIS shall agree to cooperate and coordinate with the signatory agricultural or forestry company or association to facilitate the issuance of industry-issued certificates and to monitor activities under the agreement, and the concerned agricultural or forestry company or association agrees to comply with the requirements of the agreement. Each agreement shall specify the articles subject to the agreement and any measures necessary to prevent the introduction and dissemination into specified foreign countries of specified injurious plant pests. These measures could include such treatments as refrigeration, heat treatment, kiln drying, etc., and must include all necessary preshipment inspections and subsequent sign-offs and product labeling as identified by Plant Protection and Quarantine (PPQ), APHIS, based on the import requirements of the foreign country.

(2) *Termination of agreement.* An agreement may be terminated by any signatory to the agreement by giving written notice of termination to the other party. The effective date of the termination will be 15 days after the date of actual receipt of the written notice. Any agreement may be immediately withdrawn by the Administrator if he or she determines that articles covered by the agreement were moved in violation of any requirement of this chapter or any provision of the agreement. If the withdrawal is oral, the decision to withdraw the agreement and the reasons for the withdrawal of the agreement shall be confirmed in writing as promptly as circumstances permit. Withdrawal of an agreement may be

appealed in writing to the Administrator within 10 days after receipt of the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the appellant relies to show that the agreement was wrongfully withdrawn. The Administrator shall grant or deny the appeal, in writing, stating the reasons for granting or denying the appeal as promptly as circumstances permit. If there is a conflict as to any material fact and the person from whom the agreement is withdrawn requests a hearing, a hearing shall be held to resolve the conflict. Rules of practice concerning the hearing shall be adopted by the Administrator. No written agreement will be signed with an individual or a company representative of the concerned agricultural or forestry company or association who has had a written agreement withdrawn during the 12 months following such withdrawal, unless the withdrawn agreement was reinstated upon appeal.

(Approved by the Office of Management and Budget under control number 0579–0052)

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS; AND USER FEES

2. The authority citation for part 354 continues to read as follows:

Authority: 7 U.S.C. 2260; 21 U.S.C. 136 and 136a; 49 U.S.C. 1741; 7 CFR 2.22, 2.80, and 371.2(c).

3. In § 354.3, paragraph (a), the definitions for *Designated State inspector* and *Processed product certificate* are removed; new definitions for *Designated State or county inspector* and *Export certificate for processed plant products* are added in alphabetical order; the definitions for *Phytosanitary certificate* and *Phytosanitary certificate for reexport* are revised, and paragraph (g)(2) is revised to read as follows:

§ 354.3 User fees for certain international services.

(a) * * *

* * * * * *

Designated State or county inspector. A State or county plant regulatory official designated by the Secretary of Agriculture to inspect and certify to shippers and other interested parties, as to the phytosanitary condition of plant products inspected under the Department of Agriculture Organic Act of 1944.

Export certificate for processed plant products. A certificate (PPQ Form 578) issued by an inspector, describing the plant health condition of processed or manufactured plant products based on inspection of submitted samples and/or by virtue of the processing received.

* * * * *

Phytosanitary certificate. A certificate (PPQ Form 577) issued by an inspector, giving the phytosanitary condition of domestic plants or unprocessed or unmanufactured plant products based on inspection of the entire lot or representative samples drawn by a Federal or State employee authorized to conduct such sampling.

Phytosanitary certificate for reexport. A certificate (PPQ Form 579) issued by an inspector, giving the phytosanitary condition of foreign plants and plant products legally imported into the United States and subsequently offered for reexport. The certificate certifies that, based on the original foreign phytosanitary certificate and/or additional inspection or treatment in the United States, the plants and plant products are considered to conform to the current phytosanitary regulations of the receiving country and have not been subjected to the risk of infestation or infection during storage in the United States. Plants and plant products which transit the United States under Customs bond are not eligible to receive the phytosanitary certificate for reexport.

* * * * *

(g) * * *

(2) There is no APHIS user fee for a certificate issued by a designated State or county inspector.

* * * * *

Done in Washington, DC, this 2nd day of April 1996.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–8621 Filed 4–5–96; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Part 301

[Docket No. 950525142–6078–03]

RIN 0610–AA47

Designation of Public Works Impact Program Areas: Simplification and Streamlining of Regulations; Correction

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to EDA's final rule which adopted EDA's interim-final rule (60 FR 56702), September 26, 1995, as modified by the changes noted in the final rule (61 FR 7979), published and effective on March 1, 1996. This correction is to the regulation on requirements for Public Works Impact Program Area (PWIP) designations.

EFFECTIVE DATE: April 8, 1996.

FOR FURTHER INFORMATION CONTACT: Awilda R. Marquez, (202) 482–4687; fax number: (202) 482–5671.

SUPPLEMENTARY INFORMATION:

Background

EDA amended its entire body of regulations to make them easier to read and to understand, by removing numerous unnecessary, redundant, and outdated parts, sections and portions thereof, and by clarifying and simplifying those remaining. The final rule includes program requirements, evaluation criteria, and the selection process in implementing programs under the Public Works and Economic Development Act of 1965, as amended, (PWEDA or the Act), the Trade Act of 1974, as amended (the Trade Act), and other applicable statutes.

Need for Correction

As published, the final rule contains an error which may prove to be misleading and is in need of clarification. Currently, § 301.6(a)(4) requires a redevelopment area to meet the qualifications of (a) through (d) of § 301.5. Paragraph (d) requires an overall economic development plan (OEDP) to be submitted to EDA. Since not requiring an OEDP from entities is what the Act provides, § 301.6(a)(4) is being corrected by deleting the reference to paragraph (d) of § 301.5.

List of Subjects in 13 CFR Part 301

Community development.

Accordingly, 13 CFR Part 301 is corrected by making the following correcting amendment:

PART 301—DESIGNATION OF AREAS

1. The authority citation for Part 301 continues to read as follows:

Authority: Sec. 701, Pub. L. 89–136; 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10–4, as amended (40 FR 56702, as amended).

2. Section 301.6 is amended by revising paragraph (a)(4) to read as follows:

§ 301.6 Designation of public works impact program areas.

(a) * * *

(4) An actual or threatened abrupt rise of unemployment due to the closing or

curtailment of a major source of employment. The area must meet the qualifications as set forth in § 301.5 (a) through (c). Although no boundary constraints, as set forth in § 301.13, shall apply, the area for which designation is sought must be one for which EDA can obtain data establishing its eligibility for designation.

* * * * *

Dated: April 1, 1996.

Wilbur F. Hawkins,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 96–8518 Filed 4–5–96; 8:45 am]

BILLING CODE 3510–24–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM–122; Special Conditions No. 25–M–111]

Special Conditions: McDonnell Douglas Model DC9–10, –20, –30, –40, –50, High-Intensity Radiated Fields

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions; request for comments; correction.

SUMMARY: This action corrects the comment due date in a final special conditions; request for comments, published on March 22, 1996, (61 FR 11728) concerning McDonnell Douglas Model DC9–10, –20, –30, –40, –50, high-intensity radiated fields.

DATES: The effective date of these special conditions is March 14, 1996. Comments must be received on or before May 6, 1996.

ADDRESSES: Comments on these final special conditions, request for comments, may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Council, Attn: Rules Docket (ANM–7), Docket No. NM–122, 1601 Lind Avenue SW, Renton, Washington 98055–4056; or delivered in duplicate to the Office of the Assistant Chief Council at the above address. Comments must be marked: Docket No. NM–122.

FOR FURTHER INFORMATION CONTACT: Gerald Lakin, (206) 227–1187.

Correction of Publication

In the final special conditions; request for comments, on page 11728 in the issue of Friday, March 22, 1996, make the following correction:

In the **DATES** section on page 11728 in the third column the comments due date was previously listed as April 6, 1996. This date should be changed to read May 6, 1996.

Issued in Washington, DC on April 1, 1996.

Donald P. Byrne,

Assistant Chief Counsel.

[FR Doc. 96–8645 Filed 4–5–96; 8:45 am]

BILLING CODE 4910–13–M

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

Exchange Visitor Program

AGENCY: United States Information Agency.

ACTION: Interim final rule with request for comment.

SUMMARY: The Agency is amending its regulations which will clarify the procedures for requesting an extension of program duration for designated sponsors seeking such extension on behalf of a professor or research scholar participating in activities conducted by the sponsor. This amendment will also provide new procedures whereby the Agency may authorize a sponsor to design and conduct research programs that allow for the participation of a professor or research scholar for a period of time in excess of three years. Limitations governing the eligibility for program participation of professor and research scholar participants are also set forth. These limitations are set forth to enhance the integrity and programmatic effectiveness of the Exchange Visitor Program.

DATES: These rules are effective April 8, 1996. Written comments regarding this rule will be accepted until May 23, 1996.

ADDRESSES: Comments regarding this rule must be presented in duplicate and addressed as follows: United States Information Agency, Office of the General Counsel, Rulemaking 120, 301 4th Street, SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Stanley S. Colvin, Assistant General Counsel, United States Information Agency, 301 4th Street, SW., Washington, DC 20547; Telephone, (202) 619–4979.

SUPPLEMENTARY INFORMATION: On March 19, 1993, the Agency published a final rule that set forth comprehensive regulations for the Exchange Visitor Program (See 58 FR 15180.) This final rule defined clearly, the obligations, duties and relationships owed to or existing between the Agency, its designated exchange program sponsors, and exchange participants. This rule also set forth, for the first time, specific regulations governing professor and research scholar exchange participants.

In formulating this comprehensive rule, the Agency consulted extensively with designated sponsors conducting various exchange activities under the umbrella of the Exchange Visitor Program. Thus, the academic community was instrumental in assisting the Agency in its drafting of regulations governing academic-based exchanges. This assistance resulted in the devotion of particular attention to the development of regulations governing professor and research scholar regulations and the length of time such exchange visitors should be permitted to participate in the Exchange Visitor Program.

Since 1949, a three year period of program duration has been afforded to professor and research scholar participants. During the development of the comprehensive rules published in 1993, the Agency received numerous comments suggesting that the period of program duration for professors and research scholars should be greater than three years. The Agency studied these comments at length but was unable to identify a compelling public diplomacy reason to abandon the long-standing three year limitation governing the program participation of professors and research scholars.

However, the Agency did recognize that in some circumstances an extension of this three year period of program participation would enhance the effectiveness of the Exchange Visitor Program. Accordingly, and in consultation with the academic community, the Agency adopted provisions that would allow the Responsible Officer of a designated exchange program to extend, in his or her discretion and for a six month period, the permitted length of program duration for a professor or research scholar participating in that sponsor's program. Such six month extension, if given, was to allow the professor or research scholar to complete his or her program.

In similar fashion, the Agency adopted provisions whereby a Responsible Officer could request that the Agency extend the program duration of a professor or research scholar for up to an additional three years. This regulatory provision, set forth at § 514.20(j)), has resulted in the false impression by some members of the academic community that the period of time that a professor or research scholar could participate in the program was now six, rather than three years. This

impression is, in part, due to the Agency's use of the phrase ''good cause'' in the regulations governing requests to the Agency for program extensions. The academic community suggests that a professor or research scholar's involvement in on-going research or an institution's heavy reliance upon the professor or research scholar is sufficient to satisfy the ''good cause'' threshold set forth in this regulation.

The Agency is of the opinion that on-going research and heavy reliance as justification for an extension are not reconcilable with the Agency's stated position that the period of program duration for a professor or research scholar should remain at three years. Accordingly, and in an effort to clarify and reinforce the Agency's three year limitation on program duration, the ''good cause'' standard is removed from § 514.20(j) and replaced with an exceptional or unusual'' circumstance standard. The Agency anticipates that ''exceptional or unusual'' circumstance will generally involve situations in which the professor or research scholar has been prevented from completing his or her program due to factors not directly related to the project.

Due to the importance of maintaining valid program status and the work authorization that flows therefrom, the Agency is adopting a time requirement for the filing of extension requests. Such requests must be filed with the Agency no less than 90 days from the expiration of the exchange visitor's three year period of program duration. This time limitation will permit the Agency to review the request and notify the requesting sponsor well in advance of the expiration of the visitor's program. Requests that are not timely filed will not be reviewed or acted upon. The Agency will notify the requesting sponsor of its decision which shall be the Agency's final decision. Requests for reconsideration will not be accepted or acted upon.

At § 514.20(i), the Agency restates the three year limitation on program participation for professor and research scholar participants. Also set forth in this regulation are new provisions whereby a designated sponsor may request advance authorization from the Agency to design and conduct a program in excess of three years duration. The Agency is adopting very specific criteria for the authorization of such programs in order to further the objectives and mission of the Exchange Visitor Program. It is anticipated that participants in such programs will be well advanced in their fields of study and considered senior researchers or the equivalent thereof.

To this end, the Agency will readily authorize an extended program in order to further international science projects conducted in the United States. Also of interest to the Agency would be those programs in which foreign-educated professor or research scholar participants are selected for participation in foreign or United States Government funded activities. Such projects and activities clearly promote the public diplomacy mission underlying the Exchange Visitor Program.

The Agency adopts the foreign-educated requirement in order to promote the exchange of international scholars. Such participants will not, by definition, have spent years in undergraduate and graduate studies at United States institutions or generally been afforded assorted opportunities to work in the United States. The Agency concludes that persons having previously spent years at United States academic institutions as students or researchers will not further the goals and objectives of the Exchange Visitor Program by participating in yet another long-term project that prevents their return to their home country.

Finally, the Agency adopts at § 514.20(d), a new provision directly limiting the eligibility for program participation of a professor or research scholar. This provision is adopted as a safeguard to the integrity of the Exchange Visitor Program. The Agency seeks to prevent abuse of the exchange Visitor Program by prohibiting participation by persons that have been in J visa status for a twelve month period immediately preceding their participation as a professor or research scholar. Accordingly, this regulation will bring to an end the practice of issuing an IAP–66 form to a participant that has completed a three year program as a professor or research scholar and having that person exit the country and reenter under a ''new'' program. Further, this regulation will prohibit a student in J status from becoming a professor research scholar participant unless Agency authorization is given pursuant to § 514.41.

Comment

The Agency concludes that these regulatory amendments increase the clarity of promulgated regulations and will result in an enhanced consistency of application. Further, these amendments will allow for the more efficient utilization of scarce Agency resources. The Agency invites comments regarding this interim final rule notwithstanding the fact that it is under no legal requirement to do so. The oversight and administration of the Exchange Visitor Program are deemed to be foreign affairs functions of the Untied States Government. The Administrative Procedures Act, 5 U.S.C. 553(a)(1)(1989), specifically exempts foreign affairs functions from the rulemaking requirements of the Act.

The agency will accept comments for 45 days following publication of this interim final rule. A final rule will be adopted upon Agency review of all comments received.

In accordance with 5 U.S.C. 605(b), the Agency certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a major rule within the meaning of section 1(b) of E.O. 12291, nor does it have federal implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

List of Subjects in 22 CFR Part 514

Cultural Exchange Programs.

Dated: April 3, 1996.

R. Wallace Stuart,

Acting General Counsel.

Accordingly, 22 CFR part 514 is amended as follows:

PART 514—EXCHANGE VISITOR PROGRAM

1. The authority citation for part 514 continues to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(J), 1182, 1258; 22 U.S.C. 1431–1442, 2451–2460; Reorganization Plan No. 2 of 1977, 42 FR 62461, 3 CFR, 1977 Comp. p 200; E.O. 12048, 43 FR 13361, 3 CFR, 1978 Comp. p 168, USIA Delegation Order No. 85–5 (50 FR 27393.)

2. Section 514.20 is amended by revising paragraphs (d), (i), and (j) to read as follows:

§ 514.20 Professors and research scholars.

* * * * *

(d) *Visitor eligibility*. An individual may be selected for participation in the Exchange Visitor Program as a professor or research scholar subject to the following conditions:

(i) The participant is not placed in a tenure track position; and

(ii) The participant has not held or been afforded nonimmigrant status under the provisions of 8 U.S.C. 1101(a)(15)(J) for the twelve month period immediately preceding a sponsor's issuance of an IAP–66 form to the participant, unless the participant is transferring to the sponsor's program as provided in § 514.42.

* * * * *

(i) *Duration of participation*. The permitted duration of program

participation for a professor or research scholar shall be as follows:

(1) *General limitation*. The professor and research scholar shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete his or her program, which time shall not exceed three years.

(2) *Exceptional circumstance*. The Agency may authorize a designated Exchange Visitor Program sponsor to conduct an exchange activity requiring a period of program duration in excess of three years. A sponsor seeking to conduct an activity requiring more than the permitted three years of program duration shall make written request to the Agency and secure written Agency approval. Such request shall include:

(i) A detailed explanation of the exchange activity;

(ii) A certification that only foreign educated research scholars will be selected to participate in the activity;

(iii) A certification that the research scholar will be supported by United States or foreign government funds or that the research scholar was selected for participation in the activity by a foreign government.

(3) *Change of category*. A change between the categories of professor and research scholar shall not extend an exchange visitor's permitted period of participation beyond three years.

(j) *Extension of program*. Professors and research scholars may be authorized program extensions as follows:

(1) *Responsible officer authorization*. A responsible officer may extend, in his or her discretion and for a period not to exceed six months, the three year period of program participation permitted under § 514.20(i). The responsible officer exercising his or her discretion shall do so only upon their affirmative determination that such extension is necessary in order to permit the research scholar or professor to complete a specific project or research activity.

(2) *Agency authorization*. The Agency may extend, upon request and in its sole discretion, the three year period of program participation permitted under § 514.20(i). A request for Agency authorization to extend the period of program participation for a professor or research scholar shall:

(i) Be submitted to the Agency no less than 90 days prior to the expiration of the participant's permitted three year period of program participation; and

(ii) Present evidence, satisfactory to the Agency, that such request is justified due to exceptional or unusual circumstances and is necessary in order to permit the researcher or professor to complete a specific project or research activity.

(3) *Timeliness*. The Agency will not review a request for Agency authorization to extend the three year period of program participation permitted under § 514.20(i) unless timely filed.

(4) *Final decision*. The Agency will respond to requests for Agency authorization to extend the three year period of program participation permitted under § 514.20(i) within 45 days of Agency receipt of such request. Such response shall constitute the Agency's final decision.

[FR Doc. 96–8676 Filed 4–5–96; 8:45 am]

BILLING CODE 8230–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1625

Coverage of Apprenticeship Programs Under the Age Discrimination in Employment Act (ADEA)

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: On July 3, 1995 pursuant to Executive Orders 12067 and 12866, the Commission approved for inter-agency coordination and subsequent review by the Office of Management and Budget (OMB) a Notice of Proposed Rulemaking (NPRM) that would rescind the current apprenticeship regulation (29 C.F.R. § 1625.13) and replace it with a legislative regulation providing that apprenticeship programs are subject to the ADEA. The Commission then published the NPRM in the Federal Register for public comment on October 3, 1995. See 60 FR 51762 (Oct. 3, 1995). Based on a careful analysis of the comments received in response to the NPRM, a reassessment of the statutory language and legislative history of the ADEA, a review of case law and related statutes, and a thorough examination of the history of apprenticeship programs, the Commission has determined that a rule covering apprenticeship programs will better advance the ADEA's objectives of promoting the employment of older persons based on their ability rather than age and prohibiting arbitrary age discrimination in employment. Therefore, pursuant to sec. 9 of the ADEA, 29 U.S.C. § 628, the Commission is removing sec. 1625.13 from its Interpretive Regulations, found in 29 C.F.R. Part 1625 and is adding in Part 1625, a new sec. 1625.21 under Subpart B - Substantive Regulations. The new sec. 1625.21 will subject all apprenticeship programs to the prohibitions of the Act unless otherwise specifically exempted under sec. 9, 29 U.S.C. § 628, in accordance with the procedures set forth in 29 C.F.R. 1627.15, or if excepted under section 4(f)(1) of the ADEA, 29 U.S.C. § 623 (f)(1).

Copies of this final rule are available in the following alternate formats: large print, braille, electronic file on computer disk, and audio tape. Copies may be obtained from the Office of Equal Employment Opportunity by calling (202) 663–4395 (voice) or (202) 663–4399 (TDD).

EFFECTIVE DATE: This rule takes effect on May 8, 1996.

FOR FURTHER INFORMATION CONTACT: Joseph N. Cleary, Assistant Legal Counsel or James E. Cooks, Senior Attorney Advisor, (202) 663–4690 (voice), (202) 663–7026 (TDD).

SUPPLEMENTARY INFORMATION:

Historical Background.

The Department of Labor (DOL) was initially given jurisdiction over the enforcement of the ADEA. In 1969, DOL published an interpretation that excluded apprenticeship programs from the ADEA. See 34 Fed. Reg. 323 (January 9, 1969). The rationale given by DOL for the ''no-coverage'' position was that apprenticeship programs had been traditionally limited to youths under a specified age in recognition of apprenticeship as an extension of the educational process.

The Commission assumed responsibility for enforcing the ADEA pursuant to Reorganization Plan No. 1 of 1978. See 45 Fed. Reg. 19807 (May 9, 1978). In June of 1979, the Commission published a notice in the Federal Register advising the public that all DOL interpretive guidelines on the ADEA would remain in effect until such time as the Commission could issue its own guidelines. See 44 Fed. Reg. 37974 (June 29, 1979). In November of 1979, the Commission published its own proposed ADEA Guidelines, but did not include a proposal on the apprenticeship issue. See 44 Fed. Reg. 68858 (Nov. 30, 1979).

On September 23, 1980, the Commission preliminarily approved a proposed recision of the DOL position on apprenticeship and voted to replace it with a legislative rule providing for coverage of apprenticeship programs. The Commission then published for comment a proposed legislative rule stating that age limitations in apprenticeship programs would be unlawful under the ADEA unless

justified as a bona fide occupational qualification (BFOQ) or specifically exempted by the Commission under sec. 9 of the Act. See 45 Fed. Reg. 64212 (Sept. 29, 1980).

After considering the public comments submitted in response to this proposal, the Commission declined to adopt it by a vote of 2–2. It then republished the DOL interpretive rule as part of its final ADEA interpretations. See 46 Fed. Reg. 47726 (Sept. 29, 1981).

In August of 1983, a United States District Court in New York reviewed the Commission's position on the applicability of the ADEA to apprenticeship programs in *Quinn* v. *New York State Electric and Gas Corp.*, 569 F. Supp. 655 (1983). The Quinn court, inter alia, found the interpretation invalid because it was not supported by ''the language, purpose, and legislative history of the ADEA.'' *Quinn*, 569 F. Supp. at 664. The Commission, however, was not a party in this case, and the court's decision did not require that the Agency take any action regarding its apprenticeship interpretation.

In 1984 the Commission revisited the issue, expressing serious concern about the interpretation. Prompted by this concern, the Commission voted 4–0 to send a proposal to the Office of Management and Budget (OMB) that would rescind the apprenticeship interpretation and replace it with a legislative rule covering apprenticeship programs under the Act. However, the proposal was never published in the Federal Register for public comment. On July 30, 1987, the Commission voted 3–1 to terminate the proposed regulatory action and affirmatively approved the interpretation excluding apprenticeship programs. See 52 Fed. Reg. 33809 (Sept. 8, 1987).

In 1995, a lawsuit was filed against the Commission challenging the interpretation as an arbitrary and capricious agency action within the meaning of the Administrative Procedure Act. 5 U.S.C. 551 *et seq.* The Commission has taken the position that its prior actions with respect to the difficult issue of the proper relationship between the ADEA and apprenticeship programs were reasonable, deliberate, and taken in good faith. The Commission has rejected any claim that it acted in a manner that is arbitrary and capricious or otherwise inconsistent with law.

The Commission also determined, however, that neither the ADEA nor its legislative history required the existing position or prohibited the adoption of a new rule—both are silent on the issue. Therefore, because of changing circumstances in the workforce and structural changes in the workplace, the Commission decided to propose for comment a new legislative rule covering apprenticeship programs under the ADEA. See 60 FR 51762 (Oct.3, 1995). The Commission took the position that this action was necessary to insure the most appropriate policy in light of present circumstances in the country which affect both employers and employees.[1]

Public Comment

A. Introduction

Through the Notice of Proposed Rulemaking, the Commission sought to examine various factors which contribute to many of the problems facing older workers, applicants for employment generally, and employers. The Commission submitted a series of questions for public consideration which it deemed vital to its assessment of whether apprenticeship programs should be covered under the ADEA. Members of the public were given a 60 day period within which to comment, and the Commission has carefully studied the viewpoints of the commenters.

The comments received represented the views of employers, labor organizations, state and local government agencies, a legal services organization, and advocacy groups for older workers, women, and minorities. A clear majority of commenters, representing the interests of large constituencies, favor rescinding the current interpretation and promulgating the proposed rule. However, a large industry membership organization was among the commenters who favor retaining the current interpretation. The discussion which follows is a question-by-question analysis of the comments received.

B. Analysis of Comments

1. The EEOC's Authority to Issue the New Rule

Commenters supporting the proposed rule argue that the ADEA is a remedial civil rights statute and as such its coverage should be interpreted broadly by the Commission with exceptions narrowly construed. They believe that the existing rule exceeded the authority of the Commission as well as the Department of Labor. They believe that the Commission has full authority to promulgate a new regulatory position regarding coverage of apprenticeship programs.

On the other hand, one commenter favoring retention of the current position states that Congress never intended to cover apprenticeship programs under the ADEA, and that the Commission is without authority to change its existing interpretation on coverage of apprenticeship programs. This commenter cites to statements by individual legislators to the effect that only ''qualified'' older workers were covered by the Act, arguing that this supports the view that apprentices are excluded from coverage. It notes that the present interpretation has gone unchallenged by Congress in the over 26 years it has been in existence. The commenter draws an inference in support of its position from the fact that Congress omitted from the ADEA explicit language covering apprenticeship programs even though it had included such specific language in Title VII of the Civil Rights Act of 1964, as amended. *See* 42 U.S.C. 2000e–2 (d).

The Commission certainly agrees that it would not have authority to promulgate this rule if it were clear from the statute or its legislative history that Congress exempted apprenticeship programs from the ADEA. In the Commission's view, however, nothing in the statute or its legislative history prevents it from exercising its broad legislative rulemaking authority under sec. 9 of the Act, 29 U.S.C. 628, and promulgating a rule covering apprenticeship programs.

The ADEA is a remedial statute which should be broadly construed.[2] The statute and its history are silent regarding apprenticeship programs and neither compel nor preclude their coverage. The references in the legislative history to ''qualified older workers'' are properly construed to mean only that employers could reject applicants for apprenticeship programs who were not ''qualified'' for admission. The omission by Congress of specific language covering apprenticeship programs is not dispositive because the Act plainly covers employers and unions. Either separately or in combination these entities sponsor virtually all apprenticeship programs. Thus, Congress had no need to address apprenticeship programs explicitly.

Moreover, the mere fact of the longevity of the previous interpretation is not a bar to change. Indeed, an agency has a continuing obligation to insure that its enforcement positions are

[1] An ''[a]dministrative agency concerned with furtherance of the public interest is not bound to rigid adherence to its prior rulings.'' *Columbia Broadcasting System* v. *Federal Communications Commission*, 454 F.2d 1018, 1026 (D.C. Cir. 1971).

[2] See *Oscar Mayer and Co.* v. *Evans*, 441 U.S. 750, 765 (1979); *United Air Lines, Inc.* v. *McMann*, 434 U.S. 192, 217–18 (1977).

correct, which includes reevaluating them if necessary. An ''(a)dministrative agency concerned with furtherance of the public interest is not bound to rigid adherence to its prior rulings.'' [3] A contrary view would lock an agency into a prior regulatory position even when the position is later determined by the agency to be unwise as a matter of policy or legally incorrect.

Thus, the Commission concludes that it has authority to promulgate this rule. The existence of its prior position excluding apprenticeship programs from the ADEA does not act as a bar to changing that position pursuant to its regulatory authority under sec. 9 of the ADEA. 29 U.S.C. 628. At the same time, however, the Commission reaffirms its view that such position was reasonable, deliberate and taken in good faith.

2. The EEOC's Ability To Establish sec. 9 Exemptions To Meet Legitimate Needs for Age Limits

All commenters who address this issue are in agreement that the Commission possesses the authority under section 9 of the Act, 29 U.S.C. 628, to grant exemptions from coverage for apprenticeship programs when such action is necessary and proper in the public interest. Commenters favoring a change in the interpretation emphasize that if there are apprenticeship programs with special needs for age limitations, the Commission has the flexibility to provide them with relief under sec. 9. Commenters with this point of view argue that the Commission's authority to be responsive to specific requests for relief from the Act when required in the public interest is a compelling reason to change the existing blanket exclusion of apprenticeship programs.

A commenter opposed to adoption of the new rule states that if a new position is implemented, the EEOC should adopt guidelines which set forth in detail the standards that must be met to establish an exemption under sec. 9, or a bona fide occupational qualification (BFOQ) under sec. 4(f)(1) of the ADEA. 29 U.S.C. § 623 (f) (1). The commenter argues that these guidelines '' should clarify if and to what extent economic factors will be given weight in establishing an exemption or BFOQ.''

The Commission agrees with the commenters that it possesses authority to recognize and accommodate the needs of individual apprenticeship programs that may have a need for age limitations if to do so is necessary and proper in the public interest. The Commission also agrees with those who argue that the existence of this authority, which can be used on a case-by-case basis, calls into question the need for the existing interpretation with its sweeping reach.

The Commission does not believe that there is a need to develop guidance on the sec. 9 exemption process or the BFOQ exemption in advance of taking action on the apprenticeship interpretation. The Commission has regulatory guidance in place on both topics. See 29 C.F.R. 1625.6 (BFOQ) and 1627.15 (Administrative Exemptions). There is also substantial caselaw on the BFOQ topic. However, the Commission will closely monitor requests for exemptions and will revisit the need for further guidance as appropriate.

3. What Impact Will a Change in the Interpretation Have on Displaced Older Workers?

A legal services organization favoring the new rule presented data showing that ''over the past twenty years dislocations in the American economy have required millions of American workers to look for new jobs,'' often resulting in unemployment and underemployment. Numerous commenters note that such dislocations have had a particularly harsh impact on mid-life and older workers, and one commenter points to language in the Act recognizing that older workers are ''especially disadvantaged in their efforts to regain employment when displaced from jobs.'' 29 U.S.C. 621(a)(1). The proponents of changing the interpretation cite employer downsizing at a time of shrinking opportunities for new employment as a ''compelling reason'' for adoption of the proposed rule.

Proponents of the proposed rule also argue that lifting age restrictions would provide employers with a larger pool of qualified and talented employees. One set of comments offered by a state government agency points out the tremendous potential of older workers as a valuable resource for the nation's employers that can and should be utilized. A number of proponents reason that ''downsizing, changing technologies, and new growth industries all have created a demand for workers with more advanced technical skills who can adapt quickly to changing employer needs.'' Many believe ''that workers who can acquire these skills will be well positioned to take advantage of the best job opportunities'' and that older persons are needed to fill the void for employers.

None of the opposition commenters argue that older workers would not benefit by the removal of age limitations from apprenticeship programs. Rather, commenters opposed to adoption of the proposed rule contend that there are ample government-sponsored training programs to assist older workers and that apprenticeship programs should not be compelled to include them.

The Commission believes that eliminating age barriers in apprenticeship programs will clearly benefit older workers. As noted above, even opposition commenters do not argue to the contrary. The Commission also believes that employers will benefit from an enhanced pool of qualified workers.

The comments make clear that large numbers of older workers have been laid off. Once laid off, older workers experience particular problems in finding new employment. In addition to negative stereotypical assumptions about older workers that make it difficult for them to find new employment, changing technology has left many older workers without the necessary skills to reenter the workforce. The Commission believes that apprenticeship programs can play an important role in providing the training necessary to overcome these barriers to reemployment.

Employers would also benefit from an enhanced pool of qualified persons to fill their needs. Demographic data demonstrates that older workers comprise a substantial proportion of the potential workforce. There may not be a sufficient number of younger persons to meet the needs of America's employers. Older workers can be trained just as readily as younger ones to handle emerging technologies.

4. What Impact Will Change in the Interpretation Have on Employers and Future Sponsorship of Apprenticeship Programs?

Opponents of changing the apprenticeship interpretation argue that a change would make it more difficult for program sponsors to recoup their investments. They claim that older apprentices do not remain with a particular employer, or in the workforce, as long as younger ones and that older persons are less likely to complete an apprenticeship program. They argue that sponsors of programs who see a diminishing return on investment will discontinue the programs and turn to recruitment to fill staffing needs. Opponents express the view that changing the interpretation would lead to the unintended consequence of fewer apprenticeship opportunities for all persons.

Supporters of the proposed rule maintain that there is no evidence to

[3] See footnote 1 *supra.*

support the assertion that eliminating age barriers will make it more difficult for employers to recoup their investment in apprenticeship programs. These commenters point to: the continuation of apprenticeship programs in states that prohibit age discrimination in such programs; the increased mobility of workers of all ages which diminishes the likelihood that employers will recoup a training investment through the lifetime employment of any worker on the basis of age; and the growing need for employers to invest in retraining for employees of all ages given rapid advances in technology. Supporters of the proposed rule also rely on data showing that older workers on average remain with the same employer longer than younger workers.

The Commission is persuaded by the arguments of those in favor of changing the interpretation. To begin with, they point to the lack of objective evidence to support the claim of increased cost or diminishing opportunities. Indeed, no such data has been presented to the Commission. This is in spite of the fact that approximately one-half of the states currently bar age discrimination in apprenticeship programs. Moreover, opponents argue that older workers will leave the workforce far sooner than younger workers, that older workers are less likely to complete an apprenticeship program, and that older workers will retire at the earliest opportunity. But such arguments fail to consider research: refuting a link between age and declining performance; showing that technology has shortened the time within which a return on investment in apprenticeship for any worker can be realized; or demonstrating positive virtues and work ethics on the part of older persons. They also fail to consider information regarding increased job mobility in the workforce for people of all ages, and demographics demonstrating that older workers are an important resource needed to maintain America's competitive position in the world.

In addition, no current useful data was presented regarding the costs of apprenticeship programs. The only broad-based data submitted was from a fifteen-year old study. One commenter submitted very high cost figures regarding its own program but did so without any analysis or explanation. As a result it was not possible to evaluate this commenter's assertions. Insofar as the claims of increased costs are based on stereotypical assumptions about the behavior of older persons, the Commission is mindful of the fact that a principal purpose for the enactment of the ADEA was precisely to prohibit employment actions based on such assumptions. *Hazen Paper Co.* v. *Biggins,* 507 U.S. 604 (1993). Accordingly, the Commission rejects as unsupported the claim that adoption of the proposed rule will harm employers and prevent the future sponsorship of apprenticeship programs throughout the country.

5. What is the Impact of the Current Interpretation on Groups Such as Minorities and Women That Have Been Disadvantaged by Historical Employment Discrimination?

None of the commenters disagree that women and minorities are underrepresented in craft occupations. Moreover, these employment patterns have not changed significantly over the past fifteen years. Supporters of changing the interpretation present data demonstrating that African-Americans and Hispanics have been particularly hard hit by job displacements over the past two decades and that permitting age limitations in apprenticeship programs locks in the effects of past discrimination and occupational segregation. One commenter supports its position by pointing to the well documented history of race discrimination in the crafts. Proponents also point to the fact that minorities are often the last hired and the first fired in a reduction-in-force. They state that overall unemployment rates for African-Americans and other minorities are disproportionately high in comparison to Whites and attribute much of the problem to minority members' lack of seniority and lack of acquired skills in the crafts. They view apprenticeship as a way in which minorities can acquire much needed training in our rapidly changing workplace and state that older minorities, especially, stand to benefit from apprenticeship training in areas experiencing rapid technological change.

Similarly, supporters of the NPRM point to the problems women have faced in gaining access to non-traditional jobs. Specifically, several proponents of the proposed rule note that women go into the trades at a later age than men, often because younger women pursue—and are encouraged to pursue—more traditionally female occupations. This commenter asserts that age limits lock in the effects of prior sex discrimination just as they lock in the effects of prior race discrimination.

One commenter cites statistics demonstrating a difference between the weekly earnings for males and females between the ages of 45 and 64 of $221 in favor of males, in support of a need for greater access to apprenticeship programs for older women. A number of commenters also argue that access is extremely important for the ''more than 3 million displaced homemakers—women who have been out of the workforce for some time and are now seeking employment—[they are] older women between the ages of 45 and 64.''

According to one proponent of change, statistics reveal that 90% of single parent families in the United States are maintained by women. Another supporter references statistics showing that 55% of all households in West Virginia are headed by women. The commenter notes that although women occupy this critical responsibility for the children of America, they are often clustered in low paying traditionally female jobs.

Another commenter contends that removing age limits from apprenticeship programs would go hand-in-hand with current welfare reform efforts. This commenter argues that apprenticeships will lead to jobs in the trades for many older welfare recipients allowing them to support themselves and their children—precisely as they will be required to do.

Finally, proponents of change point to the fact that patterns of underrepresentation have persisted in the skilled trades, despite the Commission interpretation. They argue that this demonstrates that eliminating opportunities for older workers will not work to the benefit of younger minorities and women—even if it were appropriate to favor younger workers over older workers, a point they do not concede.

Opponents of changing the interpretation state that age limitations in apprenticeship programs will create new opportunities for minority youth and younger women. However, they offer no explanation to support this claim nor an explanation of why there has not been an expanded representation of minorities and women in the crafts in the years that apprenticeship programs have been permitted to limit opportunities to younger workers.

The Commission is persuaded by the arguments of those favoring a change in the interpretation. It is clear that minorities and women are substantially underrepresented in the crafts and that the exclusion of apprenticeship programs from prohibitions against age discrimination has not opened up opportunities for these persons.

6. What Impact Will Changing the Interpretation Have on Opportunities for Youth?

Responding to the question of whether removing age limits would diminish training opportunities for youth, several commenters favoring a change in position note that Congress has created major training programs designed specifically for youth.[4] These commenters state that Congress has set aside over a billion dollars to fund these programs. For this reason, these proponents conclude that access to apprenticeship programs should be available to workers of all ages. One commenter contends that removal of age limitations would not diminish training opportunities for youth, but would result in an inter-generational approach to apprenticeship that promotes greater harmony in the workplace.

An opponent of the proposed rule argues that apprenticeship programs should be reserved for youth, citing high unemployment rates for young people and arguing that they are in great need of educational and employment opportunities. This commenter states that youth should not have to compete with older persons who might otherwise have an advantage over them solely by reason of their having lived longer.

While the Commission believes that apprenticeship programs continue to be an important source of training for young people, it also takes the position that apprenticeship programs can operate successfully by utilizing the talents of individuals of all ages. The Commission was not provided with any information demonstrating that youth have been negatively affected in any of the states that prohibit age limits in apprenticeship programs. Moreover, some apprenticeship programs with a desire to assist specific disadvantaged groups may be able to do so under the existing exemption from the ADEA found at 29 CFR 1627.16. In the alternative, such programs could seek an exemption under the procedures set out at 29 CFR 1627.15.

7. What is the Relationship of Apprenticeship Programs to Employment and Education?

A number of those who favor the proposed rule argue that apprenticeship programs are more in the nature of employment than education. Some of those opposed to the proposed rule contend that the contrary is true. These comments support the position, which has been previously taken by the Commission, that, in fact, apprenticeship programs have both employment and education components. However, the Commission is also of the view that the employment and education aspects of apprenticeship programs are so inextricably interwoven as to mandate coverage under the Act. As most of the commenters who address this question note, the indicia of an employer/employee relationship are almost always present. For example, apprentices frequently perform functions for the employer that the employer would otherwise have to pay someone else to perform; apprentices are always or almost always paid a wage; many apprenticeship programs seek certification from DOL that permits them to pay apprentices less than the prevailing rate for journeymen employees on certain jobs.

Findings

After careful review of the available data, including the comments discussed above, the EEOC has determined that employers and employees alike will be better served by an interpretation of the ADEA which covers apprenticeship programs. Therefore, the Commission is rescinding its current interpretation and issuing a new rule as set forth below.

Executive Order 12866, Regulatory Planning and Review

The Equal Employment Opportunity Commission has determined under Executive Order 12866 that this rule is a significant regulatory action, however, it will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, or local or tribal governments or communities. The rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

The rule does not contain any information collection or record keeping requirements as defined in the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Similarly, the Commission certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this rule will not result in a significant economic impact on a substantial number of small entities. For this reason, a regulatory flexibility analysis is not required.

In addition, in accordance with Executive Order 12067, the Commission has solicited the views of affected Federal agencies.

The final rule appears below.

List of Subjects in 29 CFR Part 1625

Advertising, Age, Employee benefit plans, Equal employment opportunity, Retirement.

Signed at Washington, DC this 2nd day of April 1996.

Gilbert F. Casellas,

Chairman.

Adoption of the Amendment

Accordingly, chapter XIV of title 29 of the Code of Federal Regulations is amended as follows:

PART 1625—AGE DISCRIMINATION IN EMPLOYMENT ACT

1. The authority citation for part 1625 continues to read as follows:

Authority: 81 Stat. 602; 29 U.S.C. 621, 5 U.S.C. 301, Secretary's Order No. 10–68; Secretary's Order No. 11–68; sec. 12, 29 U.S.C. 631, Pub. L. 99–592, 100 Stat. 3342; sec. 2, Reorg. Plan No. 1 of 1978, 43 FR 19807.

§ 1625.13 [Removed]

2. In Part 1625, § 1625.13 is removed.

Subpart B—Substantive Regulations

3. In Part 1625, § 1625.21 is added to Subpart B—Substantive Regulations to read as follows:

§ 1625.21 Apprenticeship programs.

All apprenticeship programs, including those apprenticeship programs created or maintained by joint labor-management organizations, are subject to the prohibitions of sec. 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 623. Age limitations in apprenticeship programs are valid only if excepted under sec. 4(f)(1) of the Act, 29 U.S.C. 623(f)(1), or exempted by the Commission under sec. 9 of the Act, 29 U.S.C. 628, in accordance with the procedures set forth in 29 CFR 1627.15.

[FR Doc. 96–8513 Filed 4–5–96; 8:45 am]

BILLING CODE 6570–01–P

[4] Commenters referenced such programs as the Carl D. Perkins Vocational and Applied Technology Act, 20 U.S.C. 2301 *et seq.* and the Job Training Partnership Act (JTPA) as proof of the availability of opportunities for youth.

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[SPATS No. IN–132–FOR; State Program Amendment No. 95–10]

Indiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Indiana regulatory program (hereinafter referred to as the ''Indiana program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of the recodification of the Indiana Surface Coal Mining and Reclamation Act, and it represents the Indiana Legislative Services Agency's effort to streamline and simplify Indiana natural resources law placing all such provisions in Title 14.

EFFECTIVE DATE: April 8, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana 46204–1521, Telephone (317) 226–6700.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Indiana Program

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. Background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the July 26, 1982, Federal Register (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 914.10, 914.15, and 914.16.

II. Submission of the Proposed Amendment

By letter dated September 11, 1995 (Administrative Record No. IND–1508), Indiana submitted a proposed amendment to its program pursuant to SMCRA. Indiana submitted the proposed amendment at its own initiative. Indiana proposed recodification of the Indiana Surface Coal Mining and Reclamation Act (ISCMRA), Title 13 of the Indiana Code (IC) 13–4.1, as enacted by the Indiana General Assembly under 1995 House Enrolled Act 1047 (HEA 1047). HEA 1047 was signed into law by Governor Evan Bayh on May 10, 1995. HEA repealed IC 13–4.1 and recodified its substantive provisions at Title 14 of the Indiana Code (IC) 14–34. Editorial changes, including minor structural and grammatical changes, were made throughout the recodified statutes. Indiana, also, submitted IC 14–8 which contains several definitional sections, including some previously contained in IC 13–4.1, and savings provisions which state that HEA 1047 is not intended to enact a substantive change to pre-existing law, nor affect any rules promulgated, or rights or liabilities accrued, under the authority of prior law. There were no substantive revisions proposed by Indiana.

OSM announced receipt of the proposed amendment in the January 22, 1996, Federal Register (61 FR 1546), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on February 21, 1996.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, is the Director's finding concerning the proposed amendment.

Indiana's proposed amendment concerns the recodification of the Indiana Surface Coal Mining and Reclamation Act (SCMRA), Title 13 of the Indiana Code (IC) 13–4.1, as enacted by the Indiana General Assembly under 1995 House Enrolled Act 1047 (HEA 1047). HEA 1047 was signed into law by Governor Evan Bayh on May 10, 1995. HEA repealed IC 13–4.1 and recodified its substantive provisions at Title 14 of the Indiana Code (IC) 14–8 and 14–34. Indiana's proposed recodification of its statutes is nonsubstantive in nature, and the Director finds that the recodification does not render its statutes less stringent than SMCRA.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No public comments were received, and because no one requested an opportunity to speak at a public hearing, no hearing was held.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Indiana program. Responding by letter, the Natural Resources Conservation Service stated it had reviewed the proposed amendment and had no comments (Administrative Record No. IND–1516). No other comments were received.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Indiana proposed to make in this amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (Administrative Record No. Ind–1513). It did not respond to OSM's request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM is required to solicit comments on proposed amendments which may have an effect on historic properties from the SHPO and ACHP. OSM solicited comments on the proposed amendment from the SHPO and ACHP (Administrative Record No. Ind–1513). Neither SHPO nor ACHP responded to OSM's request.

V. Director's Decision

Based on the above finding, the Director approves the proposed amendment as submitted by Indiana on September 11, 1995.

The Federal regulations at 30 CFR part 914, codifying decisions concerning the Indiana program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of

that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

List of Subjects in 30 CFR part 914

Intergovernmental regulations, Surface mining, Underground mining.

Dated: March 29, 1996.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T, part 914 of the Code of Federal Regulations is amended as set forth below:

PART 914—INDIANA

1. The authority citation for Part 914 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 914.15 is amended by adding paragraph (ooo) to read as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(ooo) Recodification of Indiana's statutes from IC 13–4.1 to IC 14–8 and IC 14–34 as submitted to OSM on September 11, 1995, is approved effective April 8, 1996.

[FR Doc. 96–8630 Filed 4–5–96; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 943

[SPATS No. TX–029–FOR]

Texas Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Texas regulatory program (hereinafter referred to as the ''Texas program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Texas proposed revisions to rules pertaining to road systems, support facilities, and utility installations. The amendment is intended to revise the Texas program to be consistent with the corresponding Federal regulations and incorporate the additional flexibility afforded by the revised Federal regulations.

EFFECTIVE DATE: April 8, 1996.

FOR FURTHER INFORMATION CONTACT: Jack R. Carson, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6548, Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Texas Program

On February 16, 1980, the Secretary of the Interior conditionally approved the Texas program. Background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the February 27, 1980, Federal Register (45 FR 12998). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 943.10, 943.15, and 943.16.

II. Submission of the Proposed Amendment

By letter dated December 20, 1995 (Administrative Record No. TX–608), Texas submitted a proposed amendment to its program pursuant to SMCRA. Texas submitted the proposed amendment in response to a February 21, 1990, letter (Administrative Record No. TX–476) that OSM sent to Texas in accordance with 30 CFR 732.17(c), and at its own initiative. Texas proposed to revise Texas Coal Mining Regulations (TCMR) 708.008(71), definition of road; 780.154, road systems and support facilities; 816.400–403, roads, primary roads, utility installations, and support facilities (surface); 784.198, road systems and support facilities (underground); 817.569–572, roads, primary roads, utility installations, and support facilities (underground); 815.327, coal exploration performance standards; and 827.651, coal processing plants performance standards.

OSM announced receipt of the proposed amendment in the February 1, 1996, Federal Register (61 FR 3628), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on March 4, 1996.

By letter dated February 14, 1996 (Administrative Record No. TX–608.04), Texas notified OSM that the references to Sections 780.154 and 784.198 at the end of proposed new subsections 816.401(b) and 817.570(b) were in error and removed the provisions.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment.

Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and

paragraph notations to reflect organizational changes resulting from this amendment.

A. Revisions to Texas' Regulations That Are Substantively Identical to the Corresponding Provisions of the Federal Regulations

TCMR 701.008(71), Definition of ''Road'' (30 CFR 701.5); TCMR 780.154(a) (Surface Mining) and TCMR 784.198(a) (Underground Mining), Plans and drawings (30 CFR 780.37(a) (Surface Mining) and 30 CFR 784.24(a) (Underground Mining)); TCMR 780.154(b) (Surface Mining) and TCMR 784.198(b) (Underground Mining), Primary road certification (30 CFR 780.37(b) (Surface Mining) and 30 CFR 784.24(b) (Underground Mining)); TCMR 780.154(c) (Surface Mining) and TCMR 784.198(c) (Underground Mining), Support facilities (30 CFR 780.38 (Surface Mining) and 30 CFR 784.30 (Underground Mining)); TCMR 816.400 (Surface Mining) and TCMR 817.569 (Underground Mining), Roads: General (30 CFR 816.150 (Surface Mining) and 30 CFR 817.150 (Underground Mining)); TCMR 816.402 (Surface Mining) and TCMR 817.571 (Underground Mining), Utility installations (30 CFR 816.180 (Surface Mining) and 30 CFR 817.180 (Underground Mining)); TCMR 816.403 (Surface Mining) and TCMR 817.572 (Underground Mining), Support facilities (30 CFR 816.181 (Surface Mining) and 30 CFR 817.181 (Underground Mining)); TCMR 815.327(c), Performance standards for coal exploration (30 CFR 815.15(b)); and TCMR 827.651(b), Coal processing plants: Performance standards (30 CFR 872.12(h)).

Because the above proposed revisions are identical in meaning to the corresponding Federal regulations, the Director finds that Texas' proposed rules are no less effective than the Federal rules.

B. TCMR 816.401 (Surface Mining) and TCMR 817.570 (Underground Mining)

At TCMR 816.401 (Surface Mining) and TCMR 817.570 (Underground Mining), Texas proposed revisions that are substantively identical to the corresponding provisions of the Federal regulations at 30 CFR 816.151 (Surface Mining) and 30 CFR 817.151 (Underground Mining), except that at TCMR 816.401(b) and TCMR 817.570(b), Texas proposed to include the language, ''or meet the requirements established under Section 780.154 (784.198) of this chapter.'' By letter dated February 14, 1996 (Administrative Record No. TX–608.04), Texas notified OSM that the references to Sections 780.154 and 784.198 at the end of proposed new subsections 816.401(b) and 817.570(b) were in error and modified its submittal to remove those references. Therefore, the revised language is substantively identical to the corresponding Federal regulations, and the Director finds that Texas' proposed rules are no less effective than the Federal rules.

IV. Summary and Disposition of Comments

Public comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. The Texas Mining and Reclamation Association responded by letter dated February 29, 1996, and stated its Board of Directors and its operating companies ''fully support the amendment'' (Administrative Record No. 608.07). Texas Utilities Services, Inc., in a letter dated March 1, 1996, noted the state language ''vehicle travel on other than established graded and surfaced roads shall be limited by the person who conducts coal exploration to that absolutely necessary to conduct the exploration'' has been deleted (Administrative Record No. 608.08). OSM acknowledges this language has been deleted from TCMR 815.327(c)(1).

Because no one requested an opportunity to speak at a public hearing, no hearing was held.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Texas program. The U.S. Army Corps of Engineers responded by letter dated February 27, 1996, and stated the proposed amendments to Texas Coal Mining Regulations were satisfactory to the agency (Administrative Record No. TX–608.06). No other Federal agency comments were received.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions that Texas proposed to make in this amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (Administrative Record No. TX–608.03). EPA responded by letter dated February 23, 1996, and stated the agency had no comments (Administrative Record No. TX–608.05).

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM is required to solicit comments on proposed amendments which may have an effect on historic properties from the SHPO and ACHP. OSM solicited comments on the proposed amendment from the SHPO and ACHP (Administrative Record No. TX–608.01). ACHP did not respond to OSM's request. The SHPO responded on February 12, 1996, that the proposed amendment would have no effect on National Register-eligible or listed properties or State Archaeological Landmarks (Administrative Record No. TX–608.03).

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Texas on December 20, 1995, and as revised on February 14, 1996.

The Director approves the rules as proposed by Texas with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM.

The Federal regulations at 30 CFR Part 943, codifying decisions concerning the Texas program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language

of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 29, 1996.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T, part 943 of the Code of Federal Regulations is amended as set forth below:

PART 943—TEXAS

1. The authority citation for Part 943 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 943.15 is amended by adding paragraph (m) to read as follows:

§ 943.15 Approval of regulatory program amendments.

* * * * *

(m) The amendment submitted to OSM on December 20, 1995, and as revised on February 14, 1996, is approved effective April 8, 1996.

[FR Doc. 96–8631 Filed 4–5–96; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 535

Iranian Assets Control Regulations; Shams Pahlavi Assets Unblocked; Correction

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendment to the list of persons whose assets are subject to blocking; correction.

SUMMARY: This document contains a correction to a typographical error appearing in a final regulation published Monday, March 4, 1996 [61 FR 8216].

EFFECTIVE DATE: April 5, 1996.

FOR FURTHER INFORMATION CONTACT: Regarding the status of blocked assets, Loren L. Dohm, Blocked Assets Division (tel.: 202/622–2440); regarding legal questions, William B. Hoffman, Chief Counsel (tel.: 202/622–2410); Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220.

SUPPLEMENTARY INFORMATION:

Background

Section 535.217(b) of the Iranian Assets Control Regulations, 31 CFR part 535, was amended effective March 1, 1996, to reflect changes in the status of litigation brought by Iran against close relatives of the former Shah of Iran seeking the return of property alleged to belong to Iran. Reference to Shams Pahlavi, sister of the former Shah of Iran, was deleted from § 535.217(b).

Need for Correction

As published, the final regulation contained a typographical error requiring correction.

Correction of Publication

Accordingly, the publication on March 4, 1996, of the final regulation [FR Doc. 96–4899][61 FR 8216] is corrected as follows:

§ 535.217 [Corrected]

On page 8216, in the third column, following paragraph 2., the section number in the title of the section being amended is corrected to read ''§ 535.217'' rather than ''§ 535.201.''

Dated: April 1, 1996.

William B. Hoffman

Chief Counsel, Office of Foreign Assets Control.

[FR Doc. 96–8533 Filed 4–5–96; 8:45 am]

BILLING CODE 4810–25–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 97

[ET Docket No. 93–40; FCC 96–25]

Allocation of the 219–220 MHz Band for Use by the Amateur Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: By this *Memorandum Opinion and Order (MO&O),* the Commission addresses the Petition for Reconsideration (Petition), filed by Fred Daniel d/b/a Orion Telecom (Orion). Orion's Petition requests that the Commission rescind the 219–220 MHz allocation to the Amateur Radio Service or, alternatively, modify the rules to provide additional protection for Automated Maritime Telecommunications Systems (AMTS) operations. This *MO&O* affirms the Commission's decision to allocate the 219–220 MHz band to the Amateur Radio Service on a secondary basis; and also amends the amateur rules to reflect the frequency upon which the AMTS stations operate. Finally, the *MO&O* updates and corrects the Table of Frequency Allocations.

EFFECTIVE DATE: May 8, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas P. Derenge (202) 418–2451,

Office of Engineering and Technology, Federal Communications Commission, Washington, DC 20554.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *MO&O* adopted January 25, 1996, and released March 22, 1996. The complete *MO&O* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington DC 20037.

Summary of MO&O

1. In its Petition, Orion argues that the Commission should rescind the allocation, even on a secondary basis, of the 219–220 MHz band to the Amateur Radio Service because the exclusion distance of 80 km between AMTS and amateur operations, adopted in the Report and Order (*R&O*), 60 FR 15686, March 27, 1995, is insufficient to protect primary AMTS operations from harmful amateur interference. In denying the petition, the Commission determined that it is appropriate and desirable to provide a secondary allocation for amateur point-to-point fixed digital message forwarding systems at 219–220 MHz. The Commission states that the 80 km exclusion distance, 640 km notification distance, and other interference safeguards adopted in the *R&O* are sufficient to protect AMTS operations from potential interference caused by amateur operations. As stated in the *R&O*, these distances were derived as a result of technical studies and a consensus between the American Radio Relay League, Inc. (ARRL) and Waterway Communications Systems, Inc., an AMTS provider. Additionally, the Commission points out that Orion failed to provide any technical showing that the regulations adopted in the *R&O* are not sufficient to protect AMTS operations from amateur interference.

2. In the event the allocation is not rescinded, Orion requests that the governing rules be amended to provide better protection for AMTS operations. Specifically, it requests that the rules provide interference protection to remote receivers, which may be located several miles from their coast stations. Additionally, Orion requests that the Commission's rules require amateur operations in the 219–220 MHz band to use interference avoidance techniques such as directional antennas, frequency separation, and cross polarization of signals. Orion also states that although the text of the *R&O* provides that amateurs must immediately either resolve any interference to AMTS licensees or else cease operation, Part 97 failed to include that requirement. Orion argues that amateur equipment used in the 219–220 MHz band should be type accepted in order to ensure that amateur operators use high quality equipment that will not interfere with commercial spectrum users. Additionally, Orion requests that the amateur rules specify the bands of AMTS operation to aid amateur operators in locating AMTS coast stations.

3. Finally, Orion argues that the required notification to AMTS licensees by amateur operators should contain the specific technical parameters of the proposed amateur operation. In particular, Orion states that the notification should include: 1) the center frequency of the proposed amateur channel, 2) the effective radiated power in the direction of the AMTS station, 3) a plot of the horizontal radiation pattern for the proposed antenna, 4) the height of the proposed antenna above ground, 5) the height of the proposed antenna above average terrain, 6) a description of the proposed emission, and 7) a telephone number at which the amateur operator can be reached at any time during the amateur's operation in the band. Orion states that this information is necessary to enable amateurs to evaluate their potential for interference to other operations and is similarly needed by AMTS licensees in the event interference to their operations occur.

4. The *MO&O* states that the rules already in place to protect AMTS coast stations are sufficient to protect remote receivers because coast stations and remote receivers are typically in close proximity to one another. Additionally, once notification is provided to the AMTS licensee, the licensee can easily inform the amateur operator of remote receiver locations. The Commission also states that requiring specific interference avoidance techniques for amateur operations is unnecessary. Instead of requiring amateurs to use specific techniques, amateur operators are permitted the flexibility to use whatever techniques they deem appropriate to avoid interference to AMTS.

5. The Commission concludes that Orion's assertion that Part 97 of the rules does not reflect the requirement specified in the *R&O* that ''amateurs will be required to resolve immediately any complaint of interference to an AMTS station or, alternatively, to cease operation'' is incorrect. Section 97.303(e)(2) states that ''[n]o amateur station transmitting in the 219–220 MHz segment shall cause harmful interference to, nor is protected from interference due to operation of Automated Maritime Telecommunications Systems. . . .'' The language of this rule clearly holds amateur operators responsible for avoiding interference to AMTS operations. In addition, the *MO&O* denies Orion's request that amateur equipment be type accepted. There is no evidence that amateur equipment has a history of being defective or that there is a need to require type acceptance for operations in the 219–220 MHz band. The Commission concludes that a type acceptance procedure for amateur 219–220 MHz band equipment would be unnecessarily burdensome.

6. The *MO&O* adopts Orion's suggestion that the amateur rules specify the bands of operation for AMTS in order to enable amateur operators to identify more readily all relevant AMTS operations. The Commission agrees with Orion that reference must be made to licensed operations in both the 217–218 MHz and 219–220 MHz bands in order to protect AMTS systems and therefore amends Sections 97.303(e)(4) and 97.303(e)(5) accordingly.

7. Finally, the Commission agrees with Orion that amateurs' notifications to AMTS licensees should include sufficient technical information to facilitate coordination between amateur and AMTS operations. However, the Commission states that the notification form developed by ARRL in response to the rules adopted in the *R&O* provides sufficient information for this coordination process. Therefore, the Commission do not believe that it is necessary at this time to amend the rules to specify that amateurs provide specific technical information, as requested by Orion. If the current coordination procedures do not prove satisfactory, this issue will be revisited.

8. *Final Regulatory Flexibility Analysis:* Pursuant to 5 U.S.C. Section 603, a Regulatory Flexibility Analysis was incorporated in the *Notice of Proposed Rule Making (NPRM*), and *R&O* in ET Docket 93–40. Written comments on the proposals in the *NPRM*, including the Regulatory Flexibility Analysis, were requested and a final analysis was provided in the *R&O*.

A. *Need for and Objective of Rules:* The objective of this action is to provide a secondary allocation for the Amateur Radio Service which will permit amateur operators to establish point-to-point fixed digital message forwarding systems without interfering with primary services. The Commission

believes that the rules are sufficient to permit amateurs to share the spectrum, while the flexibility of the rules will in large part provide amateurs with the operational freedom to which they are accustomed.

B. *Issues Raised by the Public in Response to the Final Analysis:* No party suggested modifications specifically to the regulatory flexibility analysis.

C. *Any Significant Alternative Minimizing Impact on Small Entities and Consistent with Stated Objectives:* This action may provide new marketing opportunities for amateur radio equipment manufacturers, some of which may be small businesses.

9. Accordingly, IT IS ORDERED, that Parts 2 and 97 of the Commission's rules ARE AMENDED as set forth below, effective May 8, 1996. Furthermore, IT IS ORDERED, that the Petition for Reconsideration filed by Fred Daniel d/b/a Orion Telecom IS GRANTED, to the extent described above, and IS DENIED in all other respects. This action is taken pursuant to Sections 4(i), 7(a), 302, 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 302, 303(c), 303(f), 303(g), 303(r).

List of Subjects

47 CFR Part 2

Radio.

47 CFR Part 97

Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Parts 2 and 97 of title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for Part 2 continues to read as follows:

Authority: Sec. 4, 302, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154, 302, 303 and 307, unless otherwise noted.

2. Section 2.104(a) is revised to read as follows:

§ 2.104 International Table of Frequency Allocations.

(a) The International Table of Frequency Allocations (columns 1, 2 and 3 of § 2.106) is included for informational purposes only.

* * * * *

3. Section 2.106, the Table of Frequency Allocations, is amended as follows:

a. The entries for 174–216 MHz, 174–223 MHz, 216–220 MHz, 220–222 MHz, 222–225 MHz, 223–230 MHz, 225–235 MHz, 225.0–328.6 MHz, 230–235 MHz, 235–267 MHz, 267–272 MHz, 272–273 MHz, 273–322 MHz, and 322.0–328.6 MHz are removed and new entries for 174–216 MHz, 216–220 MHz, 220–222 MHz, 222–223 MHz, 223–225 MHz, 225–230 MHz, 230–235 MHz, 235–267 MHz, 267–272 MHz, 272–273 MHz, 273–312 MHz, 312–315 MHz, 315–322 MHz, and 322–328.6 MHz are added in numerical order.

b. International Footnote Nos. 633 and 634 are removed.

c. International Footnote Nos. 621, 622, 627, and 635 are revised.

d. International Footnote No. 641A is added.

The additions and revisions read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
*	*	*	*	*	*	*
174–216 BROADCASTING	174–216 BROADCASTING	174–216 FIXED	174–216	174–216 BROADCASTING	RADIO BROADCAST (TV) (73)	
	Fixed	MOBILE			Auxiliary Broadcasting (74)	
	Mobile	BROADCASTING				
621 623 628 629	620	619 624 625 626 630		NG115 NG128 NG149		
216–220 BROADCASTING	216–220 FIXED	216–220 FIXED	216–220 MARITIME MOBILE	216–220 MARITIME MOBILE	MARITIME (80)	
	MARITIME MOBILE	MOBILE	Aeronautical Mobile	Aeronautical Mobile	Private Land Mobile (90)	
	Radiolocation 627	BROADCASTING	Fixed	Fixed	Personal Radio Service (95)	
			Land Mobile	Land Mobile	Amateur (97)	
			Radiolocation 627			
621 623 628 629	627A	619 624 625 626 630	US210 US229 US274 US317 G2	627 US210 US229 US274 US317 NG152		
220–222 BROADCASTING	220–222 AMATEUR	220–222 FIXED	220–222 LAND MOBILE	220–222 LAND MOBILE	PRIVATE LAND MOBILE (90)	
	FIXED	MOBILE	Radiolocation 627			
	MOBILE	BROADCASTING				
	Radiolocation 627					

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
621 623 628 629		619 624 625 626 630	G2	627		
222–223 BROADCASTING 621 623 628 629	222–223 AMATEUR FIXED MOBILE Radiolocation 627	222–223 FIXED MOBILE BROADCASTING 619 624 625 626 630	222–223 Radiolocation 627 G2	222–223 AMATEUR 627	AMATEUR (97)	
223–225 BROADCASTING FIXED MOBILE 622 628 629 631 632 635	223–225 AMATEUR FIXED MOBILE Radiolocation 627	223–225 FIXED MOBILE BROADCASTING AERONAUTICAL RADIO-NAVIGATION Radiolocation 636 637	223–225 Radiolocation 627 G2	223–225 AMATEUR 627	AMATEUR (97)	
225–230 BROADCASTING FIXED MOBILE 622 628 629 631 632 635	225–230 FIXED MOBILE	225–230 FIXED MOBILE BROADCASTING AERONAUTICAL RADIO-NAVIGATION Radiolocation 636 637	225–230 FIXED MOBILE G27	225–230		
230–235 FIXED MOBILE 629 632 635 638 639	230–235 FIXED MOBILE	230–235 FIXED MOBILE AERONAUTICAL RADIO-NAVIGATION 637	230–235 FIXED MOBILE G27	230–235		
235–267 FIXED MOBILE 501 592 635 640 641 642	235–267 FIXED MOBILE 501 592 635 640 641 642	235–267 FIXED MOBILE 501 592 635 640 641 642	235–267 FIXED MOBILE 501 592 642 G27 G100	235–267 501 592 642		
267–272 FIXED MOBILE Space Operation (space-to-Earth) 641 643	267–272 FIXED MOBILE Space Operation (space-to-Earth) 641 643	267–272 FIXED MOBILE Space Operation (space-to-Earth) 641 643	267–272 FIXED MOBILE G27 G100	267–272		
272–273 SPACE OPERATION (space-to-Earth) FIXED MOBILE 641	272–273 SPACE OPERATION (space-to-Earth) FIXED MOBILE 641	272–273 SPACE OPERATION (space-to-Earth) FIXED MOBILE 641	272–273 FIXED MOBILE MOBILE G27 G100	272–273		
273–312 FIXED	273–312 FIXED	273–312 FIXED	273–312 FIXED	273–312		

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
MOBILE 641	MOBILE 641	MOBILE 641	MOBILE G27 G100			
312–315 FIXED MOBILE Mobile-Satellite (Earth-to-space) 641 641A	312–315 FIXED MOBILE Mobile-Satellite (Earth-to-space) 641 641A	312–315 FIXED MOBILE Mobile-Satellite (Earth-to-space) 641 641A	312–315 FIXED MOBILE G27 G1	312–315		
315–322 FIXED MOBILE 641	315–322 FIXED MOBILE 641	315–322 FIXED MOBILE 641	315–322 FIXED MOBILE G27 G100	315–322		
322–328.6 FIXED MOBILE RADIO ASTRONOMY 644	322–328.6 FIXED MOBILE RADIO ASTRONOMY 644	322–328.6 FIXED MOBILE RADIO ASTRONOMY 644	322–328.6 FIXED MOBILE 644 G27	322–328.6 644		
*	*	*	*	*	*	*

International Footnotes

* * * * *

621 *Additional allocation:* in the Federal Republic of Germany, Austria, Belgium, Denmark, Spain, Finland, France, Israel, Italy, Liechtenstein, Malta, Monaco, Norway, the Netherlands, the United Kingdom, Sweden, and Switzerland, the band 174–223 MHz is also allocated to the land mobile service on a permitted basis. However, the stations of the land mobile service shall not cause harmful interference to, or claim protection from, broadcasting stations, existing or planned, in countries other than those listed in this footnote.

622 *Different category of service:* in the Federal Republic of Germany, Austria, Belgium, Denmark, Spain, Finland, France, Israel, Italy, Liechtenstein, Luxembourg, Malta, Monaco, Norway, the Netherlands, Portugal, the United Kingdom, Sweden and Switzerland, the band 223–230 MHz is allocated to the land mobile service on a permitted basis (see No. 425). However, the stations of the land mobile service shall not cause harmful interference to, or claim protection from, broadcasting stations, existing or planned, in countries other than those listed in this footnote.

* * * * *

627 In Region 2, no new stations in the radiolocation service may be authorized in the band 216–225 MHz. Stations authorized prior to 1 January 1990 may continue to operate on a secondary basis.

* * * * *

635 *Alternative allocation:* in Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia and Zimbabwe, the bands 223–238 MHz and 246–254 MHz are allocated to the broadcasting service on a primary basis, subject to agreement obtained under the provisions set forth in Article 14.

* * * * *

641A The bands 312–315 MHz (Earth-to-space) and 387–390 MHz (space-to-Earth) in the mobile-satellite service may also be used by non-geostationary-satellite systems. Such use is subject to the application of the coordination and notification procedures set forth in Resolution 46 (WARC–92).

* * * * *

PART 97—AMATEUR RADIO SERVICE

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

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

2. Section 97.303 is amended by revising paragraphs (e)(4) and (e)(5) to read as follows:

§ 97.303 Frequency sharing requirements.

* * * * *

(e) * * *

(4) No amateur station may transmit in the 219–220 MHz segment from a location that is within 640 km of an AMTS Coast Station that uses frequencies in the 217–218/219–220 MHz AMTS bands unless the amateur station licensee has given written notification of the station's specific geographic location for such transmissions to the AMTS licensee. The notification must be given at least 30 days prior to making such transmissions. The location of AMTS Coast Stations using the 217–218/219–220 MHz channels may be obtained from either:

The American Radio Relay League, Inc., 225 Main Street, Newington, CT 06111–1494;

or

Interactive Systems, Inc., Suite 1103, 1601 North Kent Street, Arlington, VA 22209; Fax: (703) 812–8275; Phone: (703) 812–8270.

(5) No amateur station may transmit in the 219–220 MHz segment from a location that is within 80 km of an AMTS Coast Station that uses frequencies in the 217–218/219–220 MHz AMTS bands unless that amateur station licensee holds written approval from that AMTS licensee. The location of AMTS Coast Stations using the 217–218/219–220 MHz channels may be obtained as noted in paragraph (e)(4) of this section.

* * * * *

[FR Doc. 96–8385 Filed 4–5–96; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Parts 21 and 76

[CS Docket No. 96–56, FCC 96–112]

Cable Television; Implementation of the Selecommunication Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order implements sections of the Telecommunications Act of 1996. The Order eliminates restrictions on the cross ownership of broadcast networks and cable television systems, allows cross ownership and operation of multichannel multipoint distribution services or Satellite Master Antenna Television systems and cable systems when effective competition exists in the franchise area, and eliminates the three-year holding period requirement for transfer of cable systems.

EFFECTIVE DATE: April 8, 1996.

FOR FURTHER INFORMATION CONTACT: Paul Glenchur, Cable Services Bureau, (202) 416–1800.

SUPPLEMENTARY INFORMATION: This is a synopsis of a Commission Order in CS Docket No. 96–56, FCC 96–112, adopted March 15, 1996 and released March 18, 1996. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 1919 M St., N.W., Washington, D.C.

I. Introduction

1. In this Order, we amend certain of the Commission's rules relating to cable television ownership to conform them to changes in the Communications Act enacted on February 8, 1996, in the Telecommunications Act of 1996 (''1996 Act'').

II. Television Broadcast Network—Cable Cross Ownership

2. Section 76.501 of the Commission's rules limits the extent to which cross ownership is permitted between cable television systems and television broadcast networks. Under this rule, network-cable cross ownership is allowed if such combinations do not exceed 10% of homes passed by cable nationwide, and do not exceed 50% of homes passed by cable within an area of dominant influence (ADI).

3. Section 202(f) of the 1996 Act provides as follows:

(f) Cable Cross Ownership.—

(1) Elimination of restrictions.—The Commission shall revise Section 76.501 of its regulations (47 CFR 76.501) to permit a person or entity to own or control a network of broadcast stations and a cable system.

4. Accordingly, we are amending Section 76.501 as reflected below to permit a person or entity to own or control a network of broadcast stations and a cable system.

III. MMDS/SMATV—Cable Cross Ownership

5. Section 613(a)(2) of the Communications Act, as adopted in the Cable Television Consumer Protection and Competition Act of 1992 (''1992 Cable Act''), made it unlawful to hold a license for a multichannel multipoint distribution service, or to offer satellite master antenna television service separate and apart from a franchised cable service, in any portion of the franchise area served by the cable operator's cable system. Rules implementing this restriction were adopted by the Commission and appear in Sections 21.912 and 76.501 of the rules. Section 202(i) of the 1996 Act adds the following to the existing restriction to provide that the Commission shall not apply the requirements of subsection 613(a): To any cable operator in any franchise area in which a cable operator is subject to effective competition as determined under section 623(l).

6. Accordingly, as reflected below, we amend the applicable Commission rules to conform them to the new statutory language.

IV. Antitrafficking Regulation

7. Section 617 of the Communications Act, as adopted in the 1992 Cable Act, restricted the ability of a cable operator to sell or otherwise transfer ownership in a cable system within a 36-month period following either the acquisition or initial construction of the system. Rules implementing the three-year holding requirement were adopted by the Commission and appear in Section 76.502 of the rules.

8. Section 301(i) of the 1996 Act eliminates these restrictions. Limitations on the time a local franchise authority has to consider applications to sell or transfer systems are retained.

9. Accordingly, as reflected below, we amend the applicable Commission rules to conform them to the new statutory language.

V. Administrative Matters

10. The rules adopted herein have been analyzed with respect to the Paperwork Reduction Act of 1995 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure or record retention requirements. These rules will not increase or decrease burden hours imposed on the public.

11. Because these rule changes simply conform the Commission's rules to the statute, we find for good cause that compliance with the notice and comment provisions of the Administrative Procedure Act is unnecessary. See 5 U.S.C. § 553(b)(B). For similar reasons, and because the amendments ease restrictions, compliance with the effective date provision of the Administrative Procedure Act also is unnecessary. 5 U.S.C. § 553(d).

12. Accordingly, pursuant to sections 4(i), 4(j) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 303(r), and Telecommunications Act of 1996, §§ 202 and 301, it is ordered that the Commission's Rules are amended as set forth below, Effective April 8, 1996.

List of Subjects

47 CFR Part 21

Television.

47 CFR Part 76

Cable television.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Parts 21 and 76 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

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

Authority: Secs. 1, 2, 4, 201–205, 208, 215, 218, 303, 307, 313, 403, 404, 410, 602, 48 Stat. as amended, 1064, 1066, 1070–1073, 1076, 1077, 1080, 1082, 1083, 1087, 1094, 1098, 1102; 47 U.S.C. 151, 154, 201–205, 208, 215, 218, 303, 307, 313, 314, 403, 404, 602; 47 U.S.C. 552, 554.

2. Section 21.912 is amended by adding a new paragraph (e)(3) to read as follows:

§ 21.912 Cable television company eligibility requirements.

* * * * *

(e) * * *

(3) The limitations on cable television ownership in this section do not apply to any cable operator in any franchise area in which a cable operator is subject to effective competition as determined under section 623(l) of the Communications Act.

* * * * *

PART 76—CABLE TELEVISION SERVICE

3. The authority citation for Part 76 continues to read as follows:

Authority: Secs. 2, 3, 4, 301, 303, 307, 308, 309, 48 Stat., as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085, 1101; 47 U.S.C. § 152, 153, 154, 301, 303, 307, 308, 309; Secs. 612, 614–615, 623, 632 as amended, 106 Stat. 1460, 47 U.S.C. 532; Sec. 623, as amended, 106 Stat. 1460; 47 U.S.C. 532, 533, 535, 543, 552.

4. Section 76.501 is amended by removing and reserving paragraph (b) and by revising paragraph (f) to read as follows:

* * * * *

§ 76.501 Cross-ownership.

* * * * *

(f) The restrictions in paragraphs (d) and (e) of this section shall not apply to any cable operator in any franchise area in which a cable operator is subject to effective competition as determined under section 623(l) of the Communications Act.

* * * * *

5. Section 76.502 is revised to read as follows:

§ 76.502 Time limits applicable to franchise authority consideration of transfer applications.

(a) A franchise authority shall have 120 days from the date of submission of a completed FCC Form 394, together with all exhibits, and any additional information required by the terms of the franchise agreement or applicable state or local law to act upon an application to sell, assign, or otherwise transfer controlling ownership of a cable system.

(b) A franchise authority that questions the accuracy of the information provided under paragraph (a) must notify the cable operator within 30 days of the filing of such information, or such information shall be deemed accepted, unless the cable operator has failed to provide any additional information reasonably requested by the franchise authority within 10 days of such request.

(c) If the franchise authority fails to act upon such transfer request within 120 days, such request shall be deemed granted unless the franchise authority and the requesting party otherwise agree to an extension of time.

[FR Doc. 96–8454 Filed 4–5–96; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Part 76

[MM Docket No. 92–266, FCC 95–150]

Cable Television Consumer Protection and Competition Act of 1992; Rate Regulation

AGENCY: Federal Communications Commission.

ACTION: Final Rule; petition for reconsideration.

SUMMARY: This Eleventh Order on Reconsideration (''The Order'') eliminates the requirement that cable systems subject to transition rate treatment keep track of both their transition rates and full reduction rates on external cost forms filed with the Commission. This Order is intended to reduce paperwork burdens on cable operators when they file requests for rate adjustments.

EFFECTIVE DATE: May 8, 1996.

FOR FURTHER INFORMATION CONTACT: Paul Glenchur, Cable Service Bureau, (202) 416–0800.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Eleventh Order on Reconsideration in MM Docket No. 92–266, FCC 95–150, adopted on April 7, 1995 and released April 26, 1995. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 1919 M St., N.W., Washington, D.C.

I. Introduction

1. In this Order, the Commission on its own motion modifies reporting requirements described in its Second Order on Reconsideration, Fourth Report and Order, and Fifth Notice of Proposed Rulemaking (''Second Reconsideration Order''), 59 FR 17943 (April 15, 1994), which direct certain small systems and low price systems to calculate both their ''transition'' rates and their ''full reduction rates'' for submission on applicable rate forms.

II. Elimination of Parallel Rate Tracking

A. Background

2. In the Second Reconsideration Order, we required regulated cable systems, as a general matter, to reduce their rates by the full competitive differential established in that Order. We further provided, however, that certain qualifying systems would be eligible for transition treatment under which such systems would not be required to reduce their rates by the full competitive differential. These transition systems include ''cable operators which have a total subscriber base of 15,000 or fewer customers and which are not affiliated with a larger operator.'' They also include systems having March 31, 1994 rates that are at or below the revised benchmark and systems having March 31, 1994 rates above the benchmark but having permitted rates at or below the benchmark.

3. We further provided in the Second Reconsideration Order that a system qualifying for transition relief would not be able to adjust its transition rate for inflation until its transition rate equaled its full reduction rate. We required transition systems to calculate both their transition and full reduction rates for the purpose of future rate adjustments. To enable parallel tracking of the transition and full reduction rates, we established on the FCC Form 1210, the form used to modify already justified rates, a reporting module acknowledging the difference in inflation adjustments for the two rates. All other cost adjustments, however, were allowed for both transition and full reduction rate calculations.

B. Discussion

4. In the Ninth Order on Reconsideration, 60 FR 10512 (February 27, 1995), we determined that it would be appropriate to allow transition systems to adjust their transition rates for inflation. By lifting the prohibition on inflation adjustments for transition rates, we eliminated the only difference in adjustment mechanisms between transition and full reduction rates. Accordingly, it is no longer necessary to require systems eligible for transition relief to render separate calculations for adjustments in transition and full reduction rates.

5. In light of the foregoing, and in order to relieve transition system operators of burdens associated with the separate calculation of transition and full reduction rates, we are eliminating the requirement that transition system operators report both rates in their applications for external rate adjustments. Rather, such systems will only be required to report their transition rates adjusted pursuant to the commission's price cap rules for inflation, changes in external costs and changes in the number of channels on regulated tiers. We will make correlative adjustments on the FCC Form 1210.

III. Regulatory Flexibility Act Analysis

6. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. §§ 601–12, the Commission's final analysis with respect to the Eleventh Order on Reconsideration is as follows:

7. *Need and purpose of this action.* The Commission, in compliance with § 3 of the Cable Television Consumer Protection and Competition Act of 1992, 47 U.S.C. § 543 (1992), pertaining to rate regulation, adopts revised rules and procedures intended to ensure that cable services are offered at reasonable rates with minimum regulatory and administrative burdens on cable entities.

8. *Summary of issues raised by the public in response to the Initial Regulatory Flexibility Analysis.* There were no comments submitted in response to the Initial Regulatory Flexibility Analysis. The Chief Counsel for Advocacy of the United States Small Business Administration (SBA) filed comments in the original rulemaking order. The Commission addressed the concerns raised by the Office of Advocacy in the Report and Order and Further Notice of Proposed Rulemaking, 58 FR 29736 (May 21, 1993).

9. *Significant alternatives considered and rejected.* In the course of this proceeding, petitioners representing cable interests and franchising authorities submitted several alternatives aimed at minimizing administrative burdens. The Commission has attempted to accommodate the concerns expressed by these parties. In this order, the Commission is providing relief to small systems and low-price systems by terminating the requirement that such systems report both their adjusted transition rate and their full reduction rate on forms requesting external cost adjustments.

IV. Paperwork Reduction Act

10. The requirements adopted herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new or modified information collection requirements on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget as prescribed by the Act.

V. Ordering Clauses

11. Accordingly, it is ordered that, pursuant to Sections 4(i), 4(j), 303(r), 612 and 623 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 154(j). 303(r), 532, 542(c) and 543, the rules, requirements and policies discussed in this Order ARE ADOPTED.

12. It is further ordered that the revised reporting requirements adopted in this Order will become effective as soon as they may be approved by the Office of Management and Budget but not sooner than May 28, 1996.

Federal Communications Commission.
William F. Caton,
Acting Secretary.

[FR Doc. 96–8455 Filed 4–5–96; 8:45 am]
BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

48 CFR Parts 1425 and 1452

RIN 1090–AA55

Department of the Interior Acquisition Regulation; Foreign Construction Materials

AGENCY: Office of the Secretary, Interior.
ACTION: Final rule.

SUMMARY: In the interests of streamlining processes and improving relationships with contractors, the Department of the Interior (DOI) is issuing this final rule which amends 48 CFR Chapter 14 by revising and updating the Department of the Interior Acquisition Regulation (DIAR).

EFFECTIVE DATE: May 8, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Mary L. McGarvey at (202) 208–3158, Department of the Interior, Office of Acquisition and Property Management, 1849 C. Street N.W. (MS5522 MIB), Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION:

A. Background

Under the auspices of the National Performance Review, a thorough review of the DIAR was conducted. The review revealed unnecessary and outdated regulations, and some excessively burdensome procedures.

In the interests of streamlining processes and improving relationships with contractors, essential portions of the DIAR are being reinvented and retained in 48 CFR, when appropriate. The review identified Sections that would remain codified. Specifically, Section 1425.203 which reflects the use of a 6% differential to evaluate U.S. versus foreign construction materials will remain codified. If a U.S. material exceeds the cost of the foreign product, then the cost of the U.S. material is unreasonable. Cost savings must be passed on to the Government in post-award approval to use foreign material. Sections 1425.205 and 1452.225–70 are the prescription and the clause associated with this DOI policy. We changed titles, rewrote language, and eliminated redundant FAR material from the Sections. We removed §§ 1425.202 and 1425.204 from 48 CFR Chapter 14 under another final rule published in the Federal Register dated 2/13/96.

This final rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because contractors are required to either comply with the Buy American Act or seek exceptions. An Initial Regulatory Flexibility Analysis has, therefore, not been performed.

Paperwork Reduction Act

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department has received approval for this collection of information, with approval number 1090–0018, with the expiration date of September 30, 1988. The Paperwork Reduction Act applies because the proposed revisions impose additional recordkeeping requirements or information collection requirements or collection of information from offerors, contractors or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501 et seq. The rule requires contractors proposing to use foreign construction materials to submit information on foreign and domestic construction materials, as well as a justification for use of foreign material. This information will be evaluated by the government in determining if a request for a waiver of the Buy American Act should be granted.

Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 1 hour, including examination of all bids received to see if foreign materials are proposed and an additional burden of applying the differential and comparing costs.

It is estimated that the information collection would affect 250 contractors (50 applicable contractors × 5 average bidders per contract). The amount of time required for each respondent to provide the required information would not exceed 1 hour, thus 250 burden hours.

Required Determinations: The Department believes that public comment is unnecessary because the revised material implements standard Government operating procedures. Therefore, in accordance with 5 U.S.C. 553(b)(B), the Department finds good cause to publish this document as a final rule. This rule was not subject to Office of Management and Budget

review under Executive Order 12866. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq), the Department has determined that this rule will not have a significant economic impact on a substantial number of small entities because minimal requirements are being added for small businesses and no protections are being withdrawn. The Department has determined that this rule does not constitute a major Federal action having a significant impact on the human environment under the National Environmental Policy Act of 1969. The Department has certified that this rule meets the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

List of Subjects in 48 CFR Parts 1425 and 1452

Government procurement, Reporting and recordkeeping requirements.

Dated: March 15, 1996.

Bonnie Cohen,

Assistant Secretary—Policy, Management and Budget.

Chapter 14 of Title 48 of the Code of Federal Regulations is amended as follows:

1. The authority citation for 48 CFR parts 1425 and 1452 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

2. 48 CFR part 1425 is revised to read as follows:

PART 1425—FOREIGN ACQUISITION

Supart 1425.2—Buy American Act—Construction Materials

Sec.

1425.203–70 Evaluating offers and price adjustment proposals.

1425.205 Solicitation provision and contract clause.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Supart 1425.2—Buy American Act—Construction Materials

§ 1425.203–70 Evaluating offers and price adjustment proposals.

(a) Upon receipt of an offered foreign construction material, the CO will conduct a 2 part test to determine, first, if the cost of the components made in the U.S. exceeds 50% of the cost for all the components; and second, if the item meets the first test, whether the item is manufactured in the U.S.

(b) The cost of U.S. material is unreasonable if it exceeds the cost of the foreign construction material by more than 6%. The CO will compute the cost of construction material to include all delivery costs to the construction site, and any applicable duty (whether or not a duty-free entry certificate is issued.) This evaluation will be made for each foreign construction material proposed in the offer not excepted by the Government either in the solicitation at 48 CFR 1452.225–70(a) or by subsequent amendment.

(c) The contractor shall pass to the Government any cost savings resulting from post-award approval to use foreign material. The CO may approve exceptions based on cost if the contractor can document that it used U.S. as well as foreign quotes to calculate the price it offered to the Government. If it is shown that the contractor did not obtain the quotes before award, the Director, PAM is authorized to disapprove requests for exceptions to the use of U.S. material. In case of disapproval, the contractor shall use the U.S. material and shall not pass on the additional cost of the U.S. material to the Government.

§ 1425.205 Solicitation provision and contract clause.

In addition to using the clauses required in FAR 25.205, the CO will insert the clause at 48 CFR 1452.225–70, Use of Foreign Construction Materials—Department of the Interior, in solicitations and contracts for construction, alteration, or repair inside the U.S. If the Government has determined that a U.S. construction material is unavailable, it will be listed under paragraph (a) of the clause.

3. Section 1452.225–70 is revised to read as follows:

§ 1425.225–70 Use of Foreign Construction Materials.

As prescribed in 48 CFR 1425.205, insert the following clause in solicitations and contracts for construction, alteration, or repair inside the United States:

Use of Foreign Construction Materials—Department of the Interior (APR 1996)

(a) The Government has determined that the Buy American Act is not applicable to the following construction materials because they are not mined, produced, or manufactured in the U.S. in sufficient quantities of a satisfactory quality:

(1) _____

(2) _____

(3) _____

(b) Offers based on the use of foreign construction materials other than those listed in (a) above may be acceptable if the Government determines that U.S. construction material is not available, would be impracticable or constitute unreasonable price. Please contract the Contracting Officer with questions or comments concerning non-availability or impracticability of U.S. material.

(c)(1) Offers based upon use of foreign construction material for cost savings will be considered reasonable if the cost of each foreign construction material, plus 6 percent, is less than the cost of comparable U.S. construction material. The Contracting Officer will compute the cost of each foreign construction material to include all delivery costs to the construction site, and any applicable duty (whether or not a duty-free entry certificate is issued.) This evaluation will be made for each foreign construction material included in the offer but not listed in subparagraph (a) above in this clause.

(2) Any contractor cost savings from post award approved substitution of foreign construction material for U.S. construction material shall be passed to the Government.

(d)(1) This offer is based on the use of foreign construction material not listed in (a) above. For each foreign item proposed the offeror shall furnish the following information for the foreign material offered: item description, supplier, unit of measure, quantity, unit price, duty (even if a duty free certificate is issued), delivery costs, and total price. The offeror shall furnish the following information for each U.S. material comparable to the foreign material: item description, supplier, unit of measure, quantity, unit price, delivery costs and total price.

(2) If the Government rejects the use of foreign construction material listed under paragraph (d)(1) above, the Government will evaluate the offer using the offeror's stated price for the comparable U.S. construction material, and the offeror shall be required to furnish such domestic construction material at the originally offered price. In preaward situations, an offer which does not state a price for a comparable U.S. construction material will be rejected by the Government. In postaward situations an offer proposing foreign material which does not state the price for the comparable U.S. construction material will be rejected by the Government. The contractor shall use comparable U.S. material for the project and any additional cost for the use of this U.S. material shall be absorbed by the contractor.

(End of clause)

[FR Doc. 96–8493 Filed 4–5–96; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. 96–17; Notice 01]

RIN: 2127–AG34

Federal Motor Vehicle Theft Prevention Standard; Final Listing of Model Year 1997 High-Theft Vehicle Lines

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This final rule announces NHTSA's determination, for Model Year (MY) 1997, of high-theft vehicle lines that will be subject to the parts-marking requirements of the Federal motor vehicle theft prevention standard and high-theft lines that will be exempted from the parts-marking requirements because the vehicles are equipped with agency-approved antitheft devices, pursuant to the statute relating to motor vehicle theft prevention.

EFFECTIVE DATE: The amendment made by this final rule is effective April 8, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Motor Vehicle Theft Group, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2739.

SUPPLEMENTARY INFORMATION: The ''Anti Car Theft Act of 1992'' amended the law relating to the parts-marking of major component parts on designated high-theft vehicle lines and other motor vehicles. One amendment made by the Anti Car Theft Act was to 49 U.S.C. 33101(10), where the definition of ''passenger motor vehicle'' now includes a ''multipurpose passenger vehicle or light duty truck when that vehicle or truck is rated at not more than 6,000 pounds gross vehicle weight.'' Since ''passenger motor vehicle'' was previously defined to include passenger cars only, the effect of the Anti Car Theft Act is that certain multipurpose passenger vehicle (MPV) and light-duty truck (LDT) lines may be determined to be high-theft vehicles, subject to the Federal motor vehicle theft prevention standard (49 CFR Part 541).

The purpose of the Theft Prevention Standard is to reduce the incidence of motor vehicle theft by facilitating the tracing and recovery of parts from stolen vehicles. The standard seeks to facilitate such tracing by requiring that vehicle identification numbers (VINs), VIN derivative numbers, or other symbols be placed on major component vehicle parts. The Theft Prevention Standard requires motor vehicle manufacturers to inscribe or affix VINs onto covered original equipment major component parts and to inscribe or affix a symbol identifying the manufacturer and a common symbol identifying the replacement component parts for those original equipment parts on all vehicle lines selected as high-theft.

Another amendment made by the Anti Car Theft Act was to 49 U.S.C. 33103. This section required NHTSA to promulgate a parts-marking standard applicable to major parts installed by manufacturers of ''passenger motor vehicles (other than light duty trucks) in not to exceed one-half of the lines not designated under section 33104 as high-theft lines.'' NHTSA published the final rule amending 49 CFR Part 541, which now includes the definitions of MPV and LDT, and major component parts. (See 59 F.R. 64164, December 13, 1995). In carrying out section 33103, NHTSA reviewed theft rates of the 231 vehicle lines that were listed in the 1990/91 theft rate data. (See 59 F.R. 12400, March 16, 1994) A total of 116 vehicle lines (any line rated a number 116 or lower) was in the eligible pool of lines potentially subject to parts-marking pursuant to section 33103.

Pursuant to the statutory mandate, NHTSA removed all light-duty truck lines from the eligible pool. Section 33103(a) further directs NHTSA to select only lines ''not designated under section 33104 of this title as high theft lines.'' Thus, the agency removed any passenger motor vehicle line that NHTSA had previously determined to be high theft. After removing the ineligible lines, the agency determined that there were 57 lines below the median still eligible for selection under section 33103. Out of the 57 below-median lines left, the agency designated the 45 lines with the highest theft rates to be marked pursuant to section 33103 and section 33104(a)(1)(C).

49 U.S.C. 33104(a)(3) specifies that NHTSA shall select high-theft vehicle lines with the agreement of the manufacturer, if possible. Section 33104(d) provides that once a line has been designated as likely high-theft, it remains subject to the Theft Prevention Standard unless that line is exempted under Section 33106. Section 33106 provides that a manufacturer may petition to have a high-theft line exempted from the requirements of section 33104, if the line is equipped with an antitheft device as standard equipment. The exemption is granted if NHTSA determines that the antitheft device is likely to be as effective as compliance with the Theft Prevention Standard in reducing and deterring motor vehicle thefts.

The agency annually publishes the names of the lines that were previously listed as high-theft and the lines that are being listed for the first time and will be subject to the Theft Prevention Standard beginning with MY 1997. It also identifies those lines that are exempted from the Theft Prevention Standard for the 1997 model year because of standard equipment antitheft devices.

For MY 1997, the agency selected nine new vehicle lines as likely to be high-theft lines, in accordance with the procedures published in 49 CFR Part 542. Of these newly selected lines, six have been exempted by the agency from the parts-marking requirements of Part 541. The three lines that have not been exempted are the Honda Passport, Honda CRV, and Toyota RAV4. In addition to these newly selected lines, 45 existing vehicle lines were added that fell below the median. Further, this listing of high-theft vehicles includes all those lines that were selected as high-theft and listed for prior model years.

The list of lines that have been exempted by the agency from the parts-marking requirements of Part 541 includes high-theft lines newly exempted in full beginning with MY 1997. The six vehicle lines newly exempted in full are the BMW 5 Car Line, General Motors Chevrolet Cavalier, Honda Acura CLX, Jaguar XK8, Nissan Infiniti QX4, and Volkswagen Passat.

Volkswagen also informed the agency that the MY 1996 final rule (60 FR 36231) listing of high-theft car lines inadvertently omitted from Appendix A–I the following six lines: the Volkswagen Cabrio, the Jetta III, the Audi Cabriolet, the Audi A6, S4, and S6. Further, Toyota requested that the agency delete in the Appendix A–I listing: the ''Lexus ES 250,'' the ''Lexus LS 400'' and the ''Lexus SC300.'' These lines will now be listed as the ''Lexus ES,'' the ''Lexus LS,'' and the ''Lexus SC.'' Additionally, the ''Lexus GS'' which was inadvertently left off the listing published for MY 1996 is now added to this listing. Finally, three lines were introduced after the final rule listing of MY 1996 high-theft lines was published. These lines are subject to the marking requirements of the Theft Prevention Standard, the BMW Z3, the Porsche Boxster, and the Suzuki X90. The Porsche Boxster received an exemption for the 1996 model year. The updated list reflects this information.

Furthermore, this final rule responds to comments received from Porsche Cars North America, Inc. (Porsche) and Subaru of America, Inc. (Subaru), each requesting that one car line be deleted from the list because it is no longer being produced. Those lines are the Porsche 944 and the Subaru XT. The Porsche 944 will be deleted from Appendix B of 49 CFR Part 541, since it was not covered prior to MY 1997 and it has not been produced since MY 1991.

The agency understands Subaru's reasons for requesting deletion of the XT from the list of vehicles subject to the parts-marking requirements of the Theft Prevention Standard. However, NHTSA cannot delete the Subaru XT from the list because it has been covered by the Theft Prevention Standard since MY 1987. Pursuant to 49 U.S.C. § 33104(d), a vehicle line on the list of lines subject to parts-marking cannot be removed from that list unless the manufacturer has obtained an exemption from the parts-marking requirement based on the installation of a qualified antitheft device as standard equipment on the entire line.

The vehicles listed as being subject to the parts-marking standard have previously been selected as high-theft lines in accordance with the procedures set forth in 49 CFR Part 542. Under these procedures, manufacturers evaluate new vehicle lines to conclude whether those new lines are likely to be high theft. Manufacturers submit these evaluations and conclusions to the agency, which makes an independent evaluation and, on a preliminary basis, determines whether the new line should be subject to the parts-marking requirements. NHTSA informs the manufacturer in writing of its evaluations and determinations and the factual information considered by the agency in making them. The manufacturer may request the agency to reconsider the preliminary determinations. Within 60 days of the receipt of these requests, the agency makes its final determination. NHTSA informs the manufacturer by letter of these determinations and its response to the request for reconsideration. If there is no request for reconsideration, the agency's determination becomes final 45 days after sending the letter with the preliminary determination. Each of the new lines on the high-theft list was the subject of a final determination either with section 33103 or section 33104.

Similarly, the lines listed as being exempt from the standard have previously been exempted in accordance with the procedures of 49 CFR Part 543 and section 33106.

Therefore, NHTSA finds for good cause that notice and opportunity for comment on these listings are unnecessary. Further, public comment on the listing of selections and exemptions is not contemplated by 49 U.S.C. Chapter 331 and is unnecessary since the selections and exemptions have previously been made in accordance with the statutory criteria and procedure.

For the same reasons, since this revised listing only informs the public of previous agency actions and does not impose additional obligations on any party, NHTSA finds for good cause that the amendment made by this notice should be effective as soon as it is published in the Federal Register.

Regulatory Impacts

1. Costs and Other Impacts

NHTSA has analyzed this rule and determined that it is not ''significant'' within the meaning of the Department of Transportation's regulatory policies and procedures. The agency has also considered this notice under Executive Order 12866. As already noted, the selections in this final rule have previously been made in accordance with the provisions of 49 U.S.C. 33104, and the manufacturers of the selected lines have already been informed that those lines are subject to the requirements of 49 CFR Part 541 for MY 1997. Further, this listing does not actually exempt lines from the requirements of 49 CFR Part 541; it only informs the general public of all such previously granted exemptions. Since the only purpose of this final listing is to inform the public of prior agency actions for MY 1997, a full regulatory evaluation has not been prepared.

2. Regulatory Flexibility Act

The agency has also considered the effects of this listing under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. As noted above, the effect of this final rule is simply to inform the public of those lines that are subject to the requirements of 49 CFR Part 541 for MY 1997. The agency believes that the listing of this information will not have any economic impact on small entities.

3. Environmental Impacts

In accordance with the National Environmental Policy Act of 1969, the agency has considered the environmental impacts of this rule, and determined that it will not have any significant impact on the quality of the human environment.

4. Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this final rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

5. Civil Justice Reform

This final rule does not have a retroactive effect. In accordance with § 33118 when the Theft Prevention Standard is in effect, a State or political subdivision of a State may not have a different motor vehicle theft prevention standard for a motor vehicle or major replacement part. 49 U.S.C. 33117 provides that judicial review of this rule may be obtained pursuant to 49 U.S.C. 32909. Section 32909 does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 541

Administrative practice and procedure, Labeling, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Part 541 is amended as follows:

PART 541—[AMENDED]

1. The authority citation for Part 541 continues to read as follows:

Authority: 49 U.S.C. 33102–33104 and 33106; delegation of authority at 49 CFR 1.50.

2. In Part 541, Appendices A, A–I and A–II are revised to read as follows:

APPENDIX A TO PART 541—LINES SUBJECT TO THE REQUIREMENTS OF THIS STANDARD

Manufacturer	Subject lines
Alfa Romeo	Milano 161, 164.
BMW	Z3,[1] 3 Car Line, 6 Car Line.

APPENDIX A TO PART 541—LINES SUBJECT TO THE REQUIREMENTS OF THIS STANDARD—Continued

Manufacturer	Subject lines
Chrysler	Chrysler Cirrus, Chrysler Executive, Sedan/Limousine, Chrysler Fifth Avenue/Newport, Chrysler Laser, Chrysler LeBaron/Town & Country, Chrysler LeBaron GTS, Chrysler's TC, Chrysler New Yorker Fifth Avenue, Chrysler Sebring, Chrysler Town & Country,[2] Dodge 600, Dodge Aries, Dodge Avenger, Dodge Colt, Dodge Daytona, Dodge Diplomat, Dodge Lancer, Dodge Neon, Dodge Ramcharger (MPV),[2] Dodge Ram Wagon/Van B–150,[2]Dodge Shadow, Dodge Spirit,[2] Dodge Stratus, Dodge Stealth, Eagle Summit, Eagle Talon, Jeep Cherokee (MPV),[2] Jeep Wrangler (MPV), [2] Plymouth Acclaim,[2] Plymouth Caravelle, Plymouth Colt, Plymouth Laser, Plymouth Gran Fury, Plymouth Neon, Plymouth Reliant, Plymouth Sundance, Plymouth Breeze.
Consulier	Consulier GTP.
Ferrari	Mondial 8, 308, 328.
Ford	Aspire,[2] Crown Victoria,[2] Ford Escort,[2] Ford Mustang, Ford Probe, Ford Taurus,[2] Ford Tempo,[2] Ford Thunderbird, Lincoln Continental, Lincoln Mark, Mercury Capri, Mercury Cougar, Mercury Grand Marquis,[2] Mercury Sable,[2] Mercury Tracer,[2] Mercury Topaz,[2] Merkur Scorpio, Merkur XR4Ti.
General Motors	Buick Century,[2] Buick Electra, Buick Reatta, Buick Skylark,[2] Chevrolet Astro (MPV),[2] Chevrolet Beretta,[2] Chevrolet Caprice,[2] Chevrolet Corsica,[2] Chevrolet C–1500 Pickup,[2] Chevrolet Lumina APV (MPV),[2] Chevrolet Monte Carlo (MYs 1987–88), Chevrolet Nova, Chevrolet Blazer (MPV),[2] Chevrolet S–10 Pickup,[2] GEO Tracker (MPV),[2] GEO Storm, GMC Jimmy (MPV),[2] GMC Safari (MPV),[2] GMC Sonoma Pickup,[2] GMC Sierra 1500 Pickup,[2] Oldsmobile Achieva,[2] Oldsmobile Bravada,[2] Oldsmobile Cutlass Ciera,[2] Oldsmobile Cutlass Supreme, Pontiac Fiero, Pontiac Grand Am,[2] Pontiac Grand Prix, Pontiac Sunfire,[2] Saturn Sports Coupe.
Honda	Accord,[2] Civic,[2] CRV (MPV),[2] Passport,[2] Prelude,[2] Acura Integra,[2] TL.
Hyundia	Accent, Excel,[2] Scoupe,[2] Sonata[2].
Isuzu	Impulse, Rodeo,[2] Stylus, Trooper/Trooper II[2].
Jaguar	XJ, XJ–6, XJ–40.
Lotus	Elan.
Maserati	Biturbo, Quattroporte, 228.
Mazda	GLC, 626, MX–6, MX–5 Miata, MX–3.
Mercedes-Benz	190 D, 190 E, 250D–T, 260 E, 300 SE, 300 TD, 300 SDL, 300 SEC/500 SEC, 300 SEL/500 SEL, 420 SEL, 560 SEL, 560 SEC.
Mitsubishi	Cordia, Eclipse, Mirage, Montero (MPV),[2] MPV,[2] Pickup,[2] Tredia, 3000GT.
Nissan	240SX,[2] Maxima, Pathfinder,[2] Sentra,[2] Stanza/Altima[2].
Peugeot	405.
Porsche	924S.
Subaru	XT, SVX, Legacy.
Suzuki	X90[1], Samurai (MPV),[2] Sidekick (MPV)[2].
Toyota	4–Runner (MPV),[2] Avalon, Camry, Celica, Corolla/Corolla Sport, MR,[2] RAV4 (MPV),[2] Starlet, Tercel[2].
Volkswagen	Audi Quattro, Rabbit, Scirocco.

[1] Lines added for MY 1996.
[1] Lines added for MY 1997.

APPENDIX A–1——HIGH-THEFT LINES WITH ANTITHEFT DEVICES WHICH ARE EXEMPTED FROM THE PARTS-MARKING REQUIREMENTS OF THIS STANDARD PURSUANT TO 49 CFR PART 543

Manufacturer	Subject lines
Austin Rover	Sterling.
BMW	5 Car Line,[2] 7 Car Line, 8 Car Line.
Chrysler	Chrysler Conquest, Imperial.
General Motors	Buick Regal, Buick Riviera, Cadillac Allante, Chevrolet Cavalier[2], Chevrolet Corvette, Chevrolet Lumina/Monte Carlo, Oldsmobile Aurora, Oldsmobile Toronado.
Honda	Acura CLX,[2] Acura Legend, Acura NS–X, Acura Vigor.
Isuzu	Impulse (MYs 1987–1991).
Jaguar	XK8[2].
Mazda	929, RX–7, Millenia, Amati 1000.
Mercedes-Benz	124 Car Line (the models within this line are): 300D, 300E, 300CE, 300TE, 400E, 500E; 129 Car Line (the models within this line are): 300SL, 500SL, 600SL; 202 Car Line, C–Class.
Mitsubishi	Galant, Starion, Diamante.
Nissan	300ZX, Infiniti M30, Infiniti QX4,[2] Infiniti Q45, Infiniti J30, Infiniti I.
Porsche	911 928, 968, Boxster[1]
Saab	900, 9000.
Toyota	Supra, Cressida, Lexus ES, Lexus GS, Lexus LS, Lexus SC.
Volkswagen	Audi 5000S, Audi 100, Audi 200, Audi A6, Audi S4, Audi S6, Audi Cabriolet, Volkswagen Cabrio, Volkswagen Corrado, Volkswagen Golf/GTI, Volkswagen Passat,[2] Volkswagen Jetta/Jetta III.

[1] Exempted in full beginning with MY 1996.
[2] Exempted in full beginning with MY 1997.

APPENDIX A–II TO PART 541—HIGH-THEFT LINES WITH ANTITHEFT DEVICES WHICH ARE EXEMPTED IN PART FROM THE PARTS-MARKING REQUIREMENTS OF THIS STANDARD PURSUANT TO 49 CFR PART 543

Manufacturers	Subject lines	Parts to be marked
General Motors	Buick LeSabre	Engine, Transmission.

APPENDIX A–II TO PART 541—HIGH-THEFT LINES WITH ANTITHEFT DEVICES WHICH ARE EXEMPTED IN PART FROM THE PARTS-MARKING REQUIREMENTS OF THIS STANDARD PURSUANT TO 49 CFR PART 543—Continued

Manufacturers	Subject lines	Parts to be marked
	Buick Park Avenue	Engine, Transmission.
	Cadillac Deville	Engine, Transmission.
	Cadillac Eldorado	Engine, Transmission.
	Cadillac Seville	Engine, Transmission.
	Cadillac Sixty Special [1]	Engine, Transmission.
	Oldsmobile 98	Engine, Transmission.
	Pontiac Bonneville	Engine, Transmission.
	Pontiac Firebird	Engine, Transmission.
	Chevrolet Camaro	Engine, Transmission.
	Oldsmobile 88 Royale	Engine, Transmission.

[1] Renamed the Cadillac Concours beginning with MY 1994.

Issued on: April 1, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–8358 Filed 4–5–96; 8:45 am]

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Proposed Rules

Federal Register
Vol. 61, No. 68
Monday, April 8, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3550

RIN 0575–AB17; RIN 0575–AB80; RIN 0575–AB99; RIN 0575–AC00

Reengineering and Reinvention of the Direct Section 502 and 504 Single Family Housing (SFH) Programs

AGENCY: Rural Housing Service, United States Department of Agriculture (USDA).

ACTION: Proposed rule.

SUMMARY: The Rural Housing Service (RHS), formerly the Rural Housing and Community Development Service (RHCDS), a successor agency to the Farmers Home Administration (FmHA), proposes to streamline and reengineer its regulations and to utilize private sector processes and techniques in the administration of its direct Single Family Housing (SFH) portfolio. This action is taken to reduce regulations, improve customer service, and improve the agency's ability to achieve greater efficiency, flexibility, and effectiveness in managing its SFH portfolio. The agency is centralizing the servicing of its SFH portfolio loans to provide more timely and consistent supervised credit. The effect of this action is to provide better service and reduce the Code of Federal Regulations (CFR) coverage of the SFH program by an estimated 90 percent.

DATES: Comments must be received on or before June 7, 1996.

ADDRESSES: Submit written comments in duplicate to the Director, Regulations and Paperwork Management Division, Rural Housing Service, U.S. Department of Agriculture, Room 6348, South Agriculture Building, Washington, DC 20250. All written comments made pursuant to this notice will be made available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jean Leavitt, Senior Loan Specialist, Single Family Housing Servicing and Property Management Division, RHS, room 5307, South Agriculture Building, Washington, DC, 20250, telephone (202) 720–1452.

SUPPLEMENTARY INFORMATION:

Classification

This proposed rule has been determined to be significant, but not economically significant and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) unless otherwise specifically provided all state and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule except as specifically prescribed in the rule; and (3) administrative proceedings of the National Appeals (7 CFR Part 11) must be exhausted before bringing suit.

Unfunded Mandate Reform Act

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, federal agencies generally must prepare a written statement, including cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires RHS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

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

National Performance Review

This regulatory action is being taken as part of the National Performance Review (NPR) program to reduce or eliminate unnecessary regulations and improve those that remain in force. Currently, the administration of the SFH program is guided by 16 separate regulations totaling 290 pages in the CFR.

Earlier this year, RHS purchased a commercial-off-the-shelf Dedicated Loan Origination and Servicing System (DLOS) which includes escrow capability to improve program performance and efficiency to its customers. RHS intends to adopt processes and techniques currently utilized by the private sector including centralized servicing and automation of many forms and processes. The system is being customized to provide the additional features and servicing benefits available to RHS customers to assist them in becoming successful homeowners.

Rather than modify the current 16 regulations to implement DLOS, RHS committed itself to meet the true spirit and intent of the NPR. RHS has undertaken a massive effort to completely reinvent and reengineer its regulatory process. RHS is combining the guidance provided in all 16 regulations into one consolidated rule. Administrative matters have been eliminated, remaining text has been completely revised to be consistent, simple, and clear. RHS estimates the final rule, after DLOS is fully implemented, will cover approximately 30 pages in the CFR, for a 90% reduction in regulations. This regulatory initiative follows our final rule of October 27, 1995, in which the cost of the direct section 502 program was reduced by 30%.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' It is the determination of RHS that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Regulatory Flexibility Act

This proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program.

Programs Affected

These programs are listed in the Catalog of Federal Domestic Assistance under Number 10.410, Very-Low-to Moderate Income Housing Loans (Section 502 Rural Housing Loans) and 10.417 Very-Low Income Housing Loans and Grants (Section 504 Rural Housing Loans and Grants).

Intergovernmental Consultation

These programs are not subject to the provision of Executive Order 12372 which requires intergovernmental consultation with state and local officials. See 7 CFR part 3015, subpart V (48 FR 29112, June 24, 1983) and FmHA Instruction 1940–J, ''Intergovernmental Review of Farmers Home Administration Programs and Activities.''

Background Information

An Overview

The RHS is taking the next steps in the reengineering and reinvention of the manner in which direct Section 502 and Section 504 loans and grants are made and serviced. This follows our October 27, 1995, final rule in which the cost of our direct single family housing low income loan program under section 502 of the Housing Act of 1949 was reduced by 30%. The proposed regulations which follow are a significant departure from business practices of the former FmHA. As part of the USDA reorganization, RHS made a commitment to make its programs more customer friendly, to streamline processes, reduce costs to the taxpayer, and increase our level of customer service. These regulations will accomplish these goals within our SFH program and set the standard for future regulatory actions within RHS.

The RHS has over 725,000 direct Section 502 and 504 loans with approximately 625,000 customers in its portfolio. With our Fiscal Year (FY) 1996 direct section 502 and 504 loan appropriation, the Agency anticipates making 35,000 new direct SFH loans this year. The accounting system established by FmHA to maintain its vast farm, housing, community and business loan programs is severely outdated and not capable of expansion to keep pace with an ever increasingly automated society. FmHA was not able to provide the same level of customer service provided by commercial lenders such as the escrow of real estate taxes and insurance for its customers and toll free telephone numbers to contact a servicing representative. These features are critical for RHS to provide prudent supervised credit to its very-low and low income customers and assist these families in becoming successful homeowners.

Additionally, RHS is aggressively meeting the Administration's goal of reducing staff through reorganization and streamlining of processes. National and field staffs are being reduced and many offices will be consolidated. This, coupled with our outdated accounting system, made the accomplishment of our Agency goals more challenging.

In May 1995, the RHS awarded a contract to Fiserv, Inc. and its subsidiary, Data-Link systems for the purchase of a commercial-off-the-shelf Dedicated Loan Origination and Servicing System (DLOS) which includes escrow capability. This system will replace the Agency's current Program Loan Accounting System (PLAS) and the Management Records System (MRS) and will provide agency personnel with the tools to deliver high quality customer services to its customers. RHS intends to adopt processes and techniques currently utilized by the private sector including centralized servicing and automation of many forms and processes. The system is being customized to provide the additional features and servicing benefits available to RHS customers to assist them in becoming successful homeowners. The Agency intends to begin implementing this system on October 1, 1996 with two pilot states. Other states will be phased into the DLOS system through FY 1996 with full implementation anticipated by September 30, 1997. Further information on the implementation of the system follows.

The centralized servicing unit will be located in St. Louis, Missouri, and will assume primary responsibility for the functions associated with servicing and managing the loan portfolio such as collection of loan payments, day to day loan servicing, escrowing, and accounting in a focused effort to monitor and reduce loan defaults thereby achieving our goal of having successful homeowners that can eventually refinance to commercial credit. The centralized unit will be staffed with many existing RHS employees.

The objectives of DLOS are to:

- Establish an escrow system for real estate taxes and insurance.
- Facilitate the centralization of RHS SFH loan servicing.
- Reduce the foreclosure rate through early and consistent intervention with borrowers having trouble making payments.
- Reduce costs by reducing delinquency rates, loan losses and operating costs.
- Account for direct SFH loans on a amortized rather than simple interest rate.
- Improve efficiency and service to our customers.
- Develop clear, concise and easy to read regulations and handbooks.
- Reduce burden on our customers.

This initiative has been highlighted in the NPR and will streamline and improve the delivery of program assistance to customers. There are anticipated savings to the Government of $250 million over a five year period.

The Regulations

RHS has undertaken a major redevelopment and consolidation of FmHA regulations affecting the direct Section 502 and 504 programs. At the current time, direct SFH customers are affected, in part, by the following regulations:

- 7 CFR Part 1910, Subpart A—Receiving and Processing Applications.
- 7 CFR Part 1944, Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations.
- 7 CFR Part 1944, Subpart J—Section 504 Rural Housing Loans and Grants.
- 7 CFR Part 1951, Subpart B—Collections.
- 7 CFR Part 1951, Subpart C—Offsets of Federal Payments to FmHA or its successor agency under Public Law 103–354 Borrowers.
- 7 CFR Part 1951, Subpart D—Final Payment on Loans.
- 7 CFR Part 1951, Subpart F—Analyzing Credit Needs and Graduation of Borrowers.
- 7 CFR Part 1951, Subpart G—Borrower Supervision, Servicing and Collection of Single Family Housing Loan Accounts.
- 7 CFR Part 1951, Subpart I—Recapture of Section 502 Rural Housing Subsidy.
- 7 CFR Part 1951, Subpart J—Management and Collection of Nonprogram (NP) Loans.
- 7 CFR Part 1951, Subpart M—Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received—Single Family Housing.

• 7 CFR Part 1955, Subpart A—Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property.
• 7 CFR Part 1955, Subpart B—Management of Property.
• 7 CFR Part 1955, Subpart C—Disposal of Inventory Property.
• 7 CFR Part 1956, Subpart B—Debt Settlement—Farmer Programs and Housing.
• 7 CFR Part 1965, Subpart C—Security Servicing for Single Family Rural Housing Loans.

Some of the above mentioned regulations involve only SFH loans, while others are combined with regulatory provisions of other programs of the former FmHA such as farm loans, business and industrial loans, community facilities and multi-family housing. RHS is consolidating all regulatory actions in the above mentioned regulations which affect direct SFH loans into one new regulation—7 CFR Part 3550. This consolidated regulation will make it easier for RHS field staff, and most importantly, our customers, to understand how to obtain program benefits.

Additionally, RHS has removed all administrative processes from the regulations, leaving only regulatory actions which impact the public in the Federal Register. This streamlining makes the regulation more concise and much easier to read and understand. The Agency is developing a separate handbook with administrative matters such as what forms must be filed and where to submit loan requests and the agency's internal processing procedures. This handbook will not be published in the Federal Register but will be available upon request to the public at no cost.

Implementation Proposal

As previously mentioned, the DLOS system will be implemented over a one year period. Two pilot states will start the process and other states will be added to DLOS over the next 12 months. The 12 month implementation period is critical to ensure for the orderly transfer of account information on 725,000 loans to the new DLOS system. This implementation period presents administrative challenges to the Agency as states will be operating under different computer systems with significantly different capabilities. When RHS publishes this Proposed Rule in final, it intends to remove from the CFR the following regulations:

• 7 CFR Part 1944, Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations.
• 7 CFR Part 1944, Subpart J—Section 504 Rural Housing Loans and Grants.
• 7 CFR Part 1951, Subpart G—Borrower Supervision, Servicing and Collection of Single Family Housing Loan Account.
• 7 CFR Part 1951, Subpart I—Recapture of Section 502 Rural Housing Subsidy.
• 7 CFR Part 1951, Subpart M—Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received—Single Family Housing.
• 7 CFR Part 1965, Subpart C—Security Servicing for Single Family Rural Housing Loans.

These regulations deal strictly with the direct SFH programs of the RHS. The following regulations will remain in the CFR as they contain provisions relating to other program areas. These regulations will be amended at the time of our final rulemaking action to clearly indicate that they no longer apply to the direct SFH programs:

• 7 CFR Part 1910, Subpart A—Receiving and Processing Applications.
• 7 CFR Part 1951, Subpart B—Collections.
• 7 CFR Part 1951, Subpart C—Offsets of Federal Payments to FmHA or its successor agency under Public Law 103–354 Borrowers.
• 7 CFR Part 1951, Subpart D—Final Payment on Loans.
• 7 CFR Part 1951, Subpart F—Analyzing Credit Needs and Graduation of Borrowers.
• 7 CFR Part 1951, Subpart J—Management and Collection of Nonprogram (NP) Loans.
• 7 CFR Part 1955, Subpart A—Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property.
• 7 CFR Part 1955, Subpart B—Management of Property.
• 7 CFR Part 1955, Subpart C—Disposal of Inventory Property.
• 7 CFR Part 1956, Subpart B—Debt Settlement—Farmer Programs and Housing.

After the effective date of the final rule, the direct SFH program will be guided by 7 CFR Part 3550. The proposed handbook will provide RHS field personnel and its customers with administrative guidance in states under the DLOS system. In states not yet under the DLOS system, RHS field personnel and its customers will be guided by current FmHA Instructions. These current FmHA Instructions will serve as the handbook for states not under the DLOS system. Where current FmHA Instructions may differ from 7 CFR Part 3550, RHS will make changes to the current FmHA Instructions to reflect such changes concurrently with publication of the Final Rule.

For example, the proposed regulations provide for a different manner in which interest credit recapture is calculated. Currently, guidance for calculating interest credit recapture is published in 7 CFR Part 1951, Subpart I. The formula for determining recapture is very complex requiring the calculation of the average interest rate and number of months the borrower has lived in the property. In addition, the borrower is not given credit for improvements made to the security property. The proposed rule, in brief, provides credit for improvements and limits recapture to 50% of value appreciation regardless of average interest rate and the length of time the borrower has lived in the property.

When the proposed rule is published in final, RHS intends to remove 7 CFR Part 1951, Subpart I from the CFR. Part 3550 will contain the guidance on calculation of interest credit recapture, and the proposed handbook will provide administrative guidance on handling recapture under the new DLOS computer system. This process will work in states with access to the DLOS computer system. However, in states without access to DLOS, they will be unable to use the proposed handbook. These states will continue to be guided by FmHA Instruction 1951–I which is a duplicate of 7 CFR Part 1951, Subpart I. Although RHS will remove 7 CFR Part 1951, Subpart I from the CFR, the FmHA Instruction will continue to be used in states not under the DLOS computer system until DLOS is fully implemented. RHS will amend FmHA Instruction 1951–I to include the new guidance on calculation of interest credit recapture. In this manner, RHS can ensure that its customers receive equal access to program benefits. Everyone will be guided by 7 CFR Part 3550, and in the aforementioned situation, states under DLOS will look to the proposed handbook for administrative guidance, and states not under DLOS will look to FmHA Instruction 1951–I for administrative guidance. After full implementation of DLOS, all states will operate under the proposed handbook and applicable FmHA Instructions will be removed from field use.

This proposed method will ensure that all borrowers have access to the same program benefits. However, some changes proposed in 7 CFR Part 3550, which cannot be implemented under the PLAS computer system, will be applicable to customers only in states under the DLOS computer system. For

example, the proposed regulation imposes a late fee on payments which are more than 15 days delinquent. The DLOS computer system can handle such a charge, whereas the current PLAS computer system cannot. Therefore, borrowers in states under DLOS will be subject to a late fee. Borrowers in states under the PLAS system will not be subject to a late fee until they are put under the DLOS system. These differences are unavoidable due to the shortcomings of the current PLAS computer system and the massive effort the Agency will be undertaking to convert all 725,000 loans to the new system. Where 7 CFR 3550 provides a customer with any additional program benefits, RHS will ensure that all customers are provided access to these benefits regardless of whether their state is under DLOS.

Technical enhancements to improve program delivery:

(a) Section 502 Loan Origination

Funding Priorities

RHS has clarified the funding priorities for applications needing immediate assistance. Previously, there were four categories which all were eligible for priority funding. These categories for priority funding were hardship applications, self-help housing applications, participation loan applications, and applications for servicing type loans. However, the agency recognizes the need for more explicit guidance in selection of competing applications for limited resources. In the interest of better serving our active borrowers, the agency proposes to provide first priority to active borrowers needing subsequent loans to correct health and safety hazards. The agency is compelled to provide decent, safe and sanitary housing to active borrowers and protect the government's security interest. Second priority is a consolidated grouping giving preference to an application for a hardship loan, Real Estate Owned (REO), a loan related to the transfer of an existing RHS property, a self-help loan and a leveraging loan made in conjunction with funding from the other sources.

Maximum Loan Amount

In order to minimize the impact of instituting escrow accounts for borrowers, the maximum loan amount can include the cost of the charge to establish an escrow account. The amount of the loan can exceed the appraised value by the cost of an appraisal and the cost to establish the escrow account. The agency considered this a fair practice for the very low- and low-income customers we serve.

Deferred Mortgage Payments

A technical clarification was made which states that the amount deferred will be up to 25 percent of the payment due at one percent when a borrower qualifies for a deferred mortgage.

(b) Section 504 Originations

Net Family Assets

A technical clarification has been made to define net family assets the same as in Section 502. This change will provide consistency in the treatment of assets between the 502 and the 504 program.

Loan and Grant Purposes

Loan and grant funds may be used to refinance a debt incurred for the installation as well as the assessment of utilities, prior to the date of application.

Eligibility of Mobile and Manufactured Homes

The requirement that a mobile or manufactured home must need repairs to remove health and safety hazards as a condition for 504 assistance has been removed. This revision is consistent with meeting program objectives.

(c) Tax Service and the Escrow of Taxes and Insurance

Section 501(e) of the Housing Act of 1949 (42 U.S.C. § 1471(e)) mandates the Agency to establish procedures under which SFH borrowers are required to escrow for the payment of real estate taxes, assessments and insurance.

RHS currently does not maintain escrow accounts for payment of real estate taxes for any of its SFH borrowers. With few exceptions (such as the borrower's name and mailing address) the current loan servicing system (PLAS) has minimal on-line data concerning the borrower and property. Information essential to the escrow process is not maintained on-line in the current system. This loan data is instead, currently maintained in the hard copy files retained in each county office. The primary responsibility for verifying that borrowers have complied with the terms of their mortgage and made the appropriate real estate tax payments resides with the county offices. Methods used to insure that taxes have been paid vary from office to office. These methods include (1) sending listings to tax collectors for tax verification (2) reviewing local newspapers for tax sales and (3) requesting borrowers to provide proof of tax payment. Previously, once taxes have been found to be delinquent, the county office staff informed the borrower of the default and requested the taxes to be paid. In the event of the borrower's unwillingness or inability to pay the delinquent taxes, RHS at its option advanced funds for this purpose and charged the advance to the borrower's account. This decentralized method of monitoring and processing delinquent taxes has not been successful in assisting borrowers before they default on the payment of their taxes. With the escrowing of taxes and insurance the agency does not have to advance funds to pay delinquent taxes and borrowers are not put in a position of having a large tax or insurance payment due without adequate funds to pay it.

The agency intends to utilize a nationwide tax service to obtain annual tax information on the RHS loan portfolio, and to obtain tax bills for loans that are escrowed loans. It is common industry practice to use a tax service and to require all borrowers to pay a one-time cost of the service. Other major government housing lenders such as Federal Housing Administration and Department of Veteran Affairs utilize a tax service.

The process of converting existing loans to a tax service will be phased-in as states are included in the DLOS system. A small, tax service fee which is estimated to be approximately $20 will be charged to each borrower to establish the escrow account. Each existing SFH borrower agreed, as one of the terms of the security instruments they executed (mortgage or deed of trust), to pay fees and charges established by the agency in its regulations. Existing borrowers will be given the option to either pay the fee or add the fee to the principal balance of their loan. Borrowers who receive loans after the effective date of this regulation will be charged a tax service fee which is estimated to be approximately $60 to be paid at loan closing. To minimize the impact on our very-low and low income customers, this fee can be included as part of the loan. These tax service fees are consistent with industry standards.

The tax service will be responsible for: (1) conducting a search for delinquent taxes on all existing loans that are converted to the new loan servicing system; (2) reporting delinquent taxes to the agency during the life of the loan and (3) assuming responsibility for any forfeiture that results from properties being sold at a tax sale if the tax servicer does not inform RHS of delinquent taxes on the properties so sold. The tax servicer will also be responsible for procuring the tax bills on all escrowed loans and paying

the taxes from the borrower's escrow account. The tax service is responsible for any penalty, loss of discount or incorrect disbursement should they fail to provide accurate and timely information.

Escrow accounts will be established for all new direct 502 loans approved after October 27, 1995, except for participation loans where another lender will be establishing an escrow account. Borrowers whose loans were approved after October 27, 1995, agreed to the escrow of taxes and insurance when they received their loan. Section 504 loan recipients may be required to escrow if their current lender does not escrow. As existing loans are converted to escrow, the accounting system used by the agency to credit borrower payments will change from Daily Simple Interest to a Preamortized Schedule payment. There are two conditions under which escrow accounts for existing loans will be established:

(1) The borrower requests that an escrow account be established. Existing borrowers will be allowed to voluntarily establish an escrow account once their loan has been converted to the DLOS system.

(2) RHS requires that an escrow account be established. RHS will require that an escrow account be established for a given loan if either of the following conditions exists:

(i) A borrower defaults on the responsibility to pay either the real estate taxes or hazard insurance premiums in a timely manner; or

(ii) A borrower defaults on regular monthly payments and requests RHS assistance to cure the default.

In both cases (1) and (2) above, the borrower may add the cost of the tax service fee, and initial escrow to their loan and have the account reamortized. This will minimize costs to our customers. The tax service will enhance the agency's ability to provide supervised credit in rural America and assist more customers in becoming successful homeowners.

(d) Regular Servicing

(1) *Application of payments.* If less than the full scheduled payment is received the payment will be held in suspense and not applied. For borrowers who remain under daily simple interest, interest will continue to accrue until the full payment is received. For borrowers under a predetermined amortized schedule, no additional interest will accrue against the scheduled payment that is due, however, the borrower may be charged a late fee. Full scheduled payments will be applied as follows:

(i) Protective advances due.

(ii) Accrued interest due.

(iii) Principal due.

(iv) Escrow for taxes and insurance.

(v) Fees or charges applied to the account.

(2) *Payment Subsidies.* RHS currently provides two types of payment subsidies to borrowers. Interest credit assistance was provided to borrowers whose loans were approved prior to FY 1996. The interest rate on these loans could be reduced as low as 1% to allow borrowers to pay 20% of their income for payments, taxes and insurance. Payment assistance has been provided to borrowers whose loans were approved after October 1, 1995. Under payment assistance, borrowers must pay 22, 24, or 26% of their income towards payments, taxes and insurance. The percentage is determined by the borrower's income. Interest credit assistance and payment assistance are herein referred to as payment subsidies.

Payment subsidy guidelines are being modified to provide that if a borrower's income should increase or decrease, a new 12-month agreement may be prepared, if the amount of assistance changes by at least $10 per month. Currently, there is no dollar threshold which has created an administrative burden on the agency and its customers.

To assist borrowers who are currently receiving interest credit, the agency will allow them to continue to stay under the interest credit program provided they continuously remain eligible. A borrower who has stopped receiving interest credit and at a later date qualifies for a payment subsidy will be converted to payment assistance. Currently, a borrower who is receiving interest credit assistance is required to convert to payment assistance if they obtain a subsequent loan or the account is reamortized. This has caused a hardship for several borrowers whose payments significantly increase because of the conversion.

(3) *Late Fees.* A late charge fee will be assessed if the scheduled payment is not received by the 15th day after the due date. Initially, the agency intends to set the late charge fee at 4% of the borrower's scheduled payment. This is an industry standard incentive to encourage borrowers to pay on time, thereby reducing delinquencies and helping borrowers to maintain a good credit history.

(4) *Returned Check Fee.* A returned check charge will be assessed for any check that is returned for nonsufficient funds. This is consistent with industry standards. Initially, the agency intends to set the returned check fee at $15. This fee is less than industry standards; however, a typical RHS borrower's mortgage payment is significantly lower than that of a typical industry standard mortgage payment. RHS feels the lower proposed returned check fee is more consistent with the borrower's ability to pay.

(5) *Final Payment.* The RHS will provide a written statement indicating the amount required to pay the account in full. A fee may be charged for payoff statements if more than two statements are requested on the same account in any 30 day period. Initially, the agency intends to set the fee at $25 per statement which is consistent with industry standards.

(6) *Subsidy recapture.* The RHS may now subordinate its lien to include funds obtained from the other lender to improve or make repairs to the dwelling if it is in the best interest of the government. Currently, RHS will only allow a subordination to include the unpaid principal and interest plus reasonable closing costs. If a borrower desired to obtain additional funds for improvements or repair, the lender had to agree to a third lien position which in many cases prevented the borrower from refinancing.

Further subordination (as in a case where recapture has previously been subordinated) of a lien securing a recapture receivable will now be allowed if the borrower is refinancing with no increase in the amount of the debt to which RHS has subordinated (except reasonable closing costs).

The recapture formula has been changed to (1) provide a value added credit for capital improvements (2) cease accrual or additional principal reduction attributed to subsidy (PRAS) and (3) limit recapture to 50 percent of value appreciation. This change eliminates the major complaint concerning recaputure—nonconsideration of improvements made subsequent to loan closing. It also partially eliminates another major complaint—PRAS. PRAS is the accelerated principal write-down that occurred when subsidy was applied to the account by reducing the effective interest rate under the interest credit program. RHS intends to ''freeze'' PRAS on the same date for all borrowers who are subject to PRAS. At this time, we estimate such date to be October 1, 1996.

By ''freezing'' PRAS, only the amount of accumulated PRAS (as of the date of the ''freeze'') will be subject to recapture. Freezing PRAS is to the borrower's financial advantage because PRAS, as it presently operates,

continues to accrue even after a borrower no longer qualifies for subsidy. PRAS continues to accrue until approximately the 20th year in the life of the loan at which time it gradually decreases until the loan reaches maturity. To ensure that no borrower is adversely affected by this change, RHS will reduce the ''frozen'' PRAS starting in the loan's 15th year by an equal amount each year so the PRAS will be zero at loan maturity. For example, on an existing 33-year loan, PRAS was frozen on October 1, 1996 at $5,000. In year 15 of this loan, 18 years would be remaining. PRAS would be reduced in year 15 by $278 ($5,000 divided by 18), and by an additional $278 each year thereafter. If the borrower paid off the loan in year 19, there would be $3,610 of PRAS subject to recapture [$5,000 − $1390 ($278 times 5 years).

These proposed changes will allow a borrower to better estimate their equity position and eliminate this often confusing aspect of the program. These proposed revisions to subsidy recapture will apply to all new and existing borrowers.

Borrowers who cease to occupy their dwelling will now have the amount of recapture due determined and given a choice of either paying the recapture amount or having it included in the unpaid balance and reamortized. Existing regulations were unclear when recapture was calculated and repaid.

Borrowers will also be given a discount on the recapture amount due if the recapture is repaid within 30 days of refinancing or payment of the last loan installment and the borrower continues to occupy the property.

(7) *Transfer of security and assumption of indebtedness.* The regulation has been clarified to provide that, unless it is in the government's best financial interests, RHS will not approve the assumption of a secured loan if the seller fails to repay any unsecured loans with USDA.

(e) Special Servicing Actions

(1) *Delinquency workout agreements.* All past due balances under workout agreements will be required to be repaid within 2 years or the remaining term of the loan whichever is shorter. Currently, Agency regulations encourage but do not require a 2-year payback. With more timely and consistent servicing, the Agency anticipates the amount of delinquencies will decrease and the two year timeframe is sufficient. Borrowers will become current on the account in a shorter period of time and restore their good credit history.

(2) *Moratorium.* Moratoriums will be granted for the borrower's full scheduled payment to include principal, interest, taxes and insurance or for the borrower's scheduled payment for principal and interest, based on the borrower's repayment ability. Moratoriums will continue to be granted for a maximum of 2 years but will be reviewed semiannually. This will benefit borrowers that no longer meet moratorium conditions by reinstating scheduled payments at an earlier date thus reducing the arrearage that must be repaid at the end of the moratorium period. Borrowers not on escrow will be assisted by establishing an escrow account and convert to a preamortized schedule prior to reamortization at the end of the moratorium period.

(3) *Unauthorized assistance.* Unauthorized payment assistance can occur through RHS error, or incorrect or false information provided by the borrower. Borrowers who received unauthorized payment assistance by providing false information will not be allowed to reamortize their account to remove the delinquency that occurred when account adjustments were made and may be recommended for suspension or debarment. This will eliminate the inequity that currently exists between borrowers who received unauthorized payment assistance through no fault of their own and borrowers who provided false information.

(4) *Graduation of SFH loans.* The term ''graduation'' is being replaced with ''refinancing'' to other credit.

(5) *Debt Settlement.* These regulations are revised to encourage the use of offsets (Administrative, Salary and Internal Revenue) to affect collection.

(6) *Disposition of inventory property.* Consistent with industry standards, the term ''inventory property'' is being replaced with ''REO.''

Program property will now be made available to program applicants for 60 days instead of 45 days. This sale period is effective from the date of the notice of sale, and for any reduction in price or any other change in credit terms or other sale terms. This will allow program properties to be marketed for a greater period of time to those individuals most in need of housing.

When a nonprofit organization or public body notifies RHS in writing of its intent to buy property, RHS will withdraw the property from the market for up to 30 days to provide the entity with the opportunity to execute a sale contract. For program properties, the listed price will now be discounted after the 60 day reservation period for program applicants has elapsed. Nonprogram properties will continue to be discounted from the listed price at any time. Initially, the Agency intends to set the discount at its current rate of 10%.

For properties listed with a real estate broker, offers will now be held for 3 business days after the date the property is offered for sale. Offers received during the holding period are considered received on the 4th business day and evaluated with any other offers received that day. This action is taken to provide all real estate brokers with a reasonable timeframe to receive the notice of listing and sell the property. Problems had occurred in areas with a high housing demand whereby sale information was obtained by real estate brokers at different times due to the difference in mailing periods.

(7) *Escrow of taxes and insurance.* Any remaining funds held in escrow or unapplied funds will be applied against the debt. Escrow disbursement will stop immediately upon debt settlement or release of security or at anytime RHS does not intend to take title.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, the RHS announces its intention to seek Office of Management and Budget (OMB) approval of new reporting and recordkeeping requirements.

The RHS offers a supervised credit program to extend financial assistance to construct, improve, alter, repair, replace or rehabilitate dwellings, which will provide modest, decent, safe, and sanitary housing to eligible individuals living in rural areas. To assist individuals in obtaining affordable housing, a borrower's house payment may be subsidized to an interest rate as low as 1% and under the deferred mortgage program the subsidy can be reduced further. The amount of subsidy is based on the borrower's household income. The information requested by RHS is vital to be able to process applications for RHS assistance and make prudent credit and program decisions. It includes borrower financial information such as household income, assets and liabilities and monthly expenses. Without this information the Agency is unable to determine if a borrower would qualify for any services or if assistance has been granted that the borrower may not have been eligible for. In addition, proper liquidation and debt settlement decisions are made.

Another integral part of Agency lending requires borrowers to refinance to other credit when they are able to do so. If a borrower is unable to find other credit available at reasonable rates and terms, the Agency will continue to review the borrower for possible

refinancing at periodic intervals. If it is determined that all loan servicing efforts have failed to produce a successful outcome the account will be liquidated through voluntary liquidation or foreclosure. The agency may also accept a deed in lieu of foreclosure if it is in the best interest of the Government.

As mentioned in the ''Implementation Proposal,'' RHS field staff in states under the DLOS system will be utilizing the proposed Handbook for administrative operations of the program. RHS field staff in states not under the DLOS system will be utilizing existing FmHA Instructions for administrative operations, until they come under DLOS at which time they will use the proposed Handbook. The information collection requirements for existing FmHA Instructions has been previously approved by OMB. Therefore, public burden for the direct SFH programs will be contained in Part 3550, the proposed Handbook and existing FmHA Instructions. RHS intends to establish a new consolidated information collection docket for Part 3550, which will contain all burden related to the direct SFH programs.

Public Burden in the Handbook

RHS is currently developing the proposed Handbook while aggressively analyzing all existing burden imposed upon the public to obtain and retain SFH program assistance. A Task Force of RHS employees at the local, state and national level has been established and is working with the DLOS team to eliminate all unnecessary burden. This significant effort includes input from the private sector manufacturers of the DLOS system. The system which RHS has already purchased includes many industry standard forms. Wherever possible, RHS intends to utilize these industry standard forms, eliminate duplicative FmHA forms and make full use of our new expanded automation capabilities. For example, most forms which a current RHS borrower must complete can be system generated and contain all relevant system information such as the borrower's account number, address, property description, real estate taxes, insurance, income data, etc., thereby reducing unnecessary burden imposed on our customers. This will reduce the time it takes the public to complete required information, reduce the need to stock forms throughout Rural Economic and Community Development (RECD) offices, and result in cost savings to the public. RHS is confident that existing information collection dockets can be reduced.

The proposed Handbook will be available for public comment with regard only to its information collection requirements on or about July 1, 1996. RHS will publish a Notice in the Federal Register, with a 60-day comment period, when the Handbook is available and its specific information collection requirements.

Public Burden in Part 3550

At this time, the Agency is requesting OMB clearance of the following burden:

- Form FmHA 1940–43, ''Notice of Right To Cancel'': Federal law requires that all parties entering into a transaction which results in a mortgage on their present home be notified of and given the right to cancel the transaction. Form FmHA 1940–43 provides the means for such a transaction to be canceled by the potential borrower. This form has been used by FmHA for many years, but was inadvertently omitted from previous paperwork burden packages. In order to meet our legal responsibilities and ensure that all potential borrowers are properly notified of their rights, this form has been included in this regulation. This form will now be generated electronically through the DLOS system.
- Form RECD 3550–1, ''Borrower's Certification and Authorization.'' This is an industry standard form on which an applicant certifies that all information furnished in connection with the loan transaction is true and correct, and provides authorization from the applicant for the release and verification of any information contained in the loan application. This form will prove to be a time-saver for the applicant as well as the Agency, and will allow for the elimination of several existing FmHA forms when DLOS is implemented nationwide.
- Form RECD 3550–2, ''Request for Verification of Gift/Gift Letter.'' This will be an automated form which will assist the applicant in providing required information should the applicant plan to receive monetary gifts to cover costs in connection with the loan, i.e. loan closing costs. Currently, the applicant must either provide some type of documentation or use an informal statement prepared by the RHS field office staff. The burden on the applicant to provide some type of documentation will be alleviated because this form will be system generated and require minimal work for the applicant.
- Form RECD 3550–4, ''Employment Certification/Payment Assistance. This form will serve as a supplement to Form RECD 1944–14, ''Payment Assistance/ Deferred Mortgage Assistance Agreement.'' In conjunction with the execution of Form RECD 1944–14, borrowers will sign this form verifying that they will notify RHS when they change or obtain employment.
- Form RECD 3550–6, ''Notice to Borrower of Special Flood Hazard and Federal Disaster Assistance.'' This is an industry standard form. When applicable, the system will automatically generate this form which will notify the applicant that the property being financed is located in a flood hazard area. The form will require the signature of the applicant.
- Form RECD 3550–7, ''Mortgage Loan Commitment.'' This is an industry standard form, will be system generated and notifies the applicant of loan approval and stipulates any special conditions of the loan approval. The applicant signs the form agreeing to the terms set forth in the commitment.
- Form RECD 3550–9, ''Initial Escrow Account Disclosure Statement.'' This is an industry standard form, is system generated and provides an applicant/ borrower with a breakdown of his or her escrow payments.
- Form RECD 3550–10, ''Condominium Rider,'' and Form RECD 3550–11, ''Planned Unit Development Rider,'' will be used only for the few loans the Agency provides on condominiums or planned unit developments (PUDs). These automated forms will be used as a supplement to the mortgage or deed of trust to specifically define condominium and PUD covenants. The borrower's signature will be required.
- Form RECD 3550–12, ''Subsidy Repayment Agreement,'' is a new form which replaces Exhibit A, ''Subsidy Repayment Agreement,'' to 7 CFR part 1951 subpart I. Borrowers are required to repay to the Government any subsidy received in connection with section 502 of the Housing Act upon disposition or nonoccupancy of the security property. This form, which is being reduced in excess of 50%, informs the borrower of this obligation to RHS.
- Standard Form (SF) 5510, ''Authorization Agreement for Preauthorized Payments,'' is added to provide borrowers with the convenience of having their monthly mortgage payments automatically deducted from their bank account. This is a Standard Form widely used throughout the financial community.
- Paragraph 3550.9(b). This paragraph requires that applicants must disclose any known relationship or association with an RHS employee. This provision ensures impartiality in program decisions and reduces the potential for employee conflict of interest. This disclosure is made on Form FmHA 410–

4 which is part of the information collection package.

• Paragraph 3550.53(g). This paragraph requires that applicants must provide financial data to demonstrate that they have adequate repayment ability for the requested loan. An applicant must provide a financial statement listing all recurring monthly debts. This information is critical to ensure prudent loan underwriting and is an industry standard. This financial statement is included on Form FmHA 410–4 which is part of the information collection package.

• Paragraphs 3550.55 and 3550.106. These paragraphs require that all persons applying for RHS loans must file a written application in a format specified by RHS. RHS currently utilizes Form FmHA 410–4, an industry standard application form for this purpose. The information in the application is critical to ensure that the applicant qualifies for the assistance requested. Form FmHA 410–4 is part of the information collection package.

• Paragraphs 3550.55(b)(3) and 3550.106(b)(4). These paragraphs provide RHS with the ability to periodically request that an applicant reconfirm their interest in obtaining assistance. The request is generally made in writing, and the applicant may call or write RHS to reconfirm their interest. In many RHS offices, a backlog exists of applications due to loan requests exceeding available loan funds. To ensure the most timely and efficient processing of active applications, RHS must periodically update an applicant's continued interest in the program.

• Paragraph 3550.55(b)(4). This paragraph provides RHS with the opportunity to request additional information to support an applicants loan request when RHS receives information which may indicate that the eligibility determination may have been in error. This information is critical to ensure applicant's are eligible for assistance which they may be granted.

• Paragraphs 3550.61 and 3550.112. These paragraphs require that borrowers must furnish and continually maintain hazard and flood insurance on property securing RHS loans. This is an industry standard and is necessary to protect the borrower's and government's best financial interests in the property.

• Paragraph 3550.68. This paragraph describes the two forms of payment subsidies available to RHS direct Section 502 borrowers. Payment subsidies reduce the borrower's payment to a level consistent with their income.

Payment subsidies are subject to recapture and this paragraph requires that borrowers execute Form RECD 3550–12, ''Subsidy Repayment Agreement,'' acknowledging they understand that subsidy must be repaid. The agreement also provides information on how and when the subsidy must be repaid. This is necessary to ensure that borrowers are fully aware of their financial obligations under the program. Form RECD 3550–12 is part of the information collection package.

• Paragraphs 3550.68(e), 3550.69(c) and 3550.157(a)(3). These paragraphs require that a borrower inform RHS whenever an adult member of the household changes or obtains employment so that RHS can determine whether a review of the borrower's circumstances is required. This provision, which is required throughout the direct SFH programs, is critical to ensure that a borrower remains eligible for the assistance they are receiving. If the borrower's income should change, it may affect their eligibility for decreased or increased assistance. This requirement is accomplished when an applicant or borrower executes Form RECD 3550–4, which is part of the information collection package.

• Paragraph 3550.73(f). This paragraph requires that a manufactured home dealer-contractor must sign a construction contract which will cover both the unit and site development work. This is an industry standard and protects the government and borrower's best interests. Form FmHA 1924–6, ''Construction Contract,'' is used for this purpose and is part of the information collection package.

• Paragraph 3550.73(g). This paragraph requires that all persons furnishing materials and labor in connection with a construction contract must sign a release of claimants document. Again, this is an industry standard form and documents to the homebuyer and lender that all persons have been paid. It precludes mechanics liens from being filed against the property and protects the best financial interest of the homeowner and lender. Form FmHA 1924–10, ''Release of Claimants,'' is used for this purpose and is part of the information collection package.

• Paragraph 3550.73(h). This paragraph requires that a dealer-contractor must provide a warranty on a manufactured home. Again, this is an industry standard and ensures the homeowner that their new home is warranted in case of defects. The paragraph further requires the dealer-contractor to furnish the homeowner with a copy of all manufacturer's warranties. This would be for appliances, heating systems, etc., and it again warrants such items from defect and provides the homeowner with information regarding the product and who to contact for further information. Form FmHA 1924–11, ''Builders Warranty,'' is used for this purpose and is part of the information collection package.

• Paragraph 3550.112(d)(2). This paragraph requires when borrowers file a claim under hazard and flood insurance, that they notify RHS of any loss or damage to the security property. Under this supervised credit program, RHS requires notification of insurable losses to protect the governments financial interest in the property and to assist our customers with any advice or counsel on ensuring that damages are corrected in a workmanlike manner.

• Paragraph 3550.113. Under the Section 504 grant program, if a person obtains a 504 grant, and sells the property within 3 years, the grant must be repaid. This paragraph requires grant recipients to sign a grant agreement acknowledging this regulatory requirement. The intent is to ensure that the recipient understands this provision and provides the government with documentation to secure any proceeds if the property is sold.

• Paragraph 3550.158(b). This paragraph requires that borrowers on active military duty, whose interest rates are reduced to 6% pursuant to the Soldiers and Sailors Relief Act, must notify RHS when they are no longer in active status. The reduced interest rate is only available to persons in active military duty. The borrower must notify RHS when they are no longer on active status so that the interest rate may be changed back to the rate specified in the Promissory Note. This is to ensure that borrowers do not receive benefits to which they are not entitled.

• Paragraph 3550.159(a). This paragraph requires borrowers who wish to lease mineral rights on security property to obtain authorization form RHS. This is an industry standard. Lenders require such authorization to ensure that the property will remain suitable as a residence, and their security interests are not adversely affected.

• Paragraph 3550.159(b). This paragraph requires borrowers who wish RHS to subordinate its lien to obtain the Agency's consent. This is an industry standard. Lenders require such authorization to ensure that their security interests are not adversely affected.

• Paragraph 3550.159(c). This paragraph requires borrowers who wish to obtain a partial release from RHS for

the sale or exchange of security property or granting of a right-of-way across the security property, must obtain approval from RHS. This is an industry standard. Lenders require such authorization to ensure that the property will remain suitable, and their security interests are not adversely affected.

• Paragraph 3550.159(d). This paragraph requires borrowers who wish to lease the security property must obtain RHS consent. RHS requires prior consent to ensure that the borrower does not receive payment assistance to which they would no longer be eligible if they cease to occupy the property, to know the whereabouts of the borrower, and to ensure that the government's security interests are not adversely affected.

• Paragraph 3550.160. RHS credit is not intended to replace or supplant private credit. Borrowers agree, a condition of obtaining assistance, that they must refinance to other credit should it become available. This paragraph requires that borrowers must periodically provide RHS with financial data to ascertain their potential to secure other credit. The borrower must complete a financial statement which would document their income and debts. This information is used by RHS to determine if the borrower, as required by statute, must refinance with another lender.

• Paragraph 3550 160(c)(3). This paragraph provides a borrower, who has been requested to refinance, the opportunity to provide RHS with additional information to document their inability to refinance to other credit. This provision exists to give the borrower every opportunity to dispute RHS's decision prior to their application for other credit. Most private lenders charge application and related fees to submit an application. This opportunity may preclude the borrower from incurring this expense if additional information may change the RHS decision.

• Paragraph 3550.160(d). This paragraph requires that borrowers who were requested to refinance to other credit, and are unable to secure other financing, must provide documentation to RHS on their inability to refinance. This is critical to ensure that the borrower made a good faith effort to refinance and document that the borrower cannot move to other credit.

• Paragraph 3550.164(d). This paragraph requires that a recipient of unauthorized assistance be notified in writing and given the opportunity to provide information to alter the RHS determination that the assistance they received was unauthorized. This provision exists to provide the borrower with every opportunity to refute the RHS action being taken.

• Paragraph 3550.207(b). This paragraph requires that borrowers on a moratorium (temporary stop on mortgage payments) must provide RHS with financial information to demonstrate that the moratorium should be continued. This is to ensure that a borrower does not receive assistance to which they are no longer entitled.

• Paragraph 3550.253. This paragraph provides guidance on settlement of a debt by compromise or adjustment. The provisions allows such action to be initiated by RHS or the applicant for the settlement actions. The debtor's offer and a financial statement is required. This is an industry standard and necessary to settle debts still owed to a lender. Form FmHA 1956–1, ''Request for Debt Settlement,'' is used for this purpose and is part of the information collection package.

Public Burden in Existing FmHA Regulations

As mentioned, public burden for the direct SFH programs is currently approved in several information collection dockets. These existing information collection dockets will be handled as follows:

• 7 CFR Part 1910, Subpart A—Receiving and Processing Applications. RHS will make a technical correction to the existing approved information collection docket (0575–0134) at the final rule stage to transfer only the public burden for the direct Section 502 and 504 loan and grant programs to the information collection docket for 7 CFR Part 3550. Every effort will be made streamline and eliminate any unnecessary public burden for the direct SFH programs before the technical correction is made.

• 7 CFR Part 1944, Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations. RHS will transfer the existing approved information collection docket (0575–0059) at the final rule stage to the information collection docket for 7 CFR Part 3550. It should be noted that RHS reduced the burden in this regulation by 250,000 hours in October 1995.

Every effort will be made streamline and eliminate any unnecessary public burden for the direct SFH programs before the transfer is accomplished.

• 7 CFR Part 1944, Subpart J—Section 504 Rural Housing Loans and Grants. RHS will transfer the existing approved information collection docket (0575–0062) to the information collection docket for 7 CFR Part 3550. Every effort will be made streamline and eliminate any unnecessary public burden for the direct SFH programs before the transfer is accomplished.

• 7 CFR Part 1951, Subpart C—Offsets of Federal Payments to FmHA Borrowers. RHS will make a technical correction to the existing approved information collection docket (0575–0119) at the final rule stage to transfer only the public burden for the direct Section 502 and 504 loan and grant programs to the information collection docket for 7 CFR Part 3550. Every effort will be made streamline and eliminate any unnecessary public burden for the direct SFH programs before the technical correction is made.

• 7 CFR Part 1951, Subpart F—Analyzing Credit Needs and Graduation of Borrowers. RHS will make a technical correction to the existing approved information collection docket (0575–0093) at the final rule stage to transfer only the public burden for the direct Section 502 and 504 loan and grant programs to the information collection docket for 7 CFR Part 3550. Every effort will be made streamline and eliminate any unnecessary public burden for the direct SFH programs before the technical correction is made.

• 7 CFR Part 1951, Subpart G—Borrower Supervision, Servicing and Collection of Single Family Housing Loan Accounts. RHS will transfer the existing approved information collection docket (0575–0060) to the information collection docket for 7 CFR Part 3550. RHS will also be proposing a reduction in the existing information collection docket. For example, with the establishment of the centralized servicing unit borrowers past due on their payment will receive timely and consistent servicing of their accounts. With prompt servicing, fewer borrowers will become seriously delinquent on their accounts thereby reducing the number of workout agreements executed by borrowers. Every additional effort will be made streamline and eliminate any unnecessary public burden for the direct SFH programs before the transfer is made.

• 7 CFR Part 1951, Subpart M—Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received—Single Family Housing. RHS will transfer the existing approved information collection docket (0575–0105) to the information collection docket for 7 CFR Part 3550. RHS will also be proposing a reduction in the existing information collection docket. For example, when RHS has agreed to continue with the loan of a borrower who otherwise would not qualify for a SFH loan either because the loan was made for an unauthorized purpose or

the borrower was not eligible for financial assistance the borrower will no longer be required to repay all of subsidy recapture up to 100% of the proceeds available. These borrowers will now have recapture calculated in the same manner as other SFH borrowers. Every additional effort will be made streamline and eliminate any unnecessary public burden for the direct SFH programs before the transfer is made.

- 7 CFR Part 1955, Subpart A—Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property. RHS will make a technical correction to the existing approved information collection docket (0575–0109) at the final rule stage to transfer only the public burden for the direct Section 502 and 504 loan and grant programs to the information collection docket for 7 CFR Part 3550. Every effort will be made streamline and eliminate any unnecessary public burden for the direct SFH programs before the technical correction is made.
- 7 CFR Part 1955, Subpart B—Management of Property. RHS will make a technical correction to the existing approved information collection docket (0575–0110) at the final rule stage to transfer only the public burden for the direct Section 502 and 504 loan and grant programs to the information collection docket for 7 CFR Part 3550. Every effort will be made streamline and eliminate any unnecessary public burden for the direct SFH programs before the technical correction is made.
- 7 CFR Part 1956, Subpart B—Debt Settlement—Farmer Programs and Housing. RHS will make a technical correction to the existing approved information collection docket (0575–0118) at the final rule stage to transfer only the public burden for the direct Section 502 and 504 loan and grant programs to the information collection docket for 7 CFR Part 3550. Every effort will be made streamline and eliminate any unnecessary public burden for the direct SFH programs before the technical correction is made.

Estimate of Burden: Public reporting burden for this collection of information is estimated to range from 5 minutes to 3 hours response.

Respondents: Applicants seeking financial assistance through RHS to purchase adequate housing in rural America and borrowers who have received such assistance.

Estimated Number of Respondents: 822,570.

Estimated Number of Responses per Respondent: 1.5.

Estimated Total Annual Burden on Respondents: 217,195.

The complete text of the subject regulations is published herein for public review and comment. Additional copies of the proposed regulations or copies of the referenced forms may be obtained from the Director, Regulations and Paperwork Management Division, at (202) 720–9725. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments must be received on or before June 7, 1996, to be assured of consideration. All responses to this notice will be summarized, included in the request for OMB approval, and will become a matter of public record. Comments should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to the Director, Regulations and Paperwork Management Division, U.S. Department of Agriculture, RECD, Ag. Box 0743, Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this rule.

List of Subjects in 7 CFR Part 3550

Accounting, Administrative practice and procedure, Conflicts of interests, Environmental impact statements, Equal credit opportunity, Fair housing, Grant programs—Housing and Community Development, Loan programs—Housing and community development, Low and moderate income housing, Manufactured homes, Reporting and recordkeeping requirements, Rural areas, Subsidies.

Therefore, chapter XXXV, title 7, Code of Federal Regulations is added to read as follows:

CHAPTER XXXV—RURAL HOUSING SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE

PART 3550—SINGLE FAMILY HOUSING

Subpart A—General

Sec.

3550.1 Applicability.
3550.2 Purpose.
3550.3 Equal opportunity and fair housing.
3550.4 Reviews and appeals.
3550.5 Environmental requirements.
3550.6 State law or state supplement.
3550.7 Demonstration programs.
3550.8 Exception authority.
3550.9 Conflict of interest.
3550.10 Definitions.
3550.11–3550.50 [Reserved]

Subpart B—Section 502 Origination

3550.51 Program objectives.
3550.52 Loan purposes.
3550.53 Borrower eligibility requirements.
3550.54 Calculation of income and assets.
3550.55 Applications.
3550.56 Site requirements.
3550.57 Dwelling requirements.
3550.58 Ownership requirements.
3550.59 Security requirements.
3550.60 Escrow account.
3550.61 Insurance.
3550.62 Appraisals.
3550.63 Maximum loan amount.
3550.64 Down payment.
3550.65 Loan-to-value ratio.
3550.66 Interest rate.
3550.67 Repayment period.
3550.68 Payment subsidies.
3550.69 Deferred mortgage payments.
3550.70 Conditional commitments.
3550.71 Special requirements for condominiums.
3550.72 Community land trusts.
3550.73 Manufactured homes.
3550.74 Nonprogram loans.
3550.75–3550.100 [Reserved]

Subpart C—Section 504 Origination

3550.101 Program objectives.
3550.102 Grant and loan purposes.
3550.103 Construction standards and requirements.
3550.104 Maximum loan and grant.
3550.105 Eligibility requirements.
3550.106 Applications.
3550.107 Ownership requirements.
3550.108 Loan rates and terms.
3550.109 Security requirements (loans only).
3550.110 Appraisals.
3550.111 Escrow account.
3550.112 Insurance (loans only).
3550.113 Repayment agreement (grants only).
3550.114–3550.150 [Reserved]

Subpart D—Regular Servicing

3550.151 Servicing goals.
3550.152 Loan payments.
3550.153 Fees and charges.
3550.154 Inspections.
3550.155 Escrow account.
3550.156 Borrower obligations.
3550.157 Payment subsidy.

3550.158 Active military duty.
3550.159 Borrower actions requiring RHS approval.
3550.160 Refinancing with private credit.
3550.161 Final payment.
3550.162 Recapture.
3550.163 Transfer of security and assumption of indebtedness.
3550.164 Unauthorized assistance.
3550.165–3550.200 [Reserved]

Subpart E—Special Servicing

3550.201 Purpose of special servicing actions.
3550.202 Past due accounts.
3550.203 General servicing actions.
3550.204 Payment assistance.
3550.205 Work-out agreements.
3550.206 Protective advances.
3550.207 Payment moratorium.
3550.208 Reamortization using promissory note interest rate.
3550.209 [Reserved]
3550.210 Offsets.
3550.211 Liquidation.
3550.212–3550.250 [Reserved]

Subpart F—Post-Servicing Actions

3550.251 Property management and disposition.
3550.252 Debt settlement policies.
3550.253 Settlement of a debt by compromise or adjustment.
3550.254–3550.300 [Reserved]

Authority: 5 U.S.C. 301 and 42 U.S.C. 1480.

Subpart A—General

§ 3550.1 Applicability.

This part sets forth policies for the direct single family housing loan programs operated by the Rural Housing Service (RHS) of the U.S. Department of Agriculture. It addresses the requirements of sections 502 and 504 of the Housing Act of 1949, as amended, and includes policies regarding both origination and servicing. Procedures for implementing the regulations in this part can be found in program handbooks, available in any Rural Economic Community Development (RECD) office. The provision on the expenditure of any funds under this part is contingent upon the availability of funds to the agency.

§ 3550.2 Purpose.

The purpose of the RHS single family direct loan programs is to provide low- and very low-income people who will live in rural areas with an opportunity to own adequate but modest, decent, safe and sanitary dwellings and related facilities. The section 502 program offers persons that do not currently own adequate housing, and that cannot obtain other credit, the opportunity to acquire, build, rehabilitate, improve or relocate dwellings in rural areas. The section 504 program offers loans to homeowners who cannot obtain other credit to repair or rehabilitate their properties. The section 504 program also offers grants to homeowners age 62 or older who cannot obtain a loan to correct health and safety hazards.

§ 3550.3 Equal opportunity and fair housing.

RHS will administer its programs fairly, and in accordance with both the letter and the spirit of all equal opportunity and fair housing legislation and applicable executive orders. Loans, grants, services, and benefits provided under this part shall not be denied to any person based on race, color, national origin, sex, religion, marital status, familial status, age, physical or mental disability, receipt of income from public assistance, or because the applicant has, in good faith, exercised any right under the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.). All activities under this part shall be accomplished in accordance with the Fair Housing Act (42 U.S.C. 3601–3620), Executive Order 1246, and Executive Order 11063, as amended by Executive Order 12259 as applicable. The Civil Rights Compliance Requirements of the U.S. Department of Agriculture are spelled out in 7 CFR part 1901, subpart E.

§ 3550.4 Reviews and appeals.

(a) *Participant rights.* Whenever RHS makes a decision that will adversely affect a participant, RHS will inform the participant that the decision can be reviewed by the next level supervisor, and indicate whether the decision can be appealed to the National Appeals Division (NAD) according to the regulations set forth in 7 CFR part 11. Nonprogram (NP) participants are not entitled to appeal rights except with regard to denial of NP loan assistance.

(b) *Non-appealable decisions.* The following types of decisions are not appealable.

(1) Decisions made by parties outside of RHS, even when those decisions are used as a basis for RHS decisions.

(2) Decisions that do not meet the definition of an ''adverse decision'' under 7 CFR part 11.

(3) Decisions involving parties who do not meet the definition of ''participant'' under 7 CFR part 11.

(4) Decisions with regard to subject matters not covered by 7 CFR part 11.

(5) Interest rates as set forth in agency procedures, except appeals alleging application of the incorrect interest rate.

(6) Refusal to request an administrative waiver permitted by program regulations.

(7) Denials of assistance due to lack of funds.

(c) *Next-level review.* Any adverse decision, whether appealable or non-appealable, may be reviewed by the next-level supervisor.

(d) *NAD Review.* (1) A participant may request that NAD review the agency's findings of non-appealability. In cases where the adverse decision is based on both appealable and non-appealable actions, the adverse action is not appealable.

(2) A participant may request that NAD review any decision that is appealable.

(3) NAD will review the participant's request in accordance with 7 CFR part 11.

(e) *Actions pending the outcome of an appeal.* (1) Assistance will not be discontinued pending the outcome of an appeal of any adverse decision.

(2) Real Estate Owned (REO) properties will not be held off the market pending appeal of a decision to deny credit.

§ 3550.5 Environmental requirements.

(a) *Policy.* RHS will consider environmental quality as equal with economic, social, and other relevant factors in program development and decision-making processes. RHS will take into account potential environmental impacts of proposed projects by working with RHS applicants, other federal agencies, Indian tribes, state and local governments, and interested citizens and organizations in order to formulate actions that advance the program goals in a manner that will protect, enhance, and restore environmental quality.

(b) *Regulatory references.* Processing and servicing actions under this part will be undertaken consistent with the requirements provided in 7 CFR part 1940, subpart G, which addresses environmental requirements and 7 CFR part 1924, subpart A, which addresses lead-based paint.

§ 3550.6 State law or state supplement.

State and local laws and regulations may affect RHS implementation of certain provisions of this part, for example, with respect to the treatment of liens, construction, or environmental policies. Supplemental guidance may be issued in the case of any conflict or significant differences.

§ 3550.7 Demonstration programs.

From time to time, RHS may authorize limited demonstration programs. The purpose of these demonstration programs is to test new approaches to offering housing under the statutory authority granted to the Secretary. Therefore, such

demonstration programs may not be consistent with some of the provisions contained in this part. However, any program requirements that are statutory will remain in effect. Demonstration programs will be clearly identified as such.

§ 3550.8 Exception authority.

A State Director may request and the Administrator or designee may make an exception to any requirement or provision of this part or address any omission of this part that is consistent with the applicable statute if the Administrator determines that application of the requirement or provision, or failure to take action in the case of an omission, would adversely affect the government's interest.

§ 3550.9 Conflict of interest.

(a) *Objective.* It is the objective of RHS to maintain the highest standards of honesty, integrity, and impartiality by employees. To reduce the potential for employee conflict of interest, all processing, approval, servicing or review activity will be conducted by RHS employees who:

(1) Are not themselves the applicant.

(2) Are not members of the family or close known relatives of the applicant.

(3) Do not have an immediate working relationship with the applicant, the employee related to the applicant, or the employee who would normally conduct the activity.

(4) Do not have a business or close personal association with the applicant.

(b) *Applicant responsibility.* The applicant must disclose any known relationship or association with a RHS employee when such information is requested.

(c) *RHS employee responsibility.* A RHS employee must disclose any known relationship or association with an applicant, regardless of whether the relationship or association is known to others. Loans may not be used by RHS employees and loan closing agents, or members of their families to purchase REO property, security property from a borrower, or security property at a foreclosure sale.

§ 3550.10 Definitions.

Acceleration. Demand for immediate repayment of the entire balance of a debt if the security instruments are breached or other conditions for repayment occur.

Adjusted annual income. Used to determine whether an applicant is income-eligible. Adjusted income provides for deductions to account for varying household circumstances and expenses. See § 3550.54 of subpart B of this part for a complete description of adjusted income.

Adjustment. An agreement by RHS to release a debtor from liability upon receipt of a reduced amount paid as an initial lump sum and periodic additional payments over a period of up to 5 years.

Amortized payment. Equal monthly payments under a fully amortized mortgage loan which provides for the scheduled payment of interest and principal over the term of the loan. The proportion of the principal is reduced, and the proportion represented by the principal repayment increases correspondingly.

Applicant. An adult member of the household who will be responsible for repayment of the loan.

Assumption. The procedure whereby the transferee becomes liable for all or part of the debt of the transferor.

Borrower. A recipient who is indebted to RHS under the section 502 or 504 programs.

Cancellation. A decision by RHS to cease collection activities and release the debtor from personal liability for any remaining amounts owed.

Co-signer. An individual or an entity that joins in the execution of a promissory note to compensate for any deficiency in the applicant's repayment ability. The co-signer becomes jointly liable to comply with the terms of the promissory note in the event of the borrower's default, but is not entitled to any interest in the security or borrower rights.

Compromise. An agreement by RHS to release a debtor from liability upon receipt of a specified lump sum that is less than the total amount due.

Conditional commitment. A determination by RHS that a proposed dwelling will qualify as a program-eligible property. The conditional commitment does not reserve funds, nor does it ensure that a program-eligible applicant will be available to buy the dwelling.

Cross-collateralized loan. A situation in which a single property secures both Rural Housing Service and Farm Service Agency loans.

Custodial property. Borrower-owned real property that serves as security for a RHS loan that has been taken into possession by RHS to protect the government's interest.

Daily simple interest. A method of establishing borrower payments based on daily interest charged on the outstanding principal balance of the loan. Principal is reduced by the amount of payment in excess of the accrued interest.

Dealer-contractor. A person, firm, partnership, or corporation in the business of selling and servicing manufactured homes and developing sites for manufactured homes. A person, firm, partnership, or corporation not capable of providing the complete service is not eligible to be a ''dealer-contractor.''

Debt instrument. A collective term encompassing obligating documents for a loan, including any applicable promissory note, assumption agreement, or grant agreement.

Deferred mortgage payments. A subsidy available to eligible, very low-income borrowers of up to 25% of their principal and interest payments at 1% for up to 15 years. The deferred amounts are due on sale.

Deficient housing. A dwelling that lacks complete plumbing; lacks adequate heating; is dilapidated or structurally unsound; or has an overcrowding situation that will be corrected with loan funds.

Elderly family. An elderly family consists of one of the following:

(1) A person who is the head, spouse, or sole member of a family and who is 62 years of age or older, or who is disabled, and is an applicant or borrower; or

(2) Two or more persons who are living together, at least one of whom is age 62 or older, or disabled, and who is an applicant or borrower; or

(3) In the case of a family where the deceased borrower, or spouse, was at least 62 years old or disabled, the surviving household member shall continue to be classified as an ''elderly family'' for the purpose of determining adjusted income even though the surviving members may not meet the definition of elderly family on their own, provided:

(i) They occupied the dwelling with the deceased family member at the time of the death;

(ii) If one of the surviving family members is the spouse of the deceased family member, the surviving family shall be classified as an elderly family only until the remarriage of the surviving spouse; and

(iii) At the time of the death of the deceased family member, the dwelling was financed under Title V of the Housing Act of 1949.

Escrow account. An account maintained by RHS to which the borrower contributes monthly payments to cover the anticipated costs of real estate taxes, hazard and flood insurance premiums, and other related costs.

Existing dwelling or unit. A dwelling or unit which is: more than 1 year old; or less than 1 year old but the dwelling

is not covered by an approved 10-year warranty plan.

False information. Information that the recipient knew or should have known was incorrect at the time it was provided.

Full-time student. A person who carries at least the minimum number of credit hours considered to be full-time by their college or vocational school.

Hazard. A condition of the property which jeopardizes the health or safety of the occupants or members of the community, but which does not make it unfit for habitation. (See also the definition of major hazard in this section.)

HUD. The U.S. Department of Housing and Urban Development.

Inaccurate information. Incorrect information inadvertently provided by a recipient without intent to obtain benefits fraudulently.

Indian reservation. All land located within the limits of any Indian reservation under the jurisdiction of the United States notwithstanding the issuance of any patent and including rights-of-way running through the reservation; trust or restricted land located within the boundaries of a former reservation of a federally recognized Indian tribe in the State of Oklahoma; or all Indian allotments, the titles to which have not been extinguished if such allotments are subject to the jurisdiction of a federally recognized Indian tribe.

Interest credit. A subsidy that reduces the effective interest rate of a loan. (See § 3550.68(d) of subpart B of this part.) Since October 27, 1995, new subsidies have been provided through payment assistance.

Junior lien. A security instrument or a judgment against the security property to which the RHS debt instrument is superior.

Legal alien. For the purposes of this part, legal alien refers to any person lawfully admitted to the country who meets the criteria in section 214 of the Housing and Community Development Act of 1980, 42 U.S.C. 1436a.

Leveraged loan. A loan or grant from a non-RHS source closed simultaneously with a RHS loan or grant.

Live-in aide. A person who lives with an elderly or disabled person and is essential to that person's care and well-being, not obligated for the person's support and would not be living in the unit except to provide the support services.

Low-income. An adjusted income greater than the very low-income limit, but that does not exceed the HUD established low-income limit (generally 80% of median income adjusted for household size) for the county or Metropolitan Statistical Area where the property is or will be located.

Major hazard. A condition so severe that it makes the property unfit for habitation. (See also the definition of hazard in this section.)

Manufactured home. A structure which is built to Federally Manufactured Home Construction and Safety Standard (FMHCSS) and RHS Thermal Performance Standards (TPS) of 7 CFR part 1924, subpart A. It is transportable in one or more sections, which in the traveling mode is 10-body feet or more in width, and when erected on site is 400 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities. It is designed and constructed for permanent occupancy by a single family and contains permanent eating, cooking, sleeping, and sanitary facilities. The plumbing, heating, and electrical systems are contained in the structure. Permanent foundations are required.

Market value. The value of the property as determined by a current appraisal.

Mobile home. A manufactured unit often referred to as a ''trailer,'' designed to be used as a dwelling, but built prior to the enactment of Public Law 96–399 (October 8, 1980).

Moderate-income. An adjusted income greater than the low-income limit, but that does not exceed the low-income limit by more than $5,500.

Modest Housing. A property that is considered modest for the area, with a cost that does not exceed the applicable limit established under section 203 (b) of the National Housing Act (unless an exception is approved by RHS). In addition, the property must not be designed for income-producing activities nor have an in-ground swimming pool.

Moratorium. A period of up to two years during which scheduled payments for principal and interest, or principal, interest and deposits to the escrow accounts are not required, but are subject to repayment at a later date.

Mortgage. A form of security instrument or lien on real property including a real estate mortgage or a deed of trust.

Net family assets. Are considered in the calculation of annual income. See § 3550.54 of subpart B of this part for a complete description.

Net recovery value. The appraised value of the security property minus anticipated liquidation expenses as determined by RHS.

New dwelling. A dwelling to be constructed or that is less than 1 year old and is covered by an approved 10-year warranty plan as described in subpart A of part 1924 of this title.

Nonprogram (NP) property. Property that does not meet the program eligibility requirements outlined in § 3550.56 and § 3550.57 of subpart B of this part.

Nonprogram (NP) terms. Credit terms available from RHS when the applicant or property is not program-eligible.

Offset. Deductions from a borrower's federal retirement benefits, salary, income tax refund, or payments from other federal agencies to the borrower to pay a debt owed to RHS. Deductions from retirement benefits and salary only apply to current and former federal employees.

Participant. For the purpose of appeals, a participant is any individual or entity who has applied for, or whose right to participate in or receive a payment, loan, or other benefit is affected by a RHS decision, in accordance with 7 CFR part 11.

Payment assistance. Subsidy used beginning October 27, 1995, to reduce mortgage payments. (See § 3550.68(c) of subpart B of this part.)

Payment subsidy. A general term which refers to either payment assistance or interest credit.

Person with disability. Any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase:

(1) *Physical or mental impairment* includes—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term ''physical or mental impairment'' includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, HIV disease (whether symptomatic or

asymptomatic), and drug addiction and alcoholism.

(2) *Major life activities* include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) *Has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the agency as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by the agency as having such an impairment.

PITI ratio. The amount paid by the borrower for principal, interest, taxes, and insurance, divided by repayment income.

Primary loan. The oldest RHS loan on the property.

Prior lien. A security instrument or a judgment against the security property that is superior to the RHS debt instrument.

Program-eligible applicant. Person meeting the eligibility requirements described in § 3550.53 of subpart B of this part.

Program-eligible property. A property eligible to be financed under this part, as determined by the criteria listed in § § 3550.56 through 3550.59 of subpart B of this part.

Program terms. Credit terms that are available only to program-eligible applicants for program-eligible properties.

Property. The land, dwelling, and related facilities for which the applicant will use RHS assistance.

Protective advances. Costs incurred to protect the security interest of the government which are charged to the borrower's account.

Real estate taxes. Taxes and the annual portion of assessments estimated to be due and payable on the property, reduced by any available tax exemption.

Recapture amount. An amount of subsidy to be repaid by the borrower upon disposition or nonoccupancy.

RECD. Rural Economic Community Development, a mission area within the Department of Agriculture which includes the Rural Housing Service.

REO. Property for which RHS holds title.

Repayment income. Used to determine whether an applicant has the ability to make monthly loan payments. Repayment income includes amounts excluded for the purpose of adjusted annual income. See § 3550.54 of subpart B of this part for a complete description.

RHS. The Rural Housing Service of the U.S. Department of Agriculture, or its successor agency, formerly the Rural Housing and Community Development Service (RHCDS), a successor agency to the Farmers Home Administration (FmHA).

RHS interest rate. The current unsubsidized interest rate offered by RHS, available in any RECD office.

Rural area: A rural area is:

(1) Open country which is not part of or associated with an urban area.

(2) Any town, village, city or place, including the immediate adjacent densely settled area, which is not part of or associated with an urban area and which:

(i) Has a population not in excess of 10,000 if it is rural in character, or

(ii) Has a population in excess of 10,000 but not in excess of 20,000, and

(A) Is not contained within a Metropolitan Statistical Area, and

(B) Has a serious lack of mortgage credit for low- and moderate-income households as determined by the Secretary of Agriculture and Secretary of HUD.

(3) An area classified as a rural area prior to October 1, 1990, (even if within a Metropolitan Statistical Area), with a population exceeding 10,000, but not in excess of 25,000, which is rural in character, and has a serious lack of mortgage credit for low- and moderate-income families. This is effective through receipt of census data for the year 2000.

Scheduled payment. The monthly or annual installment on a promissory note plus escrow (if required), as modified by any payment subsidy agreement, delinquency workout agreement, or other documented agreements between RHS and the borrower.

Secured loan. A loan that is collateralized by property so that in the event of a default on the loan, the property may be sold to satisfy the debt.

Security property. All the property that serves as collateral for a RHS loan.

Total debt ratio. The amount paid by the borrower for principal, interest, taxes, insurance and any continuing obligations, divided by the repayment income.

Unauthorized assistance. Any loan, payment subsidy, deferred mortgage payment, or grant for which there was no regulatory authorization or for which the recipient was not eligible.

Unsecured loan. A loan evidenced only by the borrower's promissory note.

Value appreciation. The current market value of an RHS financed property minus: the unpaid balance of the RHS debt; reasonable selling expenses (if any); and the original equity (if any) of the borrower.

Very low-income. An adjusted income that does not exceed the HUD-established very low income limit (generally 50% of median income adjusted for household size) for the county or the Metropolitan Statistical Area where the property is or will be located.

Veterans preference. A priority extended to any person applying for a loan or grant under this part who has been honorably discharged, including clemency discharges, or released from the active forces of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, who served on active duty in such forces:

(1) During the period of April 6, 1917 through March 31, 1921;

(2) During the period of December 7, 1941 through December 31, 1946;

(3) During the period of June 27, 1950 through January 31, 1955; or

(4) For a period of more than 180 days, any part of which occurred after January 31, 1955, but on or before May 7, 1975.

§§ 3550.11–3550.50 [Reserved]

Subpart B–Section 502 Origination

§ 3550.51 Program objectives.

Section 502 of the Housing Act of 1949 authorizes the Rural Housing Service (RHS) to provide financing to help low- and very low-income persons who cannot obtain credit from other sources obtain adequate housing in rural areas. Resources for the section 502 program are limited, and therefore, applicants are encouraged to use section 502 funds in conjunction with funding

or financing from other sources, if possible. Sections 3550.52 through 3550.73 of this subpart set forth the requirements for originating loans or program terms. Section 3550.74 of this subpart describes the differences for origination of loans on nonprogram terms.

§ 3550.52 Loan purposes.

Section 502 funds may be used to buy, build, rehabilitate, improve, or relocate an eligible dwelling and provide related facilities for use by the borrower as a permanent residence. In limited circumstances section 502 funds may be used to refinance existing debt.

(a) *Purchases from existing RHS borrowers.* To purchase a property currently financed by a RHS loan, the new borrower must assume the existing RHS indebtedness. Section 502 funds may be used to provide additional financing or make repairs. Loan funds also may be used to permit a remaining borrower to purchase the equity of a departing co-borrower.

(b) *Refinancing non-RHS loans.* Debt from an existing non-RHS loan may be refinanced if the existing debt is secured by a lien against the property, RHS will have a first lien position on the security property after refinancing, and:

(1) In the case of loans for existing dwellings, if:

(i) Due to circumstances beyond the applicant's control, the applicant is in danger of losing the property, and

(ii) The debt is over $5,000 and was incurred for eligible program purposes prior to loan application or was a protective advance made by the mortgagee for items covered by the loan to be refinanced, including accrued interest, insurance premiums, real estate tax advances, or preliminary foreclosure costs.

(2) In the case of loans for a building site without a dwelling, if:

(i) The debt to be refinanced was incurred for the sole purpose of purchasing the site,

(ii) The applicant is unable to acquire adequate housing without refinancing, and

(iii) The RHS loan will include funds to construct an appropriate dwelling on the site for the applicant's use.

(3) Debts incurred after the date of RHS loan application but before closing may be refinanced if the costs are incurred for eligible loan purposes and any construction work conforms to the standards specified in this part.

(c) *Refinancing RHS debt.* Under limited circumstances, an existing RHS loan may be refinanced in accordance with § 3550.203 of subpart E of this part.

(d) *Eligible costs.* Improvements financed with loan funds must be on land which, after closing, is part of the security property. In addition to acquisition, construction, repairs, or the cost of relocating a dwelling, loan funds may be used to pay for:

(1) Reasonable expenses related to obtaining the loan, including legal fees, architectural and engineering fees, technical fees, title clearance fees, and loan closing fees; appraisal, surveying, environmental, and tax monitoring services; and personal liability insurance fees for Mutual Self-Help borrowers.

(2) The cost of providing special design features or equipment when necessary because of a physical disability of the applicant or a member of the household.

(3) Reasonable connection fees for utilities such as water, sewer, electricity, and gas for which the borrower is liable and which are not paid from other funds.

(4) Reasonable lender charges and fees if the RHS loan is being made in combination with a leveraged loan.

(5) Real estate taxes that are due and payable on the property at the time of closing and for the establishment of escrow accounts for real estate taxes and property insurance premiums.

(6) Fees to public and private nonprofit organizations that are tax exempt under the Internal Revenue Code for the development and packaging of loan applications, except for loans related to the purchase of a RHS Real Estate Owned (REO) property.

(e) *Loan restrictions.* Loan funds may not be used to:

(1) Refinance debts on a manufactured home.

(2) Purchase or improve income-producing land or buildings to be used principally for income-producing purposes.

(3) Pay fees, commissions, or charges to for-profit entities related to loan packaging or referral of prospective applicants to RHS.

§ 3550.53 Borrower eligibility requirements.

(a) *Income eligibility.* The adjusted income of an applicant must not exceed the applicable low-income limit for the area, adjusted for household size (available in any Rural Economic Community Development (RECD) office). Section 3550.54 of this subpart provides a detailed discussion of the calculation of adjusted income.

(b) *Citizenship status.* The applicant must be a natural person (individual) who resides as a citizen in any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Marianas, the Federated States of Micronesia, the Republic of Palau, or the Republic of the Marshall Islands, or a noncitizen who qualifies as a legal alien as defined in § 3550.10 of subpart A of this part.

(c) *Primary residence.* Applicants must agree to and have the ability to occupy the dwelling on a permanent basis.

(1) Because of the probability of transfer, loans will not be approved for military personnel on active duty unless the applicant will be discharged within a reasonable period of time.

(2) Because of the probability of moves after graduation, loans will not be approved for a full-time student unless the applicant intends to make the home a permanent residence and there are reasonable prospects that employment will be available in the area after graduation.

(3) In either case, if the home is being constructed or renovated an adult member of the household must be available to make inspections and authorize progress payments as the dwelling is being constructed.

(d) *Eligibility of current homeowners.* (1) Current homeowners with a non-RHS loan may receive RHS loan funds to refinance an existing loan under the conditions outlined in § 3550.52(b) of this subpart, or to purchase a new dwelling if the current dwelling cannot reasonably be brought up to local code requirements.

(2) Current homeowners with a RHS loan may receive additional loan funds to repair the dwelling.

(e) *Legal capacity.* Applicants must have the legal capacity to incur the loan obligation, or have a court appointed guardian or conservator who is empowered to obligate the applicant in real estate matters.

(f) *Suspension or debarment.* Applications from applicants who have been suspended or debarred from participation in federal programs will be

handled in accordance with FmHA Instruction 1940–M, available in any RECD office.

(g) *Repayment ability.* Applicants must demonstrate adequate repayment ability.

(1) A very low-income applicant is considered to have repayment ability when the monthly amount required for payment of principal, interest, taxes, and insurance (PITI) does not exceed 29 percent of the applicant's repayment income, and the monthly amount required to pay PITI plus recurring monthly debts does not exceed 38 percent of the applicant's repayment income.

(2) A low-income applicant is considered to have repayment ability when the monthly amount required for payment of PITI does not exceed 33 percent of the applicant's repayment income, and the monthly amount required to pay PITI plus recurring monthly debts does not exceed 38 percent of repayment income.

(3) Repayment ratios may exceed the percentages specified in paragraphs (g)(1) and (g)(2) of this section if the applicant has demonstrated an ability to meet higher debt obligations, or if RHS determines, based on other compensating factors, that the household has a higher repayment ability.

(h) *Credit qualifications.* Applicants must be unable to secure the necessary credit from other sources upon terms and conditions that the applicant could reasonably be expected to fulfill. Applicants must have a credit history that indicates reasonable ability and willingness to meet debt obligations. An outstanding judgment obtained by the United States in a federal court, other than the United States Tax Court, demonstrates an unacceptable credit history.

(1) Indicators of unacceptable credit include:

(i) Incidents of more than two debt payments more than 30 days late within the last 12 months.

(ii) Loss of security due to a foreclosure if the foreclosure has been completed within the last 36 months.

(iii) An outstanding Internal Revenue Service (IRS) tax lien or any other outstanding tax liens with no satisfactory arrangement for payment.

(iv) A court-created or court-affirmed obligation or judgment caused by nonpayment that is currently outstanding or has been outstanding within the last 12 months, except for those excluded in paragraphs (h)(2)(ii) and (h)(2)(iii) of this section.

(v) Two or more rent payments paid 30 or more days late within the last two years, or within the last year if the applicant has experienced no other credit problems in the past two years. This may be waived if the RHS loan will reduce shelter costs significantly and contribute to an improved repayment ability.

(vi) Outstanding collection accounts with a record of irregular payment with no satisfactory arrangements for repayment, or collection accounts that were paid in full within the last six months.

(vii) Non-agency debts written off within the last 36 months.

(viii) Agency debts that were debt settled, or are being considered for debt settlement.

(2) The following will not be considered indicators of unacceptable credit:

(i) Lack of a credit history.

(ii) A bankruptcy in which debts were discharged more than 36 months prior to the date of application or where an applicant successfully completed a bankruptcy debt restructuring plan and has demonstrated a willingness to meeting obligations when due for the 12 months prior to the date of application.

(iii) A judgment satisfied more than 12 months before the date of application, or foreclosure with no monetary loss that was completed more than 12 months before the date of application.

(3) When an application is rejected because of unacceptable credit, the applicant will be informed of the reason and source of information.

(4) *Co-signers.* If an applicant does not meet the repayment ability requirements, the applicant can have another party join the application as a co-signer.

(5) *Additional applicants.* If an applicant does not meet the repayment ability requirements, the applicant can have other household members join the application.

§ 3550.54 Calculation of income and assets.

(a) *Annual income.* Annual income is the full amount of income all adult household members living on the financed property are expected to receive over the next 12 months from the sources listed in paragraphs (a)(1) through (a)(8) of this section. Income from the sources listed in paragraphs (c) and (d) of this section is excluded from the calculation of annual income. Annual income is the base from which adjusted income and repayment income are calculated. The following is a complete list of the sources of income that may contribute to annual income.

(1) The gross amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips, bonuses, and other compensations for personal services. If a cost of living allowance or a proposed increase in income is expected to take place on or before loan approval, loan closing, or the effective date of the payment assistance agreement, it will be included as income.

(2) The net income from the operation of a farm, business, or profession. The following provisions apply:

(i) Expenditures for business or farm expansion, capital improvements, or payments of principal on capital indebtedness shall not be used as deductions in determining income. A deduction is allowed in the manner prescribed by Internal Revenue Service (IRS) regulations only for interest paid in amortizing capital indebtedness.

(ii) Farm and nonfarm business losses are considered ''0'' in determining annual income.

(iii) A deduction, based on straight line depreciation, is allowed in the manner prescribed by IRS regulations for the exhaustion, wear and tear, and obsolescence of depreciable property used in the operation of a trade, farm, or business by a member of the household. The deduction must be based on an itemized schedule showing the amount of straight line depreciation.

(iv) Any withdrawal of cash or assets from the operation of a farm, business, or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by a member of the household.

(v) A deduction is allowed for verified business expenses, such as lodging, meals, and fuel, for business trips made by salaried employees who must meet these expenses without reimbursement.

(vi) Housing related expenses for the property being financed such as mortgage interest, real estate taxes, and insurance, which may be claimed as business expense deductions for income tax purposes, will not be deducted from annual income.

(3) Interest, dividends, and other net income of any kind from real or personal property, including:

(i) The share received by adult members of the household from income distributed from a trust fund.

(ii) Any withdrawal of cash or assets from an investment except to the extent the withdrawal is reimbursement of cash or assets invested by a member of the household.

(iii) Where the household has net family assets in excess of $5,000, the greater of the actual income derived from all net family assets or a percentage of the value of such assets

based on the current passbook savings rate, as determined by RHS.

(4) The full amount of periodic payments received from Social Security (including Social Security received by adults on behalf of minors or by minors intended for their own support), annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts. Amounts received from the United States Government which are attributable to underpayment of benefits for one or more prior months shall be excluded in the calculation of annual income as provided in 42 U.S.C. 1382b(a)(7).

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay.

(6) Public assistance, unless exempted by federal statute.

(7) Periodic allowances, such as:

(i) Alimony and child support awarded in a divorce decree or separation agreement, unless the applicant certifies the payments are not received, and the applicant provides documentation to RHS that a reasonable effort has been made to collect the payments through the official entity responsible for enforcing such payments; or

(ii) Recurring monetary gifts or contributions from someone who is not a member of the household.

(8) All regular pay, special pay (except for persons exposed to hostile fire), and allowances of a member of the armed forces who is the applicant or spouse, whether or not that family member lives in the home.

(b) *Adjusted income.* Adjusted income is the household's annual income, as defined in paragraph (a) of this section, less any of the following deductions for which the household is eligible. Adjusted income is used to determine program eligibility for sections 502 and 504 and the amount of payment subsidy for which the household qualifies under section 502.

(1) A deduction as determined under section 501(b)(5) of the Housing Act of 1949, as amended, for each family member, not including an applicant or spouse, who is under 18 years of age, 18 or older with a disability, or a full-time student.

(2) A deduction as determined under section 501(b)(5) of the Housing Act of 1949, as amended, for any elderly family.

(3) For non-elderly households, a deduction of expenses related to the care of household members with disabilities that:

(i) Enable a family member to work,

(ii) Are not reimbursed from insurance or any other source, and

(iii) Are in excess of three percent of annual income.

(4) For elderly households only, a deduction of the sum of expenses related to household members with disabilities that are necessary to enable a family member to work and medical expenses that:

(i) Will not be reimbursed by insurance or any other source, and

(ii) Is in excess of three percent of annual income.

(5) A deduction of expenses for the care of minors 12 or under that enable a family member to work or to further the applicant's education.

(c) *Repayment income.* Repayment income is used in calculating the household's principal, interest, taxes, and insurance (PITI) and Total Debt ratios, which, in turn, indicate repayment ability. Repayment income is the household's annual income, as defined in paragraph (a) of this section, plus income from any of the following additional sources.

(1) Payments received for the care of foster children or foster adults (usually individuals with disabilities, unrelated to the applicant, who are unable to live alone).

(2) Amounts granted specifically for, or in reimbursement of, the cost of medical expenses.

(3) Earnings in excess of an amount determined under section 501(b)(5) of the Housing Act of 1949, as amended, for each full-time student 18 years old or older, excluding the head of household and spouse.

(4) Any earned income tax credit.

(5) Adoption assistance payments in excess of an amount determined under section 501(b)(5) of the Housing Act of 1949, as amended, per adopted child.

(6) Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit.

(7) Amounts paid by a state agency to a family with a developmentally disabled family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home.

(8) Any other revenue that a federal statute exempts.

(d) *Income exclusions.* Sources of income excluded from both annual and repayment income include:

(1) Income of live-in aides.

(2) Income from employment of minors, including foster children.

(3) Student financial aid paid directly to the student or the educational institution.

(e) *Net family assets.* (1) The value of equity in real property, other than the dwelling or site; cash on hand; savings; checking accounts; demand deposits; and the market value of stocks, bonds, and other forms of capital investments, including voluntary retirement plans that are accessible to the applicant such as individual retirement accounts (IRAs), 401(k) plans, and Keogh accounts, as well as amounts that can be withdrawn from other retirement and pension funds without retiring or terminating employment, but exclude:

(i) Interests in American Indian trust land,

(ii) Cash on hand which will be used to reduce the amount of the loan,

(iii) The value of necessary items of personal property such as furniture and automotive,

(iv) The assets that are a part of the business, trade, or farming operation in the case of any member of the household who is actively engaged in such operation, and

(v) The value of a trust fund that has been established where the trust is not revocable by, or under the control of, any member of the household, so long as the fund continues to be held in trust.

(2) The value of any business or household assets disposed of by a member of the household for less than fair market value (including disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition shall not be considered to be for less than fair market value if the household member receives important consideration not measurable in dollar terms.

§ 3550.55 Applications.

(a) *Application submissions.* All persons applying for RHS loans must file a written application in a format specified by RHS. Applications will be accepted even when funds are not available.

(b) *Agency processing of applications.* (1) Incomplete applications will be returned to the applicant specifying in writing the additional information that is needed to make the application complete.

(2) An applicant may voluntarily withdraw an application at any time.

(3) RHS may periodically request in writing that applicants reconfirm their interest in obtaining a loan. RHS may withdraw the application of any applicant who does not respond within the specified time frame.

(4) Applicants who are eligible will be notified in writing. If additional information becomes available that indicates that the original eligibility determination may have been in error, RHS may reconsider the application and the applicant may be required to submit additional information.

(5) Applicants who are ineligible will be notified in writing and provided with the specific reasons for the rejection.

(c) *Funding priorities.* When funding is insufficient to serve all program-eligible applicants, applications will be considered and funded using the funding priorities specified in this paragraph. Within priority categories, applications will be processed and funded in the order that the completed applications are received. In the case of applications with equivalent priority status that are received on the same day, preference will be extended to applicants qualifying for a veteran's preference.

(1) First priority will be given to borrowers who request subsequent loans to correct health and safety hazards.

(2) Second priority will be given to applicants who qualify for any of the following preferences:

(i) Hardship circumstances including applicants living in deficient housing for more than six months, current homeowners in danger of losing a property through foreclosure, and other circumstances determined by RHS on a case-by-case basis to constitute a hardship.

(ii) Loans related to the sale of an REO property.

(iii) Loans related to the transfer of an existing RHS property.

(iv) Loans for the construction of dwellings in an RHS-approved Mutual Self-Help project.

(v) Loans that will leverage funding or financing from other sources.

(3) Applications from applicants who do not qualify for priority consideration in paragraphs(c)(1) or (c)(2) of this section.

§ 3550.56 Site requirements.

(a) *Rural areas.* Loans may be made only in rural areas designated by RHS. If an area designation is changed to non-rural:

(1) New conditional commitments will be made and existing conditional commitments will be honored only in conjunction with an applicant for a section 502 loan who applied for assistance before the area designation changed.

(2) REO property sales and transfers with assumption may be processed.

(3) Subsequent loans may be made either in conjunction with a transfer with assumption of an RHS loan, or to repair properties that have RHS loans.

(b) *Site standards.* Sites must be developed in accordance with subpart C of part 1924 of this title and any applicable standards imposed by a state or local government.

(1) The site must not be large enough to subdivide into more than one site under existing local zoning ordinances.

(2) The site must not include farm service buildings, though small outbuildings such as a storage shed may be included.

§ 3550.57 Dwelling requirements.

(a) *Modest dwelling.* The property must be one that is considered modest for the area, with a cost that does not exceed the applicable limit established under section 203(b) of the National Housing Act (unless an exception is approved by RHS). In addition, the property must not be designed for income-producing activities nor have an in-ground swimming pool.

(d) *New dwellings.* Construction must meet the requirements in subpart A of part 1924 of this title.

(c) *Existing dwellings.* Existing dwellings must be structurally sound; functionally adequate; in good repair, or to be placed in good repair with loan funds; have adequate electrical, heating, plumbing, water, and wastewater disposal systems; be free of termites and other wood damaging pests and organisms; and meet the thermal performance requirements of subpart A of part 1924 of this title.

§ 3550.58 Ownership requirements.

After the loan is closed, the borrower must have an acceptable interest in the property as evidenced by one of the following.

(a) *Full fee ownership.* Acceptable full fee ownership is evidenced by a fully marketable title with a deed vesting a fee interest in the property to the borrower.

(b) *Secure leasehold interest.* To be acceptable a leasehold interest must have an unexpired term that is at least 150 percent of the term of the mortgage, unless the loan is guaranteed, in which case the unexpired term of the lease must be at least two years longer than the loan term. In no case may the unexpired term be less than 15 years.

(c) *Life estate interest.* To be acceptable a life estate interest must provide the borrower with rights of present possession, control, and beneficial use of the property. Generally, persons with any remainder interests must be signatories to the mortgage. The remainder interests need not be included in the mortgage to the extent that one or more of the persons holding remainder interests are not legally competent (and there is no representative who can legally consent to the mortgage), cannot be located, or if the remainder interests are divided among such a large number of people that it is not practical to obtain the signatures of all of the remainder interests. In such cases, the loan may not exceed the value of the property interests owned by the persons executing the mortgage.

(d) *Undivided interest.* Generally, all legally competent co-owners will be required to sign the mortgage. When one or more of the co-owners are not legally competent (and there is no representative who can legally consent to the mortgage), cannot be located, or the ownership interests are divided among so large a number of co-owners that it is not practical for all of their interests to be mortgaged, their interests not exceeding 50 percent may be excluded from the security requirements. In such cases, the loan may not exceed the value of the property interests owned by the persons executing the mortgage.

(e) *Possessory rights.* Acceptable forms of ownership include possessory rights on an American Indian reservation or state-owned land and the interest of an American Indian in land held in severalty under trust patents or deeds containing restrictions against alienation, provided that land in trust or restricted status will remain in trust or restricted status.

§ 3550.59 Security requirements.

Before approving any loan, RHS will impose requirements to secure its interests.

(a) *Adequate security.* Generally a loan will be considered adequately secured only when all of the following requirements are met:

(1) RHS obtains at closing a mortgage on all ownership interests in the security property.

(2) No liens prior to the RHS mortgage exist at the time of closing and no junior liens are likely to be taken immediately subsequent to or at the time of closing, unless the other liens are taken as part of a leveraging strategy. Liens junior to the RHS lien will be allowed at loan closing if the junior lien will not interfere with the purpose or repayment of the RHS loan and the total value of all liens on the property is less than the property's market value.

(3) The provisions of subpart B of part 1927 of this title regarding title clearance and the use of legal services have been followed.

(4) Existing and proposed property improvements are totally on the site and do not encroach on adjoining property.

(b) *Guaranteed payment.* Mortgage insurance guaranteeing payment from a government agency or Indian tribe is adequate security.

§ 3550.60 Escrow account.

RHS may require that borrowers deposit into an escrow account amounts necessary to ensure that the account will contain sufficient funds to pay real estate taxes, hazard and flood insurance premiums, and other related costs when they are due.

(a) At loan settlement, or upon creation of the escrow account, RHS may require borrowers to deposit funds sufficient to pay taxes and insurance premiums applicable to the mortgage for the period since the last payments were made.

(b) RHS will estimate the amount of funds due on the basis of current data and reasonable estimates of future expenditures.

(c) Escrow accounts will be administered in accordance with the Real Estate Settlement and Procedures Act of 1974 (RESPA) and section 501(e) of the Housing Act of 1949.

§ 3550.61 Insurance.

(a) *Borrower responsibility.* Until the loan is paid in full the borrower must furnish and continually maintain hazard and flood insurance on property securing RHS loans, with companies, in amounts, and on terms and conditions acceptable to RHS. Borrowers who are required to have insurance may be required to escrow funds to ensure payment.

(b) *Amount.* Essential buildings must be insured in an amount at least equal to their depreciated replacement value.

(c) *Flood insurance.* Flood insurance must be obtained and maintained for the life of the loan for all property located in a Special Flood Hazard Area (SFHA/0 as determined by the Federal Emergency Management Agency (FEMA). If flood insurance is not available in a SFHA, the property is not eligible for federal financial assistance.

(d) *Losses.* (1) Loss deductible clauses may not exceed $250 or one percent of the insurance coverage, whichever is greater. The deductible for any one building may not exceed $750.

(2) Borrowers must immediately notify RHS of any loss or damage to insured property and collect the amount of the loss from the insurance company.

(3) Depending on the amount of the loss, RHS may require that loss payments be supervised. All repairs and replacements done by or under the direction of the borrower, or by contract, will be planned, performed, inspected, and paid for in accordance with subpart A of part 1924 of this title.

(4) When insurance funds remain after all repairs, replacements, and other authorized disbursements have been made, the funds will be applied in the following order:

(i) Prior liens, including delinquent property taxes.

(ii) Past-due amounts.

(iii) Protective advances due.

(iv) Applied as an extra payment if the borrower has less than 20 percent equity in the property.

(v) Released to the borrower if the borrower has 20 percent or more equity in the property.

(5) If a loss occurs when insurance is not in force, the borrower is responsible for making the needed repairs or replacements and ensuring that the insurance is reinstated on the property.

(6) If the borrower is not financially able to make the repairs, RHS may take one of the following actions:

(i) Make a subsequent loan for repairs.

(ii) Subordinate the RHS lien to permit the borrower to obtain funds for needed repairs from another source.

(iii) Permit the borrower to obtain funds secured by a junior lien from another source.

(iv) Make a protective advance to protect the government's interest.

(v) Accelerate the account.

§ 3550.62 Appraisals.

(a) *Requirement.* An appraisal is required when the debt to be secured exceeds $15,000 or whenever RHS determines that it is necessary to establish the adequacy of the security. Other real estate that is mortgaged as additional security will be appraised when it represents a substantial portion of the security for the loan. Appraisals must be made in accordance with the Uniform Standards of Professional Appraisal Practices (USPAP) and subpart C of part 1922 of this title.

(b) *Fees.* RHS will charge a fee for each loan application that requires an appraisal. The appraisal fee will be waived on appraisals done for subsequent loans needed to make minimal, essential repairs. Fees collected in connection with a dwelling constructed under an approved conditional commitment will be paid to the contractor at closing to offset the cost of the real estate appraisal that is included in the conditional commitment fee.

§ 3550.63 Maximum loan amount.

A loan may not exceed the limit established by section 203(b) of the National Housing Act, except by the amount of the RHS appraisal fee and the required contribution to an escrow account for taxes and insurance, unless RHS authorizes an exception.

(a) *Area-wide exception.* Area-wide exceptions may be granted when RHS determines that the section 203(b) limit is too low to enable applicants to purchase adequate housing.

(b) *Individual Exceptions.* Individual exceptions may be granted to accommodate the specific needs of an applicant, such as to serve exceptionally large households or to provide reasonable accommodation for a household member with a disability. Any additional loan amount approved must not exceed the amount required to address the specific need.

§ 3550.64 Down payment.

Applicants are required to contribute a portion of net family assets toward purchase of the property. Elderly families must use any net family assets in excess of $10,000 for this purpose; non-elderly families must use net family assets in excess of $7,500. Applicants may contribute assets in addition to the required down payment to further reduce the amount to be financed.

§ 3550.65 Loan-to-value ratio.

(a) *General requirements.* Except as noted in paragraph (c) of this section, total indebtedness, including the RHS loan plus other liens, may exceed the market value of the security property only as needed to cover the amount of the RHS appraisal fee and the required contribution to establish an escrow account for taxes and insurance.

(b) *Loans limited to 90% of the market value.* Loans for new dwellings are limited to 90% of the market value plus the amount of the RHS appraisal fee and the required contribution to establish an escrow account for taxes and insurance unless:

(1) RHS has issued a conditional commitment for the property,

(2) The loan will be closed prior to the start of construction, so that RHS can ensure that the construction conforms to subpart A of part 1924 of the title, or

(3) Documentation is provided indicating that the construction was inspected by either the Federal Housing Administration (FHA) or Department of Veterans Affairs (VA) and meets the requirements imposed by either agency.

(c) *Loan in excess of market value.* Total indebtedness, including the RHS loan plus other liens, may exceed the market value of the property when:

(1) RHS makes a subsequent loan for closing costs only, simultaneously with the sale of a REO property or a transfer.

The total indebtedness may exceed the lesser of the sales price or market value of the security property by up to one percent, plus the required contribution to establish an escrow account for taxes and insurance.

(2) RHS makes a subsequent loan for repairs necessary to protect the government's security interest. The excess amount may not exceed the cost of the essential repairs, reasonable closing costs, and the required contribution to establish an escrow account for taxes and insurance.

(3) RHS refinances the loan of an existing RHS borrower. The excess can be no more than is necessary to refinance the borrower's outstanding indebtedness plus closing costs associated with the new loan, and the required contribution to establish an escrow account for taxes and insurance.

§ 3550.66 Interest rate.

Loans will be written using the RHS interest rate in effect at loan approval or loan closing, whichever is lower. Information about current interest rates is available in any RECD office.

§ 3550.67 Repayment period.

Loans will be scheduled for repayment over a period that does not exceed the expected useful life of the property as a dwelling. The loan repayment period will not exceed:

(a) Thirty-three years for initial and subsequent loans.

(b) Thirty-eight years for initial loans if the applicant's adjusted annual income does not exceed 60 percent of area median and the longer term is necessary to show repayment ability. The repayment period of subsequent loans for these borrowers may be up to the lesser of the remaining term or 33 years.

(c) Ten years for loans not exceeding $2,500 that are not secured by a mortgage.

§ 3550.68 Payment subsidies.

RHS currently administers two types of payment subsidies. Before October 27, 1995 RHS assistance was provided in the form of interest credit. Since that time, subsidies have been provided in the form of payment assistance. Payment subsidies are subject to recapture when the borrower transfers title or ceases to occupy the property. Borrowers must sign a subsidy repayment agreement at the time subsidy is received.

(a) *Eligibility for payment subsidies.* (1) To be eligible to receive payment subsidy, an applicant or borrower must agree to personally occupy the property.

(2) An applicant may receive payment assistance for initial loans or assumptions at new rates and terms if the applicant's adjusted annual income does not exceed either the applicable low-income limit at the time of loan approval, or the applicable moderate-income limit at the time of loan closing. The loan for which payment assistance is being requested must have term of at least 25 years.

(3) A borrower receiving a payment subsidy on an initial loan may receive a payment subsidy on a subsequent loan if the borrower's income does not exceed the moderate-income limit.

(4) A borrower not receiving a payment subsidy is eligible for payment assistance if the borrower's adjusted annual income does not exceed the applicable moderate-income limit.

(5) A payment subsidy may be granted when a loan is assumed on the terms of the promissory note only if the original loan was approved on or after August 1, 1968.

(b) *Conversion from interest credit to payment assistance.* A borrower currently receiving interest credit will continue to receive it for the initial loan and for any subsequent loan for as long as the borrower is eligible and remains on interest credit. A borrower who has never received interest credit, or who has stopped receiving interest credit and at a later date again qualifies for a payment subsidy, will receive payment assistance.

(c) *Calculation of payment assistance.* The amount of payment assistance is the difference between the installment due on the promissory note and the greater of the payment amortized at the equivalent interest rate or the payment calculated based on the required floor payment.

(1) The floor payment is a minimum percentage of adjusted annual income that the borrower must pay for PITI as follows:

(i) Very low-income borrowers must pay a minimum of 22 percent;

(ii) Low-income borrowers with adjusted annual income below 65 percent of median income must pay a minimum of 24 percent; and

(iii) Low-income borrowers with adjusted annual incomes between 65 and 80 percent of median income must pay a minimum of 26 percent.

(2) The equivalent interest rate is determined by a comparison of the borrower's adjusted annual income to the median income for the area in which the security property is located. The following chart is used to determine the equivalent interest rate paid by applicants eligible for payment assistance.

PERCENTAGE OF MEDIAN INCOME		EQUIVALENT INTEREST RATE
When the applicant's adjusted income is:		
Equal to or more than (percent):	BUT less than:	THEN the equivalent interest rate is (percent)*
00	50.01% of median income	1
50.01	55% of median income	2
55	60% of median income	3
60	65% of median income	4
65	70% of median income	5
70	75% of median income	6
75	80.01% of median income	6.5
80.01	50% of median income	7.5
90	100% of median income	8.5
100	110% of median income	9
110	or more than median income	9.5

*Or note rate, whichever is less; in no case will the equivalent interest rate be less than one percent.

(d) *Calculation of interest credit.* The amount of interest credit granted is the difference between the sum of the annual installments due at the promissory note interest rate and the greater of:

(1) 20 percent of the borrower's adjusted annual income less the cost of real estate taxes and insurance, or

(2) The amount the borrower would pay if the loan were amortized at an interest rate of one percent.

(e) *Annual review.* The borrower's income will be reviewed annually to determine whether the borrower is eligible for continued payment subsidy. The borrower must notify RHS whenever an adult member of the

household changes or obtains employment so that RHS can determine whether a review of the borrower's circumstances is required.

§ 3550.69 Deferred mortgage payments.

For qualified borrowers, RHS may defer up to 25 percent of the monthly principal and interest payment at one percent for up to 15 years. Assistance may be granted only at initial loan closing and is reviewed annually. Deferred mortgage payments are subject to recapture when the borrower transfers title or ceases to occupy the property.

(a) *Eligibility.* In order to qualify for deferred mortgage payments, all of the following must be true:

(1) The applicant's adjusted income, at the time of initial loan approval, does not exceed the applicable very low-income limits.

(2) The loan term is 38 years, or 30 years for a manufactured home.

(3) The applicant qualifies for an equivalent interest rate of one percent.

(4) The applicant's payments for principal and interest, calculated at a one percent interest rate for the maximum allowable term, plus estimated costs for taxes and insurance exceeds:

(i) For applicants receiving payment assistance, 29 percent of the applicant's repayment income by more than $10 per month, or

(ii) For applicants receiving interest credit, 20 percent of adjusted income by more than $10 per month.

(b) *Amount and terms.* (1) The amount of the mortgage payment to be deferred will be the difference between the applicant's payment for principal and interest, calculated at one percent interest for the maximum allowable term, plus estimated costs for taxes and insurance and:

(i) For applicants receiving payment assistance, 29 percent of the applicant's repayment income.

(ii) For applicants receiving interest credit, 20 percent of adjusted income.

(2) Deferred mortgage payment agreements will be effective for a 12 month period.

(3) Deferred mortgage assistance may be continued for up to 15 years after loan closing. Once a borrower becomes ineligible for deferred mortgage assistance, the borrower can never again receive deferred mortgage assistance, even if income decreases at a later date.

(c) *Annual review.* The borrower's income, taxes, and insurance will be reviewed annually to determine eligibility for continued deferred mortgage assistance. The borrower must notify RHS whenever an adult member of the household changes or obtains employment so that RHS can determine whether a review of the borrower's circumstances is required. Adjustments to deferred mortgage assistance will be effective as of the date of income change.

§ 3550.70 Conditional commitments.

A conditional commitment is a determination by RHS that a dwelling to be offered for sale will be acceptable for purchase by a qualified RHS loan applicant if it is built or rehabilitated in accordance with RHS-approved plans, specifications, and regulations and priced within the applicable HUD section 203(b) limit. The conditional commitment does not reserve funds, does not guarantee funding, nor does it ensure that an eligible loan applicant will be available to buy the dwelling.

(a) *Eligibility.* To be eligible to request a conditional commitment, the builder, dealer-contractor, or seller must:

(1) Have an adequate ownership interest in the property, as defined in § 3550.58 of this subpart, prior to the beginning of any planned construction;

(2) Have the experience and ability to complete any proposed work in a competent and professional manner;

(3) Have the legal capacity to enter into the required agreements;

(4) Be financially responsible and have the ability to finance or obtain financing for any proposed construction or rehabilitation. Anyone who receives five or more conditional commitments during a 12-month period must obtain RHS approval of an affirmative marketing plan;

(5) Comply with the requirements of subpart E of part 1901 of this title and all applicable laws, regulations, and Executive Orders relating to equal opportunity.

(b) *Limitations.* Conditional commitments for new or substantially rehabilitated dwellings will not be issued after construction has started. RHS may limit the total number of conditional commitments issued in any locality based on market demand.

(c) *Commitment period.* A conditional commitment will be valid for 12 months from the date of issuance. The commitment may be extended for up to an additional six months if there are unexpected delays in construction caused by such factors as bad weather, materials shortages, or marketing difficulties. Conditional commitments may be canceled if construction does not begin within 60 days after the commitment is issued.

(d) *Conditional commitments involving packaging of applications.* A conditional commitment may be made to a seller, builder, or dealer-contractor who packages an RHS loan application for a prospective purchaser. In cases where the dwelling is pre-sold and is to be constructed for sale to a specific eligible applicant, all of the following conditions must be met:

(1) The conditional commitment will not be approved until the RHS loan has been approved;

(2) Construction will not begin until loan funds are obligated for the loan. Exceptions may be made when it appears likely that funding will be forthcoming and as long as the RHS lien priority is not jeopardized. The sales agreement must indicate that the loan has been approved but not funded and must provide that if the loan is not closed within 90 days of the date of approval, the contractor may terminate the sales agreement and sell the property to another party. If the sales agreement is terminated, the conditional commitment will be honored for another eligible loan applicant for the remaining period of the commitment.

(3) The RHS loan will be closed only after the dwelling is constructed or the required rehabilitation completed and final inspection has been made.

(e) *Fees.* An application for a conditional commitment must include payment of the conditional commitment fee. The fee will be refunded if for any reason preliminary inspection of the property or investigation of the conditional commitment applicant indicates that a conditional commitment will not be issued. Application fees will not be refunded for any property on which the required appraisal has been made.

(f) *Failure of conditional commitment applicant or dwelling to qualify.* The conditional commitment applicant will be informed if the conditional commitment is denied. Conditional commitments will be cancelled if the property does not meet program requirements,

(g) *Changes in plans, specifications, or commitment price.* The holder of the conditional commitment must request approval for changes in plans, specifications, and commitment price. RHS may approve the changes if the following requirements are met:

(1) The property price does not exceed the maximum loan limit, and increases in costs are due to factors beyond the control of the commitment holder;

(2) The property is still eligible and has not been optioned by a RHS applicant;

(3) The requested changes are justifiable and appropriate.

(h) *Builder's warranty.* The builder or seller, as appropriate, must execute either a RHS-approved ''Builder's Warranty,'' or provide a 10-year insured warranty when construction is completed or the loan is closed.

§ 3550.71 Special requirements for condominiums.

RHS loans may be made for condominium units under the following conditions:

(a) *Approval.* The unit is in a project approved or accepted by HUD, the Federal National Mortgage Association (Fannie Mae), or the Federal Home Loan Mortgage Corporation (Freddie Mac).

(b) *Compliance with statutes.* The condominium project complies with the requirements of the condominium enabling statute and all other applicable laws. Any right of first refusal in the condominium documents will not impair the rights of RHS to:

(1) Foreclose or take title to a condominium unit pursuant to the remedies in the mortgage;

(2) Accept a deed or assignment in lieu of foreclosure in the event of default by a mortgagor; and

(3) Sell or lease a unit acquired by RHS.

(c) If RHS obtains title to a condominium unit pursuant to the remedies in its mortgage or through foreclosure, RHS will not be liable for more than 3 months of the unit's unpaid regularly budgeted dues or charges accrued before acquisition of the title to the unit by RHS. The homeowners association's lien priority may not include costs of collecting unpaid dues.

(d) In case of condemnation or substantial loss to the units or common elements of the condominium project, unless at least two-thirds of the first mortgagees or unit owners of the individual condominium units have given their consent, the homeowners association may not:

(1) By act or omission seek to abandon or terminate the condominium project;

(2) Change the pro rata interest or obligations of any condominium unit in order to levy assessments or charges, allocate distribution of hazard insurance proceeds or condemnation awards, or determine the pro rata share of ownership of each condominium unit in the common elements;

(3) Partition or subdivide any condominium unit;

(4) Seek to abandon, partition, subdivide, encumber, sell, or transfer the common elements by act or omission; (the granting of easements for public utilities or other public purposes consistent with the intended use of the common elements by the condominium project is not a transfer within the meaning of this clause); or

(5) Use hazard insurance proceeds for losses to any condominium property (whether units or common elements) for other than the repair, replacement, or reconstruction of the condominium property.

(e) All taxes, assessments, and charges that may become liens prior to the first mortgage under local law relate only to the individual condominium units and not to the condominium project as a whole.

(f) No provision of the condominium documents gives a condominium unit owner or any other party priority over any rights of RHS as first or second mortgagee of the condominium unit pursuant to its mortgage in the case of a payment to the unit owner of insurance proceeds or condemnation awards for losses to or taking of condominium units or common elements.

(g) If the condominium project is on a leasehold the underlying lease provides adequate security of tenure.

(h) At least 70 percent of the units have been sold. Multiple purchases of condominium units by one owner are counted as one sale when determining if the sales requirement has been met.

(i) No more than 15 percent of the unit owners are more than 1 month delinquent in payment of homeowners association's dues or assessments at the time the RHS loan is closed.

§ 3550.72 Community land trusts.

Eligible dwellings located on land owned by a community land trust may be financed under section 502 if:

(a) The loan meets all the requirements of this subpart, and

(b) Any restrictions, imposed by the community land trust on the property or applicant are:

(1) Reviewed and accepted by RHS before loan closing, and

(2) Automatically and permanently terminated upon foreclosure or acceptance by RHS of a deed-in-lieu of foreclosure.

§ 3550.73 Manufactured homes.

With the exception of the restrictions and additional requirements contained in this section, section 502 loans on manufactured homes are subject to the same conditions as all other section 502 loans.

(a) *Loan purposes.* RHS may finance the following when a real estate mortgage covers both the unit and the site:

(1) An eligible new unit for an eligible site owned by the applicant.

(2) An eligible new unit and an eligible site.

(3) Site development work in accordance with subpart A of part 1924 of this title.

(4) Subsequent loans for equity or repair with a transfer or credit sale, or a subsequent loan for repair of a unit if the unit is currently financed with a section 502 loan.

(5) Transportation and set-up costs if an eligible new unit is financed.

(b) *Loan restrictions.* RHS may not use loan funds to finance:

(1) An existing unit and site unless it is already financed with a section 502 loan or is a RHS REO property.

(2) The purchase of a site without also financing the unit.

(3) Existing debts owed by the applicant.

(4) Alteration or remodeling of the unit after the initial loan is made.

(5) Furniture, including movable articles of personal property such as drapes, beds, bedding, chairs, sofas, divans, lamps, tables, televisions, radios, stereo sets, and other similar items of personal property. Furniture does not include wall-to-wall carpeting, refrigerators, ovens, ranges, washing machines, clothes dryers, heating or cooling equipment, or other similar items.

(6) Repairs not associated with transfer or credit sale, or a unit currently financed with a section 502 RH loan.

(c) *Dealer-contractors.* No loans will be made on a manufactured home sold by any entity that is not an approved dealer-contractor.

(d) *Loan term.* The maximum term of a loan on a manufactured home is 30 years.

(e) *Construction and development.* Unit construction, site development and set-up must conform to the FMHCSS and subpart A of part 1924 of this title. Development under the mutual self-help and borrower construction methods is not permitted for manufactured homes.

(f) *Contract requirements.* The dealer-contractor must sign a construction contract, as specified in § 1924.6 of subpart A of part 1924 of this title which will cover both the unit and site development work. The use of multi-contracts is prohibited. A dealer-contractor may use subcontractors if the dealer-contractor is solely responsible for all work under the contract. Payment for all work will be in accordance with subpart A of part 1924 of this title, except no payment will be made for materials or property stored on site (e.g., payment for a unit will be made only after it is permanently attached to the foundation).

(g) *Lien release requirements.* All persons furnishing materials or labor in connection with the contract must sign

a Release by Claimants document, as specified in § 1924.6 of subpart A of part 1924 of this title, except the manufacturer of the unit. The manufacturer of the unit must furnish an executed manufacturer's certificate of origin that the unit is free and clear of all legal encumbrances. The use of a Release by Claimants document is optional in a State if the State Director has issued a State Supplement not requiring its use. However, in all States the certificate of origin is required.

(h) *Warranty requirements.* A dealer-contractor must provide a warranty in accordance with the provisions of § 1924.12 of subpart A of part 1924 of this title. The warranty must identify the unit by serial number. The dealer-contractor must certify that the unit substantially complies with the plans and specifications and the manufactured home has sustained no hidden damage during transportation and, if manufactured in separate sections, that the sections were properly joined and sealed according to the manufacturer's specifications. The dealer-contractor will also furnish the applicant with a copy of all manufacturer's warranties.

§ 3550.74 Nonprogram loans.

RHS may provide credit on nonprogram (NP) terms to allow applicants to assume existing RHS debt on new rates and terms. If additional funds are required to purchase the property, the applicant must obtain them from another source. NP terms may be extended to applicants who do not qualify for program credit, or for properties that do not qualify as program properties, when it is in the best interest of the government. NP loans are originated and serviced according to the requirements for program loans except as indicated in this subpart.

(a) *NP loan purpose.* NP loans may be offered to expedite:

(1) Sale of a REO property.

(2) Assumption of an existing program loan.

(3) Conversion of a program loan that has received unauthorized assistance.

(4) Continuation of a loan on a portion of a security property when the remainder is being transferred and the RHS debt is not paid in full.

(b) *Rates and terms.* (1) Term:

(i) For an applicant who intends to occupy the property, the term will not exceed 30 years.

(ii) For other applicants, the term will not exceed 10 years. If more favorable terms are necessary to facilitate the sale, the loan may be amortized over a period of up to 20 years with payment in full due not later than 10 years from the date of closing.

(iii) An applicant with a NP loan under paragraph (b)(1)(i) of this section who wishes to retain the property and purchase a new property with RHS credit must purchase the second property according to the terms of paragraph (b)(1)(ii) of this section, even if the new property will serve as the applicant's principal residence.

(2) NP loans are written at the RHS interest rate in effect at the time of loan approval.

(3) NP borrowers are not eligible for program benefits such as payment assistance, deferred mortgage assistance, or a moratorium.

(c) *Additional requirements.* (1) NP applicants other than public bodies and nonprofit organizations must pay a nonrefundable application fee.

(2) NP applicants must make a down payment based on purchase price in the case of credit sales, or, in the case of assumptions, on the lower of market value of the property or debt incurred. The downpayment will also be based upon whether the applicant intends to personally occupy the property or use it for other purposes.

(3) NP applicants cannot finance loan closing costs.

(4) Loans will be secured only by the property purchased.

(5) RHS may require a NP applicant to pay a one-time tax service fee to cover the cost of monitoring the property's tax status.

(d) *Reduced restrictions.* (1) NP applicants need not be unable to obtain other credit in order to receive a NP loan and are not required to refinance with private credit when they are able to do so.

(2) NP applicants are not required to occupy the property.

(3) NP applicants are not subject to leasing restrictions.

(4) Liquidation may be delayed for up to 90 days to permit a NP borrower to liquidate voluntarily.

(e) *Waiver of fees.* When the purpose of the loan is the conversion of a program loan that has received unauthorized assistance or continuation of a loan on a portion of a security property when the remainder is being transferred, the application fee, down payment, and appraisal fee may be waived.

§§ 3550.75–3550.100 [Reserved]

Subpart C—Section 504 Origination

§ 3550.101 Program objectives.

This subpart sets forth policies for administering loans and grants under section 504(a) of Title V of the Housing Act of 1949. Section 504 loans and grants are intended to help very low-income owner-occupants in rural areas repair their properties.

§ 3550.102 Grant and loan purposes.

Dwellings repaired with section 504 funds must be modest.

(a) *Grant funds.* Grant funds may be used only to pay costs for repairs and improvements which will remove identified health and safety hazards or to repair or remodel dwellings to make them accessible and useable for household members with disabilities. Unused grant funds must be returned to RHS.

(b) *Loan funds.* Loan funds may be used to make general repairs and improvements to properties, in addition to the removal of health and safety standards, as long as the dwelling remains modest in size and design.

(c) *Eligibility of mobile and manufactured homes.* Necessary repairs may be made to mobile or manufactured homes provided:

(1) The applicant owns the home and site and has occupied the home prior to filing an application with Rural Housing Service (RHS), and

(2) The mobile or manufactured home is on a permanent foundation or will be put on a permanent foundation with section 504 funds.

(d) *Eligible costs.* In addition to construction costs to make necessary repairs and improvements, loan and grant funds may be used for:

(1) Reasonable connection fees, assessments, or the pro rata installation costs for required utilities, if not funded by another source.

(2) Reasonable expenses related to obtaining the loan or grant, including legal fees, surveys, title clearance, loan closing, architectural and engineering services, environmental reviews, tax monitoring, or other technical services.

(3) Real estate taxes that are due and payable on the property at the time of closing and for the establishment of escrow accounts for real estate taxes, hazard and flood insurance premiums, and related costs, if applicable.

(4) Fees to public and private nonprofit organizations that are tax exempt under the Internal Revenue Code for the development and packaging of applications.

(e) *Limitations on uses of loan or grant funds.* Section 504 funds may not be used to:

(1) Assist in the construction of a new dwelling.

(2) Make repairs to a dwelling of such poor condition that when the repairs are completed, the dwelling will continue to be a major hazard.

(3) Move a mobile home or manufactured home from one site to another.

(4) Pay for off-site improvements except for the necessary installation costs for utilities.

(5) Refinance any debt or obligation of the applicant incurred before the date of application, except for the installation and assessment costs of utilities.

§ 3550.103 Construction standards and requirements.

(a) *Post-repair condition.* Dwellings repaired with section 504 funds need not be brought to the agency development standards or thermal performance standards of subpart A of part 1924 of this title, nor must all existing hazards be removed. However, the dwelling may not continue to have major health or safety hazards.

(b) *Construction standards.* All work must be completed in accordance with local construction codes and standards. When potentially hazardous equipment or materials are being installed, all materials and installations must be in accordance with the applicable standards in subpart A of part 1924 of this title.

§ 3550.104 aximum loan and grant.

(a) *Maximum loan permitted.* The sum of all outstanding section 504 loans to one borrower or on one dwelling may not exceed $20,000.

(1) Transferees assuming a section 504 loan are limited to the difference between the unpaid principal balance of the debt assumed and $20,000.

(2) For a secured loan, the total of all debts on the secured property may not exceed the value of the security, except by the amount of any required contributions to an escrow account for taxes and insurance.

(b) *Maximum loan based upon ability to pay.* The maximum loan is limited to the principal balance that can be supported given the amount the applicant has available, as determined by RHS, to repay a loan at 1 percent interest with a 20 year term.

(c) *Maximum grant.* The lifetime total of the grant assistance to any owner-occupant is $7,500.

§ 3550.105 Eligibility requirements.

To be eligible, applicants must meet the following requirements:

(a) *Owner-occupant.* Applicants must own, as described in § 3550.107 of this subpart, and occupy the dwelling.

(b) *Age (grant applicants only).* To be eligible for grant assistance, an applicant must be 62 years of age or older.

(c) *Income eligibility.* At the time of loan or grant approval, the adjusted income of an applicant must not exceed the applicable very low-income limit adjusted for household size (available in any Rural Economic Community Development (RECD) office). Section 3550.54 of subpart B of this part provides a detailed discussion of the calculation of adjusted income.

(d) *Citizenship status.* The applicant must be a U.S. citizen or a non-citizen who qualifies as a legal alien, as defined in § 3550.10 of subpart A of this part.

(e) *Need and use of personal resources.* Applicants must be unable to obtain financial assistance at reasonable terms and conditions from non-RHS credit or grant sources and lack the personal resources to meet their needs. Applicants must use assets in excess of $7,500 for loan or grant purposes before assistance will be provided. The definition of assets for this purpose is net family assets as described in § 3550.54 of subpart B of this part, less the value of the dwelling and a minimum adequate site.

(f) *Credit qualifications.* Applicants must be unable to secure the necessary credit from other sources upon terms and conditions that the applicant could reasonably be expected to fulfill. Applicants must have a credit history that indicates reasonable ability and willingness to meet debt obligations. An outstanding judgment obtained by the United States in a federal court, other than the United States Tax Court demonstrates an unacceptable credit history.

(1) Indicators of unacceptable credit include:

(i) Incidents of more than two debt payments being more than 30 days late within the last 12 months.

(ii) Loss of security due to a foreclosure if the foreclosure has been completed within the last 36 months.

(iii) An outstanding Internal Revenue Service (IRS) tax lien or any other outstanding tax liens with no satisfactory arrangement for payment.

(iv) A court-created or court-affirmed obligation or judgment caused by nonpayment that is currently outstanding or has been outstanding within the last 12 months, except for those excluded in paragraphs (f)(2)(ii) and (f)(2)(iii) of this section.

(v) Two or more rent payments paid 30 or more days late within the last two years, or within the last year if the applicant has experienced no other credit problems in the past two years. This requirement may be waived if the RHS loan will reduce shelter costs significantly and contribute to an improved repayment ability.

(vi) Outstanding collection accounts with a record of irregular payment with no satisfactory arrangements for repayment, or collection accounts that were paid in full within the last six months.

(vii) Non-agency debts written off within the last 36 months.

(viii) Agency debts that were debt settled, or are being considered for debt settlement.

(2) The following will not be considered indicators of unacceptable credit:

(i) Lack of a credit history.

(ii) A bankruptcy in which debts were discharged more than 36 months prior to the date of application or where an applicant successfully completed a bankruptcy debt restructuring plan and has demonstrated a willingness to meet obligations when due for the 12 months prior to the date of application.

(iii) A judgment satisfied more than 12 months before the date of application, or foreclosure with no monetary loss that was completed more than 12 months before the date of application.

(3) When an application is rejected because of unacceptable credit, the applicant will be informed of the reason and source of information.

(g) *Suspension or debarment.* Applications from applicants who have been suspended or debarred from participation in federal programs will be handled in accordance with FmHA Instruction 1940–M, available in any RECD office.

§ 3550.106 Applications.

(a) *Application submissions.* All persons applying for section 504 loans or grants must file a complete written application in a format specified by RHS. Applications will be accepted even when funds are not available.

(b) *Application processing.* (1) Applications for assistance to remove health and safety hazards will receive priority for funding.

(2) Incomplete applications will be returned to the applicant specifying in writing the additional information that is needed to make the application complete.

(3) An applicant may voluntarily withdraw an application at any time.

(4) RHS may periodically request in writing that applicants reconfirm their interest in obtaining a loan or grant. RHS will withdraw the application of any applicant who does not respond within the specified timeframe.

(5) Applicants who are eligible will be notified in writing. If additional information becomes available which indicates the original eligibility determination may have been made in error or that circumstances have

changed, RHS may reconsider the application.

(6) Applicants who are ineligible will be notified in writing and provided with the specific reasons for the rejection.

§ 3550.107 Ownership requirements.

The applicant must have an acceptable ownership interest in the property.

(a) *Full fee ownership.* Acceptable full fee ownership is evidenced by a fully marketable title with a deed vesting a fee interest in the property to the applicant.

(b) *Secure leasehold interest.* A written lease is required. For loans, the unexpired portion of the lease must not be less than two years beyond the term of the promissory note. For grants, the remaining lease period must be at least five years.

(c) *Land purchase contract.* A land purchase contract is acceptable if the applicant is current on all payments, and there is a reasonable likelihood that the applicant will be able to continue meeting the financial obligations of the contract.

(d) *Undivided interest in the property.* An undivided interest is acceptable if there is no reason to believe that the applicant's position as an owner-occupant will be jeopardized as a result of the improvements to be made, and:

(1) In the case of unsecured loans or grants, if any co-owners living or planning to live in the dwelling sign the repayment agreement.

(2) In the case of a secured loan, when one or more of the co-owners are not legally competent (and there is no representative who can legally consent to the mortgage), cannot be located, or the ownership interests are divided among so large a number of co-owners that it is not practical for all of their interests to be mortgaged, their interests not exceeding 50 percent may be excluded from the security requirements. In such cases, the loan may not exceed the value of the property interests owned by the persons executing the mortgage.

(e) *Life estate interest.* To be acceptable, a life estate interest must provide the applicant with rights of present possession, control and beneficial use of the property. For secured loans, persons with any remainder interests generally must be signatories to the mortgage. All of the remainder interests need not be included in the mortgage if one or more of the persons holding remainder interests are not legally competent (and there is no representative who can legally consent to the mortgage), cannot be located, or if the remainder interests are divided among such a large number of people that it is not practical to obtain the signatures of all of the remainder interests. In such cases, the loan may not exceed the value of the property interests owned by the persons executing the mortgage.

(f) *Alternative evidence of ownership.* If evidence, as described in paragraphs (a) through (e) of this section is not available, RHS may accept any of the following as evidence of ownership:

(1) Records of the local taxing authority that show the applicant as owner and that demonstrate that real estate taxes for the property are paid by the applicant.

(2) Affidavits by others in the community stating that the applicant has occupied the property as the apparent owner for a period of not less than 10 years, and is generally believed to be the owner.

(3) Any instrument, whether or not recorded, which is commonly accepted as evidence of ownership.

§ 3550.108 Loan rates and terms.

(a) *Interest rate.* The interest rate for all section 504 loans will be one percent.

(b) *Loan term.* The repayment period for the loan should generally be as short as possible based on the applicant's repayment ability, and may never exceed 20 years; however loans made in combination with grants must have a term of 20 years.

§ 3550.109 Security requirements (loans only).

Any loan of $2,500 or more will be secured by a mortgage on the property (or any leasehold interest or land purchase contract).

(a) RHS does not require a first lien position, but the total of all debts on the secured property may not exceed the value of the security, except by the amount of any required contributions to an escrow account for taxes and insurance.

(b) Subsequent loans will be secured by a mortgage when the total section 504 debt is $2,500 or more.

(c) Title clearance and the use of legal services in accordance with subpart B of part 1927 are not required:

(1) For loans of $7,500 or less that are scheduled for repayment in not more than 15 years or

(2) For subsequent loans made for minimal essential repairs necessary to protect the government's interest.

§ 3550.110 Appraisals.

An appraisal of the real estate or leasehold interest is required when security is taken and the total section 504 indebtedness will be more than $15,000. Appraisals must be made in accordance with the Uniform Standards of Professional Appraisal Practices (USPAP) and subpart C of part 1922 of this title.

§ 3550.111 Escrow account.

RHS may require that deposit into an escrow account amounts necessary to ensure that the account will contain sufficient funds to pay real estate taxes, hazard and flood insurance premiums, and other related costs when they are due.

(a) At loan settlement, or upon creation of the escrow account, RHS may require borrowers to deposit funds sufficient to pay taxes and insurance premiums applicable to the mortgage for the period since the last payments were made.

(b) RHS will estimate the amount of funds due on the basis of current data and reasonable estimates of future expenditures.

(c) Escrow accounts will be administered in accordance with the Real Estate Settlement and Procedures Act of 1974 (RESPA) and section 501(e) of the Housing Act of 1949.

§ 3550.112 Insurance (loans only).

(a) *Borrower responsibility.* Until the loan is paid in full the borrower must furnish and continually maintain insurance on security property, with companies, in amounts, and on terms and conditions acceptable to RHS.

(b) *Amount.* Essential buildings must be insured in an amount at least equal to their depreciated replacement value.

(c) *Flood insurance.* RHS may require that flood insurance be obtained and maintained for the life of the loan for all property located in Special Flood Hazard Areas (SFHAs) as determined by the Federal Emergency Management Agency (FEMA). If flood insurance is not available in a SFHA, the property is not eligible for federal financial assistance.

(d) *Losses.* (1) Loss deductible clauses may not exceed $250 or one percent of the insurance coverage, whichever is greater. The deductible for any one building may not exceed $750.

(2) Borrowers must immediately notify RHS of any loss or damage to insured property and collect the amount of the loss from the insurance company.

(3) Loss payments must be supervised. All repairs and replacements done by or under the direction of the borrower, or by contract, will be planned, performed, inspected, and paid for in accordance with subpart A of part 1924 of this title.

(4) When insurance funds remain after all repairs, replacements, and other

authorized disbursements have been made, the funds will be applied in the following order:

(i) Prior liens, including delinquent property taxes.

(ii) Delinquency on the account.

(iii) Advances due for recoverable cost items.

(iv) Applied as an extra payment if the borrower has less than 20 percent equity in the property.

(v) Released to the borrower if the borrower has 20 percent or more equity in the property.

(5) If a loss occurs when insurance is not in force, the borrower is responsible for making the needed repairs or replacements and ensuring that the insurance is reinstated on the property.

(6) If the borrower is not financially able to make the repairs, RHS may take one of the following actions:

(i) Make a subsequent loan for repairs.

(ii) Subordinate the RHS lien to permit the borrower to obtain funds for needed repairs from another source.

(iii) Permit the borrower to obtain funds secured by a junior lien from another source.

(iv) Make a protective advance to protect the government's interest.

(v) Accelerate the account and demand payment in full.

§ 3550.113 Repayment agreement (grants only).

Grant recipients are required to sign a repayment agreement which specifies that the full amount of the grant must be repaid to the government if the property is sold in less than 3 years from the date of grant closing.

§§ 3550.114–3550.150 [Reserved]

Subpart D—Regular Servicing

§ 3550.151 Servicing goals.

This subpart sets forth the Rural Housing Service (RHS) policies for managing the repayment of loans made under sections 502 and 504.

§ 3550.152 Loan payments.

(a) *Payment terms.* Unless the loan documents specify other loan repayment terms, borrowers are required to make monthly payments. Borrowers with existing loans specifying annual payments may request conversion to monthly payments, and must convert to a monthly payment schedule before any subsequent loan, new payment assistance, or servicing action that benefits the borrower is approved. Suitable forms of payment are: check, money order, or bank draft. Cash payments will be accepted only if accompanied by a fee to cover conversion to a money order.

(b) *Application of payments.* If a borrower makes less than the full scheduled payment, the payment is held in suspense and is not applied to the borrower's account. When subsequent payments are received in an amount sufficient to equal a full scheduled payment, the full amount will be applied in the following order:

(1) Protective advances charged to the account.

(2) Accrued interest due.

(3) Principal due.

(4) Escrow for taxes and insurance.

(5) Fees or charges applied to the account.

(c) *Multiple loans.* When a borrower with multiple loans for the same property makes less than the full scheduled payment on all loans, any payment will first be applied to the amount due on the primary loan, then applied to other loans in the order of declining principal balance. Future remittances will be applied beginning with the oldest unpaid installment.

(d) *Application of excess payments.* Borrowers can elect to make payments in excess of the scheduled amount and designate on their billing statements whether the extra funds are to be applied to the principal or escrow. Extra payments do not relieve borrowers of the obligation to make the next scheduled payment.

§ 3550.153 Fees and charges.

RHS may assess reasonable fees and charges including a tax service fee, fees for late payments, and charges for checks returned for insufficient funds.

§ 3550.154 Inspections.

RHS or its agent may make reasonable entries upon and inspections of any property used as security for a RHS loan as necessary to protect the interest of the government. RHS will give the borrower notice at the time of or prior to an inspection.

§ 3550.155 Escrow account.

Escrow accounts will be administered in accordance with the Real Estate Settlement and Procedures Act of 1974 (RESPA) and section 501(e) of the Housing Act of 1949. When the analysis discloses a shortage, RHS may allow the shortage to exist until the next escrow analysis, or may adjust the borrower's monthly payment.

§ 3550.156 Borrower obligations.

(a) After receiving a loan from RHS, borrowers are expected to meet a variety of obligations outlined in the loan documents. In addition to making timely payments, these obligations include:

(1) Maintaining the security property, and

(2) Maintaining an adequately funded escrow account, or paying real estate taxes, hazard and flood insurance, and other related costs when due.

(b) If a borrower fails to fulfill these obligations, RHS may obtain the needed service and charge the cost to the borrower's account in the form of a protective advance.

§ 3550.157 Payment subsidy.

(a) *Borrowers currently receiving payment subsidy.* (1) RHS will review annually each borrower's eligibility for continued payment subsidy and determine the appropriate level of assistance. To be eligible for payment subsidy renewal, the borrower must meet the requirements of § 3550.53(a), (b), and (c) of subpart B of this part.

(2) If the renewal is not completed before the expiration date of the existing agreement, the effective date of the renewal will be either the expiration date of the previous agreement if RHS error caused the delay, or the next due date after the renewal is approved in all other cases. If RHS determines that a borrower has received less than the appropriate amount of payment subsidy, the borrower's account will be credited with the difference between the amount received and the correct amount.

(3) The borrower must notify RHS whenever an adult member of the household becomes employed or changes employment. The household may also report decreases in income. If the change in the household's income will cause the level of assistance to change by at least $10 per month, the household's payment subsidy may be adjusted for a new 12-month period. The new agreement will be effective the due date following the date the borrower's information is verified by RHS.

(b) *Borrowers not currently receiving payment subsidy.* Payment assistance may be granted to borrowers not currently receiving payment subsidy whose loans were approved on or after August 1, 1968 and who meet the requirements of § 3550.53(a), (b), and (c) of subpart B of this part. In general, to receive payment assistance the term of the loan at closing must have been at least 25 years. If an account has been reamortized and the initial term of the loan was at least 25 years, payment assistance may be granted even though the term of the reamortized loan is less than 25 years. Payment assistance may be granted on a subsequent loan for repairs with a term of less than 25 years.

(c) *Unauthorized assistance.* When RHS determines that a borrower has

received more than the appropriate amount of payment subsidy, the account will be serviced in accordance with § 3550.164 of this subpart.

§ 3550.158 Active military duty.

The Soldiers and Sailors Relief Act requires that the interest rate charged a borrower who enters full-time active military duty after a loan is closed not exceed six percent. Active military duty does not include participation in a military reserve or the National Guard.

(a) *Amount of Assistance.* If a borrower qualifies for payment subsidy after reduction of the interest rate to six percent, the amount of payment assistance received during the period of active military duty will be the difference between the amount due at the Equivalent Interest Rate and the amount due at a six percent interest rate. The six percent interest rate will be effective with the first payment due after RHS confirms the active military status of the borrower.

(b) *Change of Active Military Status.* The borrower must notify RHS when he or she is no longer on active military duty. RHS will cancel the six percent interest rate and resume use of the promissory note interest rate. A new payment subsidy agreement may be processed if the borrower is eligible.

§ 3550.159 Borrower actions requiring RHS approval.

(a) *Mineral leases.* Borrowers who wish to lease mineral rights to a security property must request authorization from RHS. RHS may consent to the lease of mineral rights and subordinate its liens to the lessee's rights and interests in the mineral activity if the security property will remain suitable as a residence and the government's security interest will not be adversely affected. Subordination of RHS loans to a mineral lease does not entitle the leaseholder to any proceeds from the sale of the security property.

(1) If the proposed activity is likely to decrease the value of the security property, RHS may consent to the lease only if the borrower assigns 100 percent of the income from the lease to RHS to be applied as extra payments.

(2) If the proposed activity is not likely to decrease the value of the security property, RHS may consent to the lease if the borrower agrees to use any damage compensation received from the lessee to repair damage to the site or dwelling, or assigns it to RHS to be applied as extra payments.

(b) *Subordination.* RHS may subordinate its interests to permit a borrower to defer recapture amounts and refinance the loan, or to obtain a subsequent loan with private credit.

(1) When it is in the best interest of the government, subordination will be permitted if:

(i) The other lender will verify that the funds will be used for purposes for which a RHS loan could be made.

(ii) The prior lien debt will be on terms and conditions that the borrower can reasonably be expected to meet without jeopardizing repayment of the RHS indebtedness.

(iii) Any proposed development will be planned and performed in accordance with subpart A of part 1924 of this title or directed by the other lender in a manner which is consistent with that subpart.

(iv) An agreement is obtained in writing from the prior lienholder providing that at least 30 days prior written notice will be given to RHS before action to foreclose on the prior lien is initiated.

(2) The total amount of debt permitted when RHS subordinates its interests depends on whether the borrower pays off the RHS loan.

(i) For situations in which the borrower is obtaining a subsequent loan from another source and will not pay off the RHS debt, the prior lien debt plus the unpaid balance on the loan, exclusive of the recapture amount, will not exceed the market value of the security.

(ii) For situations in which RHS is subordinating only a deferred recapture amount, the prior lien debt plus the deferred recapture amount will not exceed the market value of the security.

(c) *Partial release of security.* RHS may consent to transactions affecting the security, such as sale or exchange of security property or granting of a right-of-way across the security property, and grant a partial release provided:

(1) The compensation is:

(i) For sale of the security property, cash in an amount equal to the value of the security being disposed of or rights granted.

(ii) For exchange of security property, another parcel of property acquired in exchange with value equal to or greater than that being disposed of as determined by a current appraisal.

(iii) For granting an easement or right-of-way, benefits derived that are equal to or greater than the value of the security property being disposed of.

(2) An appraisal must be conducted if the latest appraisal is more than one year old or if it does not reflect market value, and the amount of consideration exceeds $2,000. The appraisal fee will be charged to the borrower.

(3) The security property, after the transaction is completed, will be an adequate but modest, decent, safe, and sanitary dwelling and related facilities.

(4) Repayment of the RHS debt will not be jeopardized.

(5) If applicable, the environmental requirements of subpart G of part 1940 of this title must be met.

(6) When exchange of all or part of the security is involved, title clearance must be obtained before release of the existing security.

(7) For the sale of a portion of the security payment, when payment is received and verified, the release may be delivered.

(8) Proceeds from the sale of a portion of the security property, granting an easement or right-of-way, damage compensation, and all similar transactions requiring RHS consent, will be used in the following order:

(i) To pay customary and reasonable costs related to the transaction that must be paid by the borrower.

(ii) To be applied on a prior lien debt, if any.

(iii) To be applied to RHS indebtedness or used for improvements to the security property in keeping with purposes and limitations applicable for use of RHS loan funds. Proposed development will be planned and performed in accordance with subpart A of part 1924 of this title and supervised to ensure that the proceeds are used as planned.

(d) *Lease of security property.* A borrower must furnish RHS with a copy of any lease or proposed lease. If the lease is for a term of more than three years or contains an option to purchase, RHS may liquidate the loan.

§ 3550.160 Refinancing with private credit.

(a) *Objective.* RHS direct loan programs are not intended to supplant or compete with private credit sources. Therefore, borrowers are required to refinance RHS loans with private credit sources when RHS determines that the borrower meets RHS criteria.

(b) *Criteria for refinancing with private credit.* Borrowers must refinance with private credit when RHS determines that the borrower has the ability to obtain other credit at reasonable rates and terms based on their income, assets, and credit history. Reasonable rates and terms are those commercial rates and terms that borrowers are expected to meet when borrowing for similar purposes. Differences in interest rates and terms between RHS and other lenders will not be an acceptable reason for a borrower to fail to refinance with private credit if

the available rates and terms are within the borrower's ability to pay.

(c) *Notice of requirement to refinance with private credit.* The financial status of all borrowers may be reviewed periodically to determine their ability to refinance with private credit. A borrower's financial status may be reviewed at any time if information becomes available to RHS that indicates that the borrower's circumstances have changed.

(1) A borrower undergoing review is required to supply, within 30 days of a request from RHS, sufficient financial information to enable RHS to determine the borrower's ability to refinance with private credit. Foreclosure action may be initiated against any borrower who fails to respond.

(2) When RHS determines that a borrower has the ability to refinance with private credit, the borrower will be required to refinance within 90 days.

(3) Within 30 days after being notified of the requirement to refinance with private credit, a borrower may contest the RHS decision and provide additional financial information to document an inability to refinance with private credit. If RHS agrees that the borrower is not a candidate for refinancing with private credit, RHS will withdraw the request.

(d) *Failure to refinance with private credit.* (1) If the borrower is unable to secure private credit, the borrower must submit written statements and documentation to RHS showing:

(i) The lenders contacted.

(ii) The amount of the loan requested by the borrower and the amount, if any, offered by the lenders.

(iii) The rates and terms offered by the lenders or the specific reasons why other credit is not available.

The information provided by the borrower to the lenders regarding the purpose of the loan.

(2) If RHS determines that the borrower's submission does not demonstrate the borrower's inability to refinance with private credit, or if the borrower fails to submit the required information, foreclosure may be initiated.

(e) *Subordination of recapture amount.* RHS may subordinate its interest in any deferred recapture amount to permit a borrower to refinance with private credit.

The amount to which the RHS debt will be subordinated may include:

(1) The amount required to repay the RHS debt, exclusive of recapture,

(2) Reasonable closing costs,

(3) Up to one percent of the loan amount for loan servicing costs if required by the lender, and

(4) The cost of any repairs or improvements to the security property.

(f) *Application for additional credit or assistance.* A borrower who has been asked to refinance with private credit will not be considered for additional credit or assistance until the refinancing issue is resolved unless such additional assistance is necessary to protect the government's interest.

§ 3550.161 Final payment.

(a) *Payment in full.* Full payment of a borrower's account includes repayment of principal and outstanding interest, unauthorized assistance, recapture amounts, and charges made to the borrower's account. Any supervised funds or funds remaining in a borrower's escrow account will be applied to the borrower's account or returned to the borrower.

(b) *Release of security instruments.* RHS may release security instruments when full payment of all amounts owed has been received and verified. If RHS and the borrower agree to settle the account for less than the full amount owed, the security instruments may be released when all agreed-upon amounts are received and verified. Security instruments will not be released until any deferred recapture amount has been paid in full.

(c) *Written statements.* At the borrower's request, RHS will provide a written statement indicating the amount required to pay the account in full. RHS may charge a fee for statements for the same account if more than two statements are requested in any 30 day period.

(d) *Suitable forms of payment.* Suitable forms of payment are: check, money order, or bank draft. Cash payments will be accepted only if accompanied by a fee to cover conversion to a money order.

(e) *Recording costs.* Recording costs for the release of the mortgage will be the responsibility of the borrower, except where state law requires the mortgagee to record or file the satisfaction.

§ 3550.162 Recapture.

(a) *Recapture policy.* Borrowers with loans approved on or after October 1, 1979 will be required to repay subsidy amounts received through payment subsidy or deferred mortgage assistance. Amounts to be recaptured are due and payable when the borrower transfers title or ceases to occupy the property.

(b) *Amount of subsidy to be recaptured.* (1) The maximum amount to be recaptured is the amount of principal reduction atrributed to subsidy and the lesser of:

(i) The amount of subsidy received or

(ii) 50% of the difference between the value appreciation in the property and the added value of capital improvements to the property.

(2) The value appreciation of a property with a cross-collateralized loan is based on the market value of the dwelling and a minimum adequate site.

(3) Interest reduced from the promissory note rate to six percent under the Soldiers and Sailors Relief Act is not subject to recapture.

(c) *Option to defer payment of recapture amounts.* (1) Borrowers may defer payment of recapture amounts if the loan, exclusive of recapture, is paid in full, the title does not transfer, and the borrower continues to occupy the property.

(2) The RHS mortgage securing the deferred recapture amount may be subordinated to permit refinancing if the RHS mortgage will be adequately secured.

(3) Borrowers may receive a discount on the recapture amount due if the recapture amount is repaid within 30 days of refinancing or payment of the last loan installment, and the borrower continues to occupy the property.

(d) *Borrower ceases to occupy the property.* When a borrower ceases to occupy a property:

(1) The borrower may pay the recapture amount in full or reamortize the existing loan to include the recapture amount.

(2) If the borrower does not pay the recapture amount or consent to reamortization within 30 days, RHS may proceed with foreclosure.

(e) *Assumed loans.* When a loan subject to recapture is assumed under new rates and terms, the recapture amount may be paid in full by the seller or included in the principal amount assumed by the buyer.

(2) When a loan is assumed under the terms of the promissory note, recapture amounts will not be due. When the new borrower transfers title or ceases to occupy the property, all subsidy subject to recapture before and after the assumption is due.

(3) When a borrower has deferred payment of recapture amounts and the RHS loan, exclusive of recapture, is paid in full, the deferred recapture amount may be assumed by a new RHS borrower and included in the principal amount of the new loan.

§ 3550.163 Transfer of security and assumption of indebtedness.

(a) *General policy.* RHS mortgages contain due-on-sale clauses that generally require RHS consent before title of a security property can be

transferred with an assumption of the indebtedness. If it is in the best interest of the government, RHS will approve the transfer of title and assumption of indebtedness on program or nonprogram (NP) terms, depending on the transferee's eligibility and the property's characteristics.

(b) *RHS approval of assumptions.* A borrower with a loan on program terms who wishes to transfer a security property restricted by a due-on-sale clause to a purchaser who wishes to assume the debt must receive prior authorization from RHS. If RHS authorizes the transfer and assumption, the account will be serviced in the purchaser's name and the purchaser will be liable for the loan under the terms of the security instrument.

(2) If a borrower sells a security property with a due-on-sale clause without obtaining RHS authorization, RHS will not approve assumption of the indebtedness, and the loan will be liquidated unless RHS determines that it is in the government's best interest to continue the loan. If RHS decides to continue the loan, the account will be serviced in the original borrower's name and the original borrower will remain liable for the loan under the terms of the security instrument.

(c) *Exceptions to due-on-sale clauses.* (1) Due-on-sale clauses are not triggered by the following types of transfers:

(i) A transfer from the borrower to a spouse or children not resulting from the death of the borrower.

(ii) A transfer to a relative, joint tenant, or tenant by the entirety resulting from the death of the borrower.

(iii) A transfer to a spouse or ex-spouse resulting from a divorce decree, legal separation agreement, or property settlement agreement.

(iv) A transfer to a person other than a deceased borrower's spouse who wishes to assume the loan for the benefit of persons who were dependent on the deceased borrower at the time of death, if the dwelling will be occupied by one or more persons who were dependent on the borrower at the time of death, and there is a reasonable prospect of repayment.

(v) A transfer into an inter vivos trust in which the borrower does not transfer rights of occupancy in the property.

(2) A transferee who obtains property through one of the types of transfer listed in paragraph (c)(1) of this section:

(i) Is not required to assume the loan, and RHS is not permitted to liquidate the loan, if the transferee continues to make scheduled payments and meet all other obligations of the loan. A transferee who does not assume the loan is not eligible for payment assistance or a moratorium.

(ii) May assume the loan on the rates and terms contained in the promissory note, with no down payment. If the account is past due at the time an assumption is executed, the account may be brought current by using any of the servicing methods discussed in subpart E of this part.

(iii) May assume the loan under new rates and terms if the transferee applies and is program-eligible.

(3) Any subsequent transfer of title, except upon death of the inheritor or between inheritors to consolidate title, will be treated as a sale.

(d) *Requirements for an assumption.* (1) Loans secured by program-eligible properties to be assumed by program-eligible purchasers may be assumed on program terms. Loans secured by nonprogram properties and loans to be assumed by purchasers who are not eligible for program terms may be assumed on nonprogram terms.

(2) The amount the transferee will assume will be either the current market value less any prior liens and any required down payment, or the indebtedness, whichever is less.

(3) The applicant may request that the interest rate charged by RHS be the rate in effect either at the time of loan approval or at closing, whichever is lower. If the applicant does not specify, the rate in effect at the time of loan approval will be used.

(4) If additional financing is required to purchase the property or to make repairs, RHS may approve a subsequent loan under subparts B or C of this part.

(5) If an appraisal is required for an assumption on new terms, the purchaser is responsible for the appraisal fee.

(6) If all or a portion of the borrower's account balance is assumed, the borrower and co-signer, if any, will be released from liability on the amount of the indebtedness assumed. If an account balance remains after the assumption, RHS may pursue debt settlement in accordance with subpart F of this part.

(7) Unless it is in the government's best interest, RHS will not approve an assumption of a secured loan if the seller fails to repay any unsecured RHS loan.

(8) If a loan is secured by a property with a dwelling situated on more than a minimum adequate site and the excess property cannot be sold separately as a minimum adequate site for another dwelling, RHS may approve a transfer of the entire property. If the excess property can be sold separately as a minimum adequate site, RHS will approve assumption of only the dwelling and the minimum adequate site. If the value of the dwelling on the minimum adequate site is less than the amount of the outstanding RHS debt, the remaining debt will be secured by the excess property. The outstanding debt will be converted to a NP loan and reamortized over a period not to exceed 10 years or the final due date of the original promissory note, whichever is sooner.

§ 3550.164 Unauthorized assistance.

(a) *Types of unauthorized assistance.* Unauthorized assistance includes:

(1) A loan or grant made to a recipient who did not qualify for the assistance, or made for an ineligible purpose.

(2) Subsidy in excess of $10 per month or $120 per year for which the recipient was not eligible.

(b) *Recipients who provide false information.* (1) False information is information provided by the recipient that the recipient knew was incorrect at the time it was provided, and was provided with the intent to obtain benefits that would not have been obtainable based upon correct information.

(2) If false information related to recipient eligibility or the purpose of the loan or grant results in the borrower receiving unauthorized assistance, RHS will accelerate any loan and require repayment of any subsidy or grant.

(3) If false information related to the amount of subsidy results in the recipient receiving unauthorized assistance, the recipient will be required to repay all excess subsidy received. The account may not be reamortized to include this excessive subsidy.

(4) RHS may suspend or debar any recipient who provides false information.

(c) *Recipients who provide inaccurate information and unauthorized assistance received as a result of RHS error.* (1) Inaccurate information is incorrect information inadvertently provided by the recipient without intent to obtain benefits fraudulently.

(2) Recipients who provide inaccurate information related to eligibility or the purpose of the loan or grant will be permitted to retain the loan.

(3) The recipient will be required to repay all excess subsidy received based on inaccurate information. If a recipient is unable to repay the excess subsidy in a lump sum, the account may be reamortized.

(d) *Repayment terms.* If a recipient cannot repay the unauthorized amount within a reasonable period, RHS may reamortize the loan. Refusal to repay will result in acceleration of the loan.

§§ 3550.165–3550.200 [Reserved]

Subpart E—Special Servicing

§ 3550.201 Purpose of special servicing actions.

The Rural Housing Service (RHS) may approve special servicing actions to reduce the number of borrower failures that result in liquidation. Borrowers who have difficulty keeping their accounts current may be eligible for one or more available servicing options including: payment assistance; work-out agreements that temporarily modify payment terms; protective advances of funds for taxes, insurance and other approved costs; payment moratoriums; and reamortization at promissory note or new interest rates.

§ 3550.202 Past due accounts.

An account is past due if the full scheduled payment is not received by the due date.

(a) *Late charges.* A late charge will be assessed if the full scheduled payment is not received by the 15th day after the due date.

(b) *Liquidation.* The account may be liquidated without further servicing when at least three full scheduled payments are past due or an amount equal to at least two full scheduled payments is past due for at least three consecutive months. In such cases RHS may pursue voluntary liquidation and foreclosure.

§ 3550.203 General servicing actions.

Whenever any of the servicing actions described in this subpart result in reamortization of the account RHS may:

(a) Require the creation and funding of an escrow account for real estate taxes and insurance, if one does not already exist.

(b) Convert the method of calculating interest for any account being charged daily simple interest to a preamortized payment schedule.

§ 3550.204 Payment assistance.

Borrowers who are eligible may be offered payment assistance in accordance with subpart B of this part. Borrowers who are not eligible for payment assistance because the loan was approved before August 1, 1968 or the loan is an above-moderate or nonprogram loan, may refinance the loan if:

(a) The borrower is now eligible to receive a loan with payment assistance;

(b) Due to circumstances beyond the borrower's control, the borrower is in danger of losing the property; and

(c) The property is program-eligible.

§ 3550.205 Work-out agreements.

Borrowers with past due accounts may be offered the opportunity to avoid liquidation by entering into a written work-out agreement that specifies a plan for bringing the account current. To receive a work-out agreement, the following requirements apply:

(a) A borrower who currently makes annual payments but receives monthly income must convert to monthly payments.

(b) A borrower who is able to do so will be required to pay the past-due amount in a single payment.

(c) A borrower who is unable to pay the past-due amount in a single payment must pay monthly all scheduled payments plus an agreed upon additional amount that brings the account current within two years or the remaining term of the loan, whichever is shorter.

(d) If a borrower becomes more than 30 days past due under the terms of a work-out agreement, RHS may cancel the agreement.

§ 3550.206 Protective advances.

RHS may pay for fees or services and charge the cost against the borrower's account to protect the government's interest. A protective advance will be made only if the borrower cannot obtain a subsequent loan.

(a) *Advances for taxes and insurance.* RHS may advance funds to pay real estate taxes, hazard and flood insurance premiums, and other related costs.

(1) Monthly payments to the escrow account will be adjusted to ensure recovery of this advance within 12 months.

(2) A borrower without an established escrow account will be required to establish such an account. RHS may advance amounts needed to pay taxes and insurance due as well as to fund the borrower's contribution to the current escrow cycle. Amounts advanced may be reamortized or repaid by the borrower in a lump sum due with the next scheduled installment.

(b) *Advances for costs other than taxes and insurance.* Advances for costs other than real estate taxes and hazard insurance will bear interest at the promissory note rate of the loan against which they are being charged. Advances for borrowers with multiple loans will be charged against the primary loan.

§ 3550.207 Payment moratorium.

RHS may defer for up to two years payments for either principal, interest, and contributions to the escrow account for taxes and insurance, or payments for only principal and interest.

(a) *Borrower eligibility.* For a borrower to be eligible for a moratorium, all of the following conditions must be met:

(1) Due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making scheduled payments because:

(i) The borrower's repayment income fell by at least 20 percent within the last year,

(ii) The borrower must pay unexpected and unreimbursed expenses resulting from the illness, injury or death of the borrower or a family member, or

(iii) The borrower must pay unexpected and unreimbursed expenses resulting from damage to the security property in cases where adequate hazard insurance was not available or was prohibitively expensive.

(2) The borrower occupies the dwelling, unless RHS determines that it is uninhabitable.

(3) The borrower's account is not currently accelerated.

(b) *Reviews of borrower eligibility.* (1) Periodically RHS may require the borrower to submit financial information to demonstrate that the moratorium should be continued. The moratorium may be canceled if:

(i) The borrower does not respond to a request for financial information,

(ii) RHS receives information indicating that the moratorium is no longer required, or

(iii) In the case of a moratorium granted to pay unexpected or unreimbursed expenses, the borrower cannot show that an amount at least equal to the deferred payments has been applied toward the expenses.

(2) At least 30 days before the moratorium is scheduled to expire, RHS will require the borrower to provide financial information needed to determine whether the borrower is able to resume making scheduled monthly payments.

(c) *Resumption of monthly payments.* When the borrower is able to resume scheduled monthly payments, the loan will be reamortized to include the amount deferred during the moratorium. If the new monthly payment, after consideration of the maximum amount of payment subsidy available to the borrower, exceeds the borrower's repayment ability, all or part of the interest that has accrued during the moratorium may be forgiven.

(d) *Borrowers unable to resume monthly payments.* If even after all appropriate servicing actions have been taken the borrower is unable to resume making scheduled payments after two consecutive years of being on a

moratorium, the account should be liquidated.

§ 3550.208 Reamortization using promissory note interest rate.

Reamortization using the promissory note interest rate may be authorized when RHS determines that reamortization is required to enable the borrower to meet scheduled obligations, and only if the government lien priority is not adversely affected.

(a) *Permitted uses.* Reamortization at the promissory note interest rate may be used to accomplish a variety of servicing actions, including to:

(1) Repay unauthorized assistance.

(2) Repay principal and interest accrued and advances made during a moratorium.

(3) Reinstate an accelerated account.

(4) Bring current an account under a work-out agreement after the borrower has demonstrated the willingness and ability to meet the terms of the loan and work-out agreement.

(5) Bring a delinquent account current at the time an assumption is processed on the terms of the promissory note.

(6) Cover the remaining debt when a portion of the security property is being transferred but the acquisition price does not cover the outstanding debt. The remaining balance will be reamortized for a period not to exceed 10 years or the final due date of the note being reamortized, whichever is sooner.

(b) *Payment term of reamortized loan.* Except as noted in paragraph (a)(6) of this section, the term of the reamortized loan may be extended to the maximum standard term that was available at the time the loan was originally made, less the number of years the loan has been outstanding. In all cases, the term must not exceed the remaining security life of the property. When reamortizing using the promissory note interest rate, the loan term cannot be extended to 38 years.

§ 3550.209 [Reserved]

§ 3550.210 Offsets.

Any money that is or may become payable from the United States to an RHS borrower may be subject to administrative, salary, or Internal Revenue Service (IRS) offsets for the collection of a debt owed to RHS.

(a) *IRS offset.* RHS may take action to effect offset of claims due RHS against tax refunds due to RHS debtors under 26 U.S.C. 6402, in accordance with the provisions of 31 U.S.C. 3720A and 26 CFR 301.6402–6.

(b) *Salary offset.* Offset of claims due to RHS by a federal employee may be collected pursuant to the salary offset provisions in 7 CFR part 3, subpart C.

(c) *Administrative offset.* RHS may take action to effect administrative offset to recover delinquent claims due to it in accordance with the procedures in 7 CFR part 3, subpart B.

(d) *Offset by other federal agencies.* Funds held or payable by RHS are not subject to offset by other federal agencies.

§ 3550.211 Liquidation.

(a) *Policy.* When RHS determines that a borrower is unable or unwilling to meet loan obligations, RHS may liquidate the debt and, if necessary, acquire the security property. The borrower is responsible for all expenses associated with liquidation and acquisition. After the security property is liquidated, RHS will credit the borrower's account. If the account is satisfied in full, the borrower will be released from liability. If the account is not satisfied in full, RHS may pursue any deficiency.

(b) *Tribal allotted or trust land.* Liquidations involving a security interest in tribal allotted or trust land shall only be pursued after offering to transfer the account to an eligible tribal member, the tribe, or the Indian Housing Authority. Forced liquidation of RHS security interests in Indian trust lands or on tribal allotted land will be recommended only after the State Director has determined it is in the best interest of the Government.

(c) *Acceleration and Foreclosure.* If RHS determines that foreclosure is in the best interest of the government, RHS will send an acceleration notice to each borrower and any co-signer. If the borrower does not pay the full account balance or meet the other terms of the loan within 30 days of acceleration, RHS may foreclose.

(d) *Canceling acceleration.* In the case of an account accelerated because the security property has been sold or transferred without RHS consent, acceleration cannot be canceled. In all other cases, the borrower may offer to cure a default after acceleration. RHS will not accept an offer to cure a default after acceleration unless it is in the government's best interest. Methods for curing the default include:

(1) *Voluntary liquidation.* The borrower may refinance or sell the security property at net recovery value and apply the proceeds to the account. Foreclosure action will not be delayed pending voluntary liquidation unless a copy of a firm funding commitment is provided to RHS indicating that closing will occur within 90 days. An extension of time may be allowed to complete a transaction provided:

(i) The security property is listed with a real estate broker for not more than the net recovery value as determined by RHS,

(ii) A sales contract has been entered into and assumption of the RHS loan, or a loan from another lender, is pending, or

(iii) The borrower has applied to a lender for a long-term loan to pay RHS in full.

(2) *Deed in lieu of foreclosure.* RHS may accept a deed in lieu of foreclosure to convey title to the security property only after the debt has been accelerated and when it is in the government's best interest.

(3) *Offer by third party.* If a junior lienholder or co-signer makes an offer in the amount of the net recovery value, RHS may assign the note and mortgage.

(e) *Bankruptcy.* (1) When a petition in bankruptcy is filed by a borrower after acceleration, collection actions and foreclosure actions are suspended in accordance with the provisions of the Bankruptcy Code. The borrower may be considered for a moratorium or for payment assistance.

(2) RHS may accept conveyance of security property by the trustee in bankruptcy if the Bankruptcy Court has approved the transaction, RHS determines the conveyance is in the best interest of the government, and RHS will acquire title free of all liens and encumbrances except RHS liens.

(3) Whenever possible in a Chapter 7 Bankruptcy, a reaffirmation agreement will be signed by the borrower prior to discharge, if RHS decides to continue with the borrower.

(f) *Junior lienholder foreclosure.* When a junior lienholder foreclosure does not result in payment in full of the RHS debt but the property is sold subject to the RHS lien, RHS may liquidate the account unless the new owner is eligible to assume the RHS debt and actually assumes the RHS debt.

(G) *Payment subsidy.* If the borrower is receiving payment subsidy, the payment subsidy agreement will not be canceled when the debt is accelerated, but will not be renewed unless the account is reinstated.

(h) *Eligibility for special servicing actions.* A borrower is not eligible for special servicing actions once the account has been accelerated.

§§ 3550.212–3550.250 [Reserved]

Subpart F—Post-Servicing Actions

§ 3550.251 Property management and disposition.

(a) *Policy.* Rural Housing Service (RHS) will manage custodial property and Real Estate Owned (REO) property

to protect the government's interest, and may dispose of REO property through direct sales, sealed bid, or auction. RHS will provide public notice of all sales of REO property, and follow affirmative fair housing marketing policies.

(b) *Custodial property.* RHS may take custodial possession of security property that has been abandoned, or for other reasons necessary to protect the government's security. After taking custodial possession of a security property, RHS may maintain and repair the security property as needed to protect the government's interest, pay required real estate taxes and assessments, and secure personal property left on the premises. Expenses will be charged to the borrower's account. Custodial property may be leased when it is in the government's best interest and in such cases the borrower's account will be credited for income from the security property.

(c)*REO property.* (1) When RHS takes title to a security property, it is classified as either program or nonprogram (NP) property. A REO property that is eligible for financing under the section 502 program, or which could reasonably be repaired to be eligible, is classified as program property. A REO property that cannot reasonably be repaired to be eligible as section 502 property, and property that has been improved to a point that it will no longer qualify as modest under section 502, is classified as NP property.

(2) When RHS determines that a REO property to be sold is not decent, safe and sanitary, or does not meet cost-effective energy conservation standards, its known defects will be disclosed. The deed by which such a REO property is conveyed will contain a covenant restricting it from residential use until it is decent, safe and sanitary and meets the RHS cost-effective energy conservation standards.

(3) *Property on Indian tribal allotted or trust land.* REO property which is located on Indian tribal allotted or trust land, will be sold or otherwise disposed of only to a member of the particular tribe having jurisdiction over the allotted or tribal land, to the tribe, or to an Indian housing authority serving the tribe on a first come, first served basis.

(4) *Reservation of program REO properties.* (i) Program REO properties are reserved for program-eligible applicants and nonprofit organizations or public bodies providing transitional housing during the first 60 days after the date of the first notice of sale, and during the first 30 days following any reduction in price or any other change in credit terms or other sale terms. After the expiration of a reservation period, program REO properties can be bought by any buyer.

(ii) An offer on a program REO property from a buyer who does not qualify for a section 502 program loan may be submitted during a reservation period, but is considered to have been received on the day after the reservation period ends.

(iii) No offer is considered until three business days after the date the property is offered for sale. An offer received during the three-day holding period is not considered until the fourth day, and is evaluated with any other offers actually received on the fourth day.

(5) *Priority of offers received the same day.* (i) Offers received on the same business day are selected in the following order:

(A) Offers from program-eligible applicants, with a request for credit on program terms. All offers are evaluated as if they were submitted at the listed price, regardless of the offering price.

(B) Offers from nonprofits or public bodies for conversion to use as transitional housing or for other special purposes as specified in paragraph (d)(4) of this section.

(C) Cash offers, from highest to lowest.

(D) NP credit offers, from highest to lowest.

(ii) Acceptable offers of equal priority received on the same business day are selected by lot.

(iii) REO properties are not held off the market pending the outcome of an appeal of RHS rejection of a request for financing.

(6) RHS may authorize the sale of a REO property by sealed bid or public auction when it is in the best interest of the government. RHS will publicly solicit requests for sealed bids and publicize auctions. If a successful bidder is unable to settle the transaction under the terms of the offer, except for the financing contingency, any required bid deposit may be retained by RHS. If the highest bid is lower than the minimum acceptable bid established by RHS, or if no acceptable bids are received, RHS may negotiate a sale without further public notice.

(d) *Special purposes.* (1) REO property may be purchased for conversion to multiple family housing.

(2) When a nonprofit organization or public body notifies RHS in writing of its intent to buy a REO property to provide transitional housing for the homeless, RHS will stop marketing the property for up to 30 days to give the entity an opportunity to execute a purchase contract. The listed price may be discounted for offers on a nonprogram REO property at any time, and on a program REO property after the 60-day reservation period. No down payment is required, and the loan term will be for a maximum of 30 years. Until RHS executes a sales agreement, an offer from a program-eligible applicant will receive priority, regardless of a nonprofit's interest in purchasing the REO property for use as transitional housing.

(3) NP properties may be leased to a nonprofit organization or public body to provide transitional housing for the homeless at an annual cost of one dollar. When a REO property is to be leased as transitional housing, RHS will make repairs needed to put the property in decent, safe and sanitary condition. The lessee is responsible for all future repairs and maintenance.

(4) REO property may be sold under special provisions to nonprofit organizations or public bodies for the purpose of providing affordable housing to very low- and low-income families. Such sales must be consistent with section 510(e) of the Housing Act of 1949 and in the best interests of the government.

§ 3550.252 Debt settlement policies.

(a) *Applicability.* Debt settlement procedures may be initiated to collect any amounts due to RHS including:

(1) Balances remaining on loan accounts after all liquidation proceeds or credits have been applied,

(2) Subsidy recapture or grant amounts due, and

(3) Unauthorized assistance due.

(b) *Judgment.* RHS may seek a judgment whenever a judgment might enable RHS to collect all or a significant portion of an amount owed.

(c) *Multiple loans.* RHS generally does not settle debts for one loan while other RHS loans on the same security property remain active.

(d) *Co-signers and claims against estates.* RHS may use any and all remedies available under law to collect from any co-signer and from a deceased borrower's estate.

(e) *Joint debtors.* Settlements will not be approved for one joint debtor unless approved for all debtors.

(f) *Reporting.* RHS will report to IRS and credit reporting agencies any debt settled through cancellation, compromise or adjustment.

(g) *Settlement during legal or investigative action.* Cases that are under investigation for fiscal irregularity or have been referred to the Office of Inspector General (OIG), the Office of the General Counsel (OGC) or the U.S. Attorney will not be considered for debt settlement until final action by the

investigating or prosecuting entity has been taken.

(h) *Offsets.* RHS may request offsets as described in § 3550.210 of subpart E of this part to collect amounts owed.

(i) *Escrow funds.* At liquidation all funds held in escrow or unapplied funds will be applied against the debt.

§ 3550.253 Settlement of a debt by compromise or adjustment.

Compromise or adjustment offers may be initiated by the debtor or by RHS. RHS will approve only those compromises and adjustments that are in the best interest of the government.

(a) *Compromise.* A compromise is an agreement by RHS to release a debtor from liability upon receipt of a specified lump sum that is less than the total amount due.

(b) *Adjustments.* An adjustment is an agreement by RHS to release a debtor from liability upon receipt of a reduced amount paid as an initial lump sum and periodic additional payments over a period of up to five years.

(c) *Timing of offers.* (1) For a settlement offer to be considered, secured debts must be fully matured under the terms of the debt instrument or must have been accelerated by RHS.

(2) Unsecured debts owed after the sale of the security property may be proposed for compromise or adjustment at any time. Debts that were never secured may be proposed for compromise or adjustment when they are due and payable.

(d) *Retention of security property.* The debtor may retain the security property if the compromise payment or the initial payment made as part of an adjustment offer is at least equal to the net recovery value, and it is in the best interest of the government to allow the debtor to retain the security property.

§ 3550.254–3550.300 [Reserved]

Dated: March 8, 1996.

Inga Smulkstys,

Acting Under Secretary, Rural Economic and Community Development.

[FR Doc. 96–8492 Filed 4–5–96; 8:45 am]

BILLING CODE 3410–07–U

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AF41

Financial Assurance Requirements for Decommissioning Nuclear Power Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Nuclear Regulatory Commission is considering amending its regulations relating to financial assurance requirements for the decommissioning of nuclear power plants. Potential deregulation of the power generating industry has created uncertainty with respect to whether current NRC regulations concerning decommissioning funds and the financial mechanisms will require a modification to account for utility reorganizations not contemplated when current financial assurance requirements were promulgated. Additionally, the NRC is considering requiring power reactor licensees to periodically report on the status of their decommissioning funds. Allowing credit for earnings on decommissioning trust funds during extended storage will also be considered. This advance notice of proposed rulemaking is issued to invite public comment on issues pertaining to the form and content of the NRC's nuclear power reactor decommissioning financial assurance requirements as they relate to electric utility deregulation.

DATES: Submit comments by June 24, 1996. 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: Mail comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Service Branch.

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

For information on submitting comments electronically, see the discussion under Electronic Access in the Supplementary Information Section.

Examine copies of comments received at: The NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brian J. Richter, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6221, e-mail bjr@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

Requirements pertaining to financial assurance for the decommissioning of nuclear power reactors are contained in § 50.75. Under § 50.75(e)(3), the NRC allows power reactor licensees, who are defined as ''electric utilities'' [1] under § 50.2, to set aside funds annually over the estimated life of the reactor for decommissioning. The NRC provided more flexibility to its electric utility licensees than other licensees because electric utilities have existed in a highly structured environment regulated by State public utility commissions (PUCs) or the Federal Energy Regulatory Commission (FERC). Under § 50.75(e)(2), the NRC requires licensees other than electric utilities to set aside an external sinking fund coupled with a surety method or insurance for any unfunded balance. However, with the advent of deregulation, the distinction between electric utility licensees and other licensees will likely be reduced or eliminated. Thus, the NRC needs to clarify the definition of ''electric utility'' and to require additional assurance of those licensees whose power reactor costs are no longer regulated.

Typically, power reactor licensees place decommissioning funds in external trust or escrow accounts that are reserved for decommissioning activities.[2] Under the definition of external sinking fund, power reactor licensees must accumulate all the funds estimated to be needed for decommissioning by the time their facilities are permanently shut down. Although § 50.75(e) also allows power reactor licensees to use surety bonds, letters of credit, and prepayment to provide funding assurance, virtually all power reactor licensees use the external sinking fund method of assurance.

In addition, § 50.75(e)(3)(iv) provides that an electric utility that is a Federal Government licensee need only provide assurance in the form of a statement of intent indicating that decommissioning funds will be obtained when necessary.

[1] ''Electric utility means any entity that generates or distributes electricity and which recovers the cost of this electricity, either directly or indirectly, through rates established by the entity itself or by a separate regulatory authority. Investor-owned utilities, including generation or distribution subsidiaries, public utility districts, municipalities, rural electric cooperatives, and State and Federal agencies, including associations of any of the foregoing, are included within the meaning of ''electric utility.''

[2] Many licensees that have established decommissioning trust funds for their power reactors are making deposits into their trust accounts both for decommissioning costs as defined under § 50.2 and for other decommissioning-associated costs such as interim spent fuel management and storage and ''green field'' costs. The NRC allows licensees to deposit funds in the same trust account as long as the trust has sub-accounts that clearly delineate the purposes of the sub-account. A trust or sub-account established to provide assurance of NRC-defined decommissioning costs should be stipulated to cover NRC-defined decommissioning costs before any other purpose.

The intent of § 50.75 is to provide reasonable assurance that funds for decommissioning will be available when necessary. The inability of the licensee to provide funding for decommissioning may adversely affect protection of public health and safety. Also, a lack of decommissioning funds is a financial risk to taxpayers (i.e., if the licensee cannot pay for decommissioning, taxpayers would ultimately pay the bill).

In a related issue, when the Commission issued the decommissioning rule, the Commission believed that, for a regulated electric utility, an external reserve account collected over the estimated remaining reactor life would provide the necessary reasonable assurance. However, as a conservatism built into the rule, the NRC decided not to allow licensees to take credit for earnings on their trust funds while their reactors were in extended safe storage. Rather, the NRC assumed that during safe storage the rate of return on external decommissioning trust funds would equal the decommissioning cost escalation rate. Thus, the after-tax, after-inflation earnings rate effectively would be zero.

When the NRC promulgated the 1988 decommissioning rule, it did not require licensees to report periodically on the status of their decommissioning funds. NRC viewed licensee compliance with the funding assurance requirements as a matter to be determined through the inspection process when necessary. Also, the NRC recognized in the 1988 decommissioning rule, the PUCs' and FERC's authority to set annual contribution rates to decommissioning funds and to establish investment and other management criteria for the funds. The PUCs and FERC also actively monitor these decommissioning funds as part of their rate regulatory responsibility. Moreover, the Financial Accounting Standards Board (FASB), a national organization that sets accounting standards, recently initiated a review of reporting of decommissioning obligations on electric utility financial statements. Although FASB has not established a final standard, it appears that it will increase the level of detail on power reactor licensees' financial statements. If adopted, this standard would likely give the NRC and others additional information on the status of decommissioning funds. However, the advent of deregulation, and consequently less oversight by FERC or by PUCs, makes it imperative that the NRC have a source of information to monitor the status of decommissioning funds.

Specific Proposal

The Commission is considering amending §§ 50.2, 50.75, and 50.82 to require that electric utility reactor licensees provide assurance that the full estimated cost of decommissioning will be available through an acceptable guarantee mechanism if the licensees are no longer subject to rate regulation by PUCs or FERC, and do not have a guaranteed source of income. The amendment would also allow licensees to assume a positive real rate of return on decommissioning funds during the safe storage period. Lastly, a periodic reporting requirement would be established.

Specific Considerations

Advice and recommendations on a proposed rule reflecting the foregoing and any other points considered pertinent are invited from all interested persons. Comments and supporting reasons are particularly requested on the following questions arranged by topic:

A. Timing and Extent of Electric Utility Industry Deregulation

A.1. What is the likely timetable for industry restructuring and deregulation?

A.2. Will the electric utility industry go through several phases as it responds to deregulation and other competitive pressures? If so, what will be the likely major changes in business structure that may occur in each phase? Will rates remain regulated at the retail distribution level, with deregulation occurring for generation and transmission? Will retail wheeling become widespread and lead to deregulation of all sectors of the electric utility industry? Or will rates remain regulated at the retail distribution level, with deregulation occurring within the generation and transmission sectors? What will likely be the final structure of the electric utility industry, assuming either partial or full deregulation?

A.3. Some States appear to oppose deregulation. Will they be able to maintain their opposition if neighboring States deregulate? What will be the industry structure if some States deregulate more than others? Can a ''hybrid'' system exist effectively?

B. Stranded Costs.

B.1. How will restructuring affect large baseload plants that currently receive rate relief to cover construction costs or have a portion yet to be phased into the rate base? Specifically, what is the probability that and degree to which these costs will be recoverable should a nuclear power plant be deemed to be non-competitive because of high construction costs? What will be the source of operating, maintenance, and capital improvement funds should such a nuclear generator decide to continue operations? What will be the source of funds to prematurely and safely shut down an uneconomic plant? Are transmission access or other surcharges to cover stranded costs likely?

C. Nuclear Financial Qualifications and Decommissioning Funding Assurance

C.1. If nuclear plants are shut down prematurely, how will licensees who can no longer pass costs through to ratepayers provide for a shortfall of decommissioning funds?

C.2. At what point does an operator of a nuclear power plant cease to be a ''utility'' as defined in § 50.2 of the NRC's regulations?

C.3. If an electric utility reorganizes itself, including divesting parts of itself, so that the remaining entity operating a reactor is no longer regulated by a rate-setting State or Federal body, or will cease to be regulated by a rate-setting State or Federal body if the reactor ceases operation, would it be appropriate to require financial assurance for the decommissioning costs in full prior to NRC approval of such reorganizations? Such assurance could take the form of self-guarantee, parent company guarantee, certification by the rate-regulating entity, or other financial surety mechanism to cover the unfunded decommissioning costs. Should the NRC require additional assurance for adequate funds for safe operation and decommissioning in anticipation of deregulation? Should the NRC require, as a condition of approval of certain reorganizations involving the transfer of control of a nuclear power plant, that newly created organizations or holding companies sign a binding agreement that holds them jointly liable for decommissioning costs associated with that nuclear power plant? What would be the impact of such actions?

C.4. Should the NRC require a licensee to provide a reasonable assurance of the availability of funds for decommissioning by imposing a minimum level of net worth, cash flow, or other financial measure (similar to 10 CFR Part 30, Appendices A and B)? If below the minimum levels, the licensee would no longer be allowed to accumulate decommissioning costs over remaining facility life, but would need a guarantee that funds would be available for decommissioning through various financial measures. What financial measures would be effective and reasonable?

C.5. Would PUCs and FERC be willing to certify that licensees under their jurisdictions, both electric utility and

Part 50 licensees other than electric utilities, would be allowed to collect sufficient revenues through rates to complete decommissioning funding?

C.6. What would be the impact if the NRC required licensees to accelerate collection of decommissioning funds such that decommissioning funding for all plants would be complete within 10 years (or some other time period)?

C.7. Assume that licensees have accumulated funds that are determined to be adequate based on current estimates of decommissioning costs. If these estimates turn out to be low far in the future (for example, if final dismantlement occurs after a 50-year safe storage period), how will underfunding be remedied? What measures should the NRC consider for obtaining assurance of funds for such situations? Should the NRC require larger contingency factors in estimates to cover such situations?

C.8. Would it be feasible for the nuclear industry to develop a captive insurance pool to pay for decommissioning funding shortfalls that result from premature decommissioning? Could such a pool be structured similarly to Nuclear Mutual Limited (NML) and Nuclear Electric Insurance Limited (NEIL), who currently insure on-site property damage and replacement power of member utilities?

C.9. If PUC or FERC oversight is either substantially limited or eliminated, are there any other options for financial assurance of decommissioning that the NRC should consider?

D. Decommissioning Funding Assurance and a Federal Government Licensee

D.1. Section 50.75(e)(3)(iv) provides that an electric utility which is a Federal Government licensee need only provide assurance in the form of a statement of intent indicating that decommissioning funds will be obtained when necessary. Since a Federal utility licensee will likely be confronted with many of the same new competitive pressures as non-Federal utilities, the question arises, should the regulations continue to permit the provision of a statement of intent as the method by which these licensees provide financial assurance for decommissioning. There is, for example, no Federal law which clearly provides that the Federal Government would pay the Tennessee Valley Authority's financial decommissioning obligations should TVA be unable to do so. Does this fact or any other factors militate for or against allowing Federal utility licensees to continue to use statements of intent as the method by which financial assurance for decommissioning is provided?

E. Status of Decommissioning Trust Funds During Safe Storage Period

E.1. What real rate(s) of return should the NRC allow licensees to use as credit for earnings on the decommissioning trust funds during the extended safe storage period?

E.2. What time period(s) should the NRC allow licensees to use in estimating the credit for earnings on the decommissioning trust funds during the extended safe storage period?

F. Reporting on the Status of Decommissioning Funds

F.1. What information should the NRC require to be included in the periodic reporting requirements?

F.2. How often should the NRC require licensees to report on the status of decommissioning funding?

The preliminary views expressed in this notice may change in light of comments received. In any case, there will be another opportunity for additional public comment in connection with any proposed rule that may be developed by the Commission.

Electronic Access

Comments may be submitted electronically, in either ASCII text or WordPerfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board (BBS) on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet. Background documents on the advance notice of proposed rulemaking are also available, as practical, for downloading and viewing on the bulletin board.

If using a personal computer and modem, the NRC rulemaking subsystem on FedWorld can be accessed directly by dialing the toll free number 1-(800) 303–9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT–100 terminal emulation, the NRC rulemaking subsystem can then be accessed by selecting the ''Rules Menu'' option from the ''NRC Main Menu.'' Users will find the ''FedWorld Online User's Guides'' particularly helpful. Many NRC subsystems and data bases also have a ''Help/Information Center'' option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS, (703) 321–3339, or by using Telnet via Internet: fedworld.gov. If using (703) 321–3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the ''Regulatory, Government Administration and State Systems,'' then selecting ''Regulatory Information Mall.'' At that point, a menu will be displayed that has an option ''U.S. Nuclear Regulatory Commission'' that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing ''/go nrc'' at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the ''Return to FedWorld'' option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems, but you will not have access to the main FedWorld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the Rules Menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is available. There is a 15-minute time limit for FTP access.

Although FedWorld also can be accessed through the World Wide Web, like FTP that mode only provides access for downloading files and does not display the NRC Rules Menu.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, NRC, Washington, DC 20555, telephone (301) 415–5780; e-mail AXD3@nrc.gov.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

The authority citation for Part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections

50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80 and 50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

Dated at Rockville, Maryland, this 1st day of April, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–8599 Filed 4–5–96; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–ANE–44]

Airworthiness Directives; Textron Lycoming 235 Series, 290 Series, and Certain 320 and 360 Series Reciprocating Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document extends the comment period for an earlier proposed airworthiness directive (AD), applicable to all Textron Lycoming 235 Series and 290 Series, and certain 320 and 360 series reciprocating engines, that proposed to require initial and repetitive inspections of the crankshaft inner diameter (ID) for corrosion and cracks, and replacement of cracked crankshafts with a serviceable part. In addition, that AD proposed to permit operation of engines with crankshafts that are found to have corrosion pits but are free of cracks provided repetitive inspections are performed until the next engine overhaul or 5 years after the initial inspection, whichever occurs first, at which time crankshafts with corrosion pits but no cracks must be replaced with serviceable crankshafts. Since publication of that proposal, the Federal Aviation Administration (FAA) has received numerous comments on the proposed actions, and has determined there is a need to receive more information from the public. The FAA is therefore allowing additional time for the public to comment and is republishing the AD without change. The proposed actions are intended to prevent crankshaft failure, which can result in engine failure, propeller separation, forced landing, and possible damage to the aircraft.

DATES: Comments must be received by June 7, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–ANE–44, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Textron Lycoming, 652 Oliver St., Williamsport, PA 17701; telephone (717) 327–7080, fax (717) 327–7100. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Raymond Reinhardt, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine and Propeller Directorate, 10 Fifth St., Valley Stream, NY 11581–1200; telephone (516) 256–7532, fax (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 94–ANE–44.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–ANE–44, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

On October 18, 1993, the Civil Aviation Authority (CAA), which is the airworthiness authority of the United Kingdom, received a report that a Piper PA–28–161 aircraft, with a Textron Lycoming O–320–D3G reciprocating engine executed a forced landing due to an engine crankshaft failure which caused the propeller to separate from the aircraft. The cause of the crankshaft failure was determined to be due to a high cycle reverse torsional fatigue mechanism that had initiated from a number of corrosion pits in the crankshaft bore. After the cracks had progressed through a substantial proportion of the crankshaft section, the rate of advance had increased until the remaining unseparated portion had failed as a result of overload. The cracking occurred in high cycle fatigue and it had progressed over an extended period of service. At the time of the accident the engine had operated for 1,950 hours time in service (TIS) since overhaul and had accumulated 4,429 hours TIS since new over a period of 16 years. In addition, the Federal Aviation Administration (FAA) has received reports of ten additional instances of cracks or failures of the crankshaft behind the propeller flange on various Textron Lycoming reciprocating engines due to cracks initiating from corrosion pits in the crankshaft bore. This condition, if not corrected, could result in crankshaft failure, which can result in engine failure, propeller separation, forced landing, and possible damage to the aircraft.

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to Textron Lycoming 235 Series and 290 Series, and certain 320 and 360 series reciprocating engines was published in the Federal Register on

November 28, 1995 (60 FR 58580). The action proposed to require initial and repetitive inspections of the crankshaft inner diameter (ID) for corrosion and cracks, and replacement of cracked crankshafts with a serviceable part. In addition, that AD proposed to permit operation of engines with crankshafts that are found to have corrosion pits but are free of cracks provided repetitive inspections are performed until the next engine overhaul or 5 years after the initial inspection, whichever occurs first, at which time crankshafts with corrosion pits but no cracks must be replaced with serviceable crankshafts. The proposed actions would be performed in accordance with Textron Lycoming Mandatory Service Bulletin (MSB) No. 505A, dated October 18, 1994. However, the FAA has determined that additional inspections via Fluorescent Penetrant Inspection (FPI) are warranted if corrosion pits are found. The FPI inspection was developed due to reports from Lycoming and other approved repair stations that most of the crankshafts that are pitted do not contain cracks. The FPI inspection was based on crack propagation data developed by the FAA in conjunction with Textron Lycoming and the technical base in the U.S. for performing Non-Destructive Inspections. The FPI process has been shown to be reliable to detect cracks down to 0.050 inches deep and 0.100 inches long. The FPI inspection interval was based on the crack propagation data and the detection of a crack before the crankshaft failed. If a crankshaft is found to be pitted on-wing, it is not recommended that removal of metal be permitted to remove the corrosion pits due to possible contamination of the engine oil supply with metal filings and also to ensure the concentricity of the crankshaft is not compromised. Interested persons have been afforded an opportunity to participate in the making of this amendment. The FAA has received numerous comments on the proposed rule and the FAA's determination of the cost to the public. The FAA has determined there is a need to receive more information from the public. The FAA is therefore allowing additional time for the public to comment. All comments received will be addressed in the final rule.

There are approximately 77,100 engines of the affected design in the worldwide fleet. The FAA estimates that 46,260 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per engine to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. The estimated cost impact for the proposed inspections would be $11,102,400. The FAA estimates 10% of the crankshafts will require replacement at engine overhaul due to corrosion pits, and that it would take 32 work hours per engine to replace pitted crankshafts. Required parts would cost approximately $4,742 per engine. The estimated cost for replacement of 10% of the crankshafts annually would be $3,081,841.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 USC 106(g), 40113, 44701.

39.13 [Amended]

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

Textron Lycoming: Docket No. 94–ANE–44.

Applicability: Textron Lycoming 235 series, 290 series, 320 series except model O–320–B2C installed in helicopters, and 360 series except models O–360–A4G, -A4J, -A4K, -A4M, -C4F, -AEIO–360–B4A, HO–360 series, HIO–360 series, LHIO–360 series, VO–360 series, and IVO–360 series, four-cylinder reciprocating engines with fixed pitch propellers. These engines are installed on but not limited to reciprocating engine powered aircraft manufactured by Cessna, Piper, Beech, American Aircraft Corporation, Grumman American Aviation, Mooney, Augustair Inc., Maule Aerospace Technology Corporation, Great Lakes Aircraft Co., and Commander Aircraft Co.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent crankshaft failure, which can result in engine failure, propeller separation, forced landing, and possible damage to the aircraft, accomplish the following:

(a) For new engines shipped from Textron Lycoming prior to and including December 31, 1984, that have never been overhauled, or any remanufactured or overhauled engines that have accumulated 1,000 hours or more time in service (TIS) since remanufacture or overhaul, initially inspect the inner diameter (ID) of the crankshaft for corrosion pits within the next 100 hours TIS after the effective date of this AD, or 6 months after the effective date of this AD, whichever occurs first, in accordance with Textron Lycoming Mandatory Service Bulletin (MSB) No. 505A, dated October 18, 1994. The propeller, if installed, must be removed in accordance with the aircraft manufacturer's procedures to perform this inspection. If corrosion pits are found during this inspection, perform a Fluorescent Penetrant Inspection (FPI) in accordance with paragraph (e) of this AD.

(b) For new engines shipped from Textron Lycoming after December 31, 1984, that have never been overhauled, or any remanufactured or overhauled engines that have accumulated less than 1,000 hours TIS since remanufacture or overhaul, initially inspect the ID of the crankshaft for corrosion pits, at intervals specified in subparagraphs (1) through (3) of this paragraph, whichever occurs first, in accordance with Textron

Lycoming MSB No. 505A, dated October 18, 1994. The propeller, if installed, must be removed in accordance with the aircraft manufacturer's procedures to perform this inspection. If corrosion pits are found during this inspection, perform an FPI in accordance with paragraph (e) of this AD.

(1) At the next engine overhaul or disassembly.

(2) Within 10 years of the original ship date or 6 months from the effective date of this AD, whichever occurs later.

(3) At 1,000 hours TIS since remanufacture or overhaul, or 6 months from the effective date of this AD, whichever occurs later.

(c) Thereafter, if no corrosion pits are found on the ID of the crankshaft during the initial inspection, perform an inspection at intervals not to exceed 5 years since last inspection or at the next engine overhaul or disassembly, whichever occurs first, in accordance with Textron Lycoming MSB No. 505A, dated October 18, 1994. If corrosion pits but no cracks are found on the ID of the crankshaft during the initial inspection, repeat the FPI at intervals not to exceed 100 hours TIS since last FPI inspection, 5 years from the initial inspection that detected the corrosion pits, or next engine overhaul, whichever occurs first.

(d) Prior to further flight, remove from service and replace with a serviceable part the following:

(1) Crankshafts found cracked during FPI outlined in paragraph (e) of this AD.

(2) Crankshafts that have corrosion pits but no cracks, which are on a repetitive inspection cycle and have attained 5 years from the initial inspection that detected the corrosion pits, in accordance with Textron Lycoming MSB No. 505A, dated October 18, 1994.

(3) Crankshafts that have corrosion pits but no cracks, which are being overhauled.

(e) An engine as installed in the aircraft having a corroded crankshaft may be returned to service without disassembly provided an FPI confirms the bore to be crack free. The process and materials utilized for the FPI are in accordance with the classification contained in MIL-I–25135. The FPI must be fluorescent solvent removable (Method C) utilizing a Type 1 penetrant system with a penetrant sensitivity Level 3 or higher and a Form D-Nonaqueous Developer. Spray containers of the materials are acceptable for this inspection. Personnel performing the FPI that are making accept/reject decisions shall be qualified to at least Level II in liquid penetrant inspection in accordance with MIL-STD–410E, dated January 25, 1991 or a similar certification system assuring the competence of the inspector. This FPI process involves the removal of penetrant material from the inspection surface. Caution must be used to ensure that contaminants from the cleaning process and the FPI do not enter the engine oil supply by blocking off the area of the crankshaft bore that is aft of the area being inspected by using a clean, dry, lint-free cloth. The FPI must be performed using the following steps:

(1) Cleaning—The crankshaft bore surface must be cleaned of visible corrosion prior to the FPI process using Scotchbrite or an equivalent material. Metal-removing processes must not be used for visible corrosion cleaning. In addition, clean all surfaces to be inspected utilizing a cleaner, such as Magnaflux Spot Check Cleaner/Remover SKC-NF or equivalent, on the ID of the crankshaft bore. Let the cleaner/remover dry for 5 minutes minimum. Wipe clean with a lint-free cloth.

(2) Penetrant Application—Spray penetrant, such as ZYGLO ZL–22A Magnaflux Corp. or equivalent Type 1 with a penetrant sensitivity Level 3 or higher, on the ID bore.

(3) Penetrant Dwell—Allow a minimum of 10 minutes dwell. For dwell times exceeding 60 minutes the penetrant shall be reapplied to prevent drying.

(4) Penetrant Removal— Remove all bulk surface penetrant by wiping with a clean, dry lint-free cloth. Make a single wipe and then fold the cloth to provide a clean surface for succeeding wipes.

(i) Solvent Wipe—After the bulk of the surface penetrant has been removed, lightly moisten a fresh lint-free cloth with cleaner/remover and again wipe the surface. The cloth must not be saturated and the inspection surface must not be flooded with solvent. Excessive solvent will wash penetrant from defects.

(ii) During wiping, the inspection surface shall be illuminated with black light. Repeat the solvent wipe as necessary until no residual trace of penetrant remains on the inspection surface.

(5) Nonaqueous Developer (solvent suspended)—Following the cleaner/remover wipe apply nonaqueous developer by spraying a developer, such as Magnaflux Spot Check Developer SKD–NF or Form D-Nonaqueous equivalent, on the ID bore. Apply a thin uniform layer to the bore surface. The optimum coating thickness is indicated by the visibility of the part surface. If the metallic luster cannot be seen the developer is too thick.

(6) Dwell—Developer dwell is required to allow the developer time to draw entrapped penetrant from any small defects. The minimum development time shall be 10 minutes. The maximum dwell time for nonaqueous developer shall be 60 minutes.

(7) Inspection shall be performed within the allotted dwell time. Components that are not inspected within the allotted dwell time must be reprocessed.

(i) Examine crankshaft bore in a darkened enclosure under ultraviolet (black) light. Allow 1 minute for eyes to adapt to darkened environment prior to inspecting crankshaft bore. Use of photochromic lenses or permanent darkened lenses is prohibited.

(ii) During inspection make sure that the black light intensity is a minimum of 1200 microwatts/cm^2 at the bore surface. This can be accomplished by positioning the black light as close as necessary to the bore to achieve 1200 microwatts/cm^2. White light background shall not exceed 20 1x/m^2 (2 foot-candles). A photographic light meter may be used to determine the white light background reading.

(iii) Crankshaft bores having no crack indications are acceptable.

(iv) Magnification (10X maximum) and/or white light may be used to determine discontinuity type. Indications, on parts exhibiting fluorescent background which interferes with evaluation of questionable indications, shall be evaluated as follows:

(A) Lightly wipe the area once with a soft brush or cotton swab applicator dampened with ethyl alcohol. Do not permit alcohol to flood the surface.

(B) After the alcohol evaporates from the surface, re-inspect. If an indication reappears, evaluate it immediately. If the indication does not reappear, reapply developer. The redevelopment time shall equal the original development time. Thereafter, re-inspect.

(8) After inspection, clean residual penetrants and developers from crankshaft bore. Ensure lint-free cloth is removed from crankshaft bore prior to installing front crankshaft plug. Failure to do so may result in oil restriction within the engine and in turn cause engine failure.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, New York Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the New York Aircraft Certification Office.

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

Issued in Burlington, Massachusetts, on March 25, 1996.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 96–8283 Filed 4–5–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 71

[Airspace Docket No. 96–AWP–5]

Amendment of Class E Airspace; Ely, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This supplemental notice amends a previous proposal to amend Class E airspace at Ely, NV. The establishment of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 18 has made this proposal necessary. The intended effect of this supplemental notice is to provide additional controlled airspace for Instrument Flight Rules (IFR) operations at Ely Airport (Yelland Field), Ely, NV.

DATES: Comments must be received on or before May 13, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, System Management Branch, AWP–530, Docket No. 96–AWP–5, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California, 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California, 90261.

An informal docket may also be examined during normal business at the Office of the Manager, System Management Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: William Buck, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6556.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–AWP–5.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this supplemental notice may be changed in light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Supplemental Notice of Proposed Rulemaking (SNPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this SNPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending the Class E airspace area at Ely, NV. The FAA published an earlier notice proposing to amend the Class E airspace area at Ely, NV, on March 11, 1996 (61 FR 9656). Comments received in response to the NPRM and this SNPRM will be addressed in the final, disposition of the rule. This supplemental notice proposes to amend the Class E airspace area at Ely, NV, as proposed in the original notice by providing additional controlled airspace for IFR operations at Ely Airport (Yelland Field), Ely, NV. Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does to warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP NV E5 Ely, NV [Revised]

Ely VOR/DME

(Lat. 39°17′53″ N, long. 114°50′54″ W)

That airspace extending upward from 700 feet above the surface within a 4.3-mile radius of Ely VOR and within 4.3-miles northeast and 8.3 miles southwest of the Ely VOR 303° radial, extending from the Ely VOR to 16.1 miles northwest and within 3 miles each side of the Ely VOR 014° radial, extending from the Ely VOR to 12.6 miles northeast and within 3 miles each side of the Ely VOR 167° radial, extending from the Ely VOR to 7.7 miles south of the Ely VOR. That airspace extending upward from 1,200 feet above the surface within a 19.1-mile radius of Ely VOR and within 6.1 miles northeast and 8.7 miles southwest of the Ely VOR 335° radial, extending from the 19.1-mile radius area to 33 miles northwest of the Ely VOR and within 4.3 miles east and 6.5 miles west of the Ely VOR 014° radial, extending from the 19.1-mile radius to 21.3 miles north of the Ely VOR, and within 14 miles eat and 12.5 miles west of the Ely VOR 169° radial, extending from the 19.1-mile radius to 53 miles south of the Ely VOR.

* * * * *

Issued in Los Angeles, California, on March 26, 1996.

James H. Snow,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 96–8644 Filed 4–5–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–ASO–9]

Proposed Establishment of Class E Airspace; Dawson, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to establish Class E airspace at Dawson, GA. A VOR/DME RWY 31 Standard Instrument Approach Procedures (SIAP) has been developed for Dawson Municipal Airport. Controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for instrument flight rules (IFR) operations at Dawson Municipal Airport. The operating status of the airport will change from VFR to include IFR operations concurrent with publication of this SIAP.

DATES: Comments must be received on or before May 20, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 96–ASO–9, Manager, System Management Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Benny L. McGlamery, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–ASO–9,'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, System Management Branch, ASO–530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Dawson, GA. A VOR/DME RWY 31 SIAP has been developed for Dawson Municipal Airport. Controlled airspace extending upward from 700 feet AGL is needed to accommodate this SIAP and for IFR operations at Dawson Municipal Airport. The operating status of the airport will change from VFR to include IFR operations concurrent with publication of this SIAP. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1 The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet above the surface of the earth.

* * * * *

ASO GA E5 Dawson, GA [New]

Dawson Municipal Airport, GA
(Lat. 31°44′30″ N, long. 84°25′02″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Dawson Municipal Airport.

* * * * *

Issued in College Park, Georgia, on March 22, 1996.

Benny L. McGlamery,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 96–8643 Filed 4–5–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1904 and 1952

Recording and Reporting Occupational Injuries and Illnesses; Notice of Meeting; Extension of Comment Period

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Proposed rule; notice of meeting.

SUMMARY: OSHA published a Notice of Proposed Rulemaking covering the recording and reporting of workplace deaths, injuries and illnesses, which appeared in the Federal Register on February 2, 1996 (61 FR 4030). OSHA held a public meeting regarding this proposal from March 26 to March 29, 1996. In response to a request from other interested stakeholders who were unable to attend this meeting, OSHA will hold an additional public meeting beginning on April 30, 1996. The purpose of the meeting is to give the public another opportunity to provide information to OSHA concerning issues raised by the proposal. As a result of the scheduling of this second public meeting, OSHA is extending the end of the public comment period from May 2 to May 31, 1996.

DATES: The public meeting will be held April 30, 1996 beginning at 8:30 a.m. and extend through May 1, if necessary. Persons wishing to make presentations should contact Tom Hall on or before April 19, 1996. OSHA invites the public to submit written comments on the NPRM on or before May 31, 1996.

ADDRESSES: The meeting will be held at the U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210 in Room S–4215. Persons wishing to make presentations should contact Tom Hall at U.S. Department of Labor, OSHA, Room N–3647, 200 Constitution Avenue NW, Washington D.C. 20210, (202) 219–8148. Written comments are to be submitted in writing in quadruplicate to: Docket Officer, Docket No. R–02, Occupational Safety and Health Administration, Room N–2625, U.S. Department of Labor , 200 Constitution Avenue NW, Washington D.C. 20210, telephone (202) 219–7894.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Cyr, U.S. Department of Labor, OSHA, Room N–3647, 200 Constitution Avenue NW., Washington, DC 20210, (202) 219–8148.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public. Seating, however, is limited and will be available on a first-come, first-serve basis. The amount of time available for each presenter may be limited by OSHA, if necessary.

Signed in Washington, D.C., this 3rd day of April, 1996.

Joseph A. Dear,

Assistant Secretary of Labor.

[FR Doc. 96–8674 Filed 4–5–96; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[SPATS No. IN–122–FOR, Amendment No. 95–1]

Indiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; withdrawal of proposed amendment.

SUMMARY: OSM is announcing the withdrawal of a proposed amendment to the Indiana regulatory program (hereinafter the ''Indiana program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment pertained to revisions to the Indiana Administrative Code (IAC) regulations pertaining to procedural rules for petitions for review and the suspension or revocation of permits. Indiana is withdrawing this amendment because it needs more time to complete revisions pursuant to a subsequent recodification of related procedural rules by the Indiana Natural Resources Commission, Division of Hearings.

EFFECTIVE DATE: April 8, 1996.

FOR FURTHER INFORMATION CONTACT: Roger W. Calhoun, Director, Indianapolis Field Office, Telephone: (317) 226–6700.

SUPPLEMENTARY INFORMATION: By letter dated May 3, 1995 (Administrative Record No. IND–1459), Indiana submitted a proposed amendment to its program pursuant to SMCRA. The amendment concerned revisions to 310 IAC 0.6–1–5 and 310 IAC 12–6–6.5 concerning procedures for petitions for review and the suspension or revocation of permits. Indiana submitted the proposed amendment at its own initiative.

On May 30, 1995, OSM announced receipt of and solicited public comment on the proposed amendment in the **FEDERAL REGISTER** (60 FR 28069).

On March 12, 1996 (Administrative Record No. IND–1534), Indiana requested that the proposed amendment be withdrawn. Indiana intends to revise the amendment prior to resubmitting it for formal review and approval by OSM.

Therefore, the proposed amendment announced in the May 30, 1995, Federal Register is withdrawn.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Date: March 29, 1996

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 96–8629 Filed 4–5–96; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 936

[SPATS No. OK–015–FOR]

Oklahoma Abandoned Mine Land Reclamation Plan Amendment

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed Rule; Reopening and Extension of Public Comment Period on Proposed Amendment.

SUMMARY: OSM is announcing receipt of additional revisions pertaining to a previously proposed amendment to the Oklahoma abandoned mine land reclamation plan (hereinafter referred to as the ''Oklahoma plan'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), as amended by the Abandoned Mine Reclamation Act of 1990. The additional revisions for Oklahoma's proposed plan amendment pertain to eligible lands and water. The amendment is intended to revise the Oklahoma plan to be consistent with the corresponding Federal regulations and SMCRA, as amended.

DATES: Written comments must be received by 4:00 p.m., c.d.t., April 23, 1996.

ADDRESSES: Written comments should be mailed or hand delivered to Jack R. Carson, Acting Director, Tulsa Field Office, at the address listed below.

Copies of the Oklahoma plan, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free

copy of the proposed amendment by contacting OSM's Tulsa Field Office.

Jack R. Carson, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6547, Telephone: (918) 581–6430.

Oklahoma Conservation Commission, 2800 N. Lincoln Blvd., Suite 160, Oklahoma City, Oklahoma 73105–4210, Telephone: (405) 521–2384.

FOR FURTHER INFORMATION CONTACT: Jack R. Carson, Acting Director, Tulsa Field Office, Telephone: (918) 581–6430.

I. Background on the Oklahoma Plan

On January 21, 1982, the Secretary of the Interior approved the Oklahoma plan. Background information on the Oklahoma plan, including the Secretary's findings, the disposition of comments, and the approval of the plan can be found in the January 21, 1982, Federal Register (47 FR 2989). Subsequent actions concerning Oklahoma's plan and amendments to the plan can be found at 30 CFR 936.25.

II. Discussion of the Proposed Amendment

By letter dated November 13, 1995 (Administrative Record No. OAML–63), Oklahoma submitted a proposed amendment to its plan pursuant to SMCRA, as amended. Oklahoma submitted the proposed amendment in response to a September 26, 1994, letter (Administrative Record No. OAML–65) that OSM sent to Oklahoma in accordance with 30 CFR 884.15(d). Oklahoma proposed revision of the Oklahoma administrative rules at OAC 155:15, Oklahoma Abandoned Mine Land Program, and the Oklahoma plan at sections 884.13(c)(1), Goals and Objectives; 884.13(c)(2), Project Ranking and Selection; 884.13(c)(3), Interagency Coordination; 884.13(c)(5), Eligible Lands and Waters; 884.13(c)(7), Public Participation; and 884.13(d)(1), Administrative and Management Structure.

OSM announced receipt of the proposed amendment in the December 21, 1995, Federal Register (60 FR 66244) and invited public comment on its adequacy. The public comment period ended January 22, 1996.

During its review of the amendment, OSM identified concerns relating to Oklahoma's proposal to revise the administrative regulations at OAC 155.15–1–5, Eligible Lands and Water, and the Oklahoma plan at section 884.13(c)(5), Eligible Lands and Water. These revisions were intended to allow expenditure of funds for reclamation of certain lands and water affected by mining after August 3, 1977, the effective date of SMCRA. OSM notified Oklahoma of the concerns by telephone on March 15, 1996, and by telefax on March 19, 1996 (Administrative Record Nos. OAML–71 and OAML–72). Oklahoma responded in a letter dated March 21, 1996, by submitting revisions to its amendment (Administrative Record No. OAML–69).

Oklahoma proposes additional revisions to the Oklahoma plan at section 884.13(c)(5), Eligible Lands and Water.

A new provision is added at subsection 884.13(c)(5)(C). This provision performs the following functions:

- Prescribes that for post-August 3, 1977, sites, states may expand funds available under SMCRA 402(g)(1) and (5) (state share and historic coal distribution);
- Requires the State to make certain findings outlined in OAC 155:15–1–5(b,c,d); and
- Requires that the State determine that the reclamation priority of a site be the same or more urgent than that of pre-August 4, 1977 sites.

A new provision is added at subsection 884.13(c)(5)(D) that requires the State to use any related financial recoveries from responsible parties for reclamation at the site, or to reimburse the Abandoned Mine Land Reclamation Fund.

The portions of the Oklahoma plan previously identified as subsections 884.13(c)(5)(C) and (D) are redesignated as 884.13(c)(5)(E) and (F).

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Oklahoma plan amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 884.14 and 884.15(a), OSM is seeking comments on whether the proposed amendment satisfies the applicable plan approval criteria of 30 CFR 884.14. If the amendment is deemed adequate, it will become part of the Oklahoma plan.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Tules Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This proposed rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State abandoned mine land reclamation plans and revisions thereof since each such plan is drafted and promulgated by a specific State, not by OSM. Decisions on proposed State abandoned mine land reclamation plans and revisions thereof submitted by a State are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and 30 CFR Parts 884 and 888.

National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State abandoned mine land reclamation plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements established by SMCRA or previously

promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 12, 1996.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 98–8628 Filed 4–5–96: 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–95–028]

RIN 2115–AE47

Drawbridge Operation Regulation; Red River, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of the Kansas City Southern Railway Company and the Southern Pacific Transportation Company, the Coast Guard is proposing a change to the regulation governing the operation of two swing span railroad bridges over the Red River, miles 227.0 and 228.2, near Shreveport, Louisiana. This proposed change would require that the bridges be opened on signal for passage of vessels, Monday through Friday, during daylight hours only, with five days prior written notice. The draws presently open on signal with 48 hours advance notice.

DATES: Comments must be received on or before June 7, 1996.

ADDRESSES: Comments may be mailed to Commander (ob), Eighth Coast Guard District, 510 Magazine Street, New Orleans, Louisiana 70130–3396 or may be delivered to Room 1313 at the same address between 8 a.m. and 3:30 p.m., Monday through Friday except Federal holidays. The comments and other materials referenced in this notice will be available for inspection and copying in Room 1313 at this address. Normal office hours are between 8 a.m. and 3:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Johnson, Bridge Administration Branch, (504) 589–2965.

SUPPLEMENTARY INFORMATION:

Request for Comments

Interested parties are invited to participate in the rulemaking by submitting written views, comments, or arguments. Persons submitting comments should include their names and addresses, identify the bridge and give the reason for concurrence with or any recommended change in this proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

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

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulation may be changed in light of comments received.

Background and Purpose: Upon requests by the bridge owners, the Coast Guard is proposing permitting the draws of two swing span railroad bridges over the Red River, LA, miles 227.0 and 228.2 to open on signal, Monday through Friday and only during daylight hours, if at least five days prior written notice is given. Currently, the bridges are required to open on signal if at least 48 hours advance notice is given. The bridge owners contend that the present regulation is unreasonable and expensive. Vessel transits through the bridge sites are infrequent. Since shoaling makes transits hazardous, openings will be limited to daylight hours for safety reasons.

Discussion of Proposed rules

Vertical clearance of the Southern Railroad bridge at mile 227.0 in the closed position is 15 feet above mean high water and 50 feet above low water. Vertical clearance of the Kansas City Southern Railway Company bridge at mile 228.2 in the closed position is 5 feet above mean high water and 46 feet above mean low water. There is little commercial navigation on the waterway in the vicinity of the bridge crossing. The bridges were opened seven times for the passage of riverboat gaming vessels in the past two years. The occasional small recreational boat that uses the waterway can transit the bridges without requiring an opening. The Southern Pacific Railroad bridge at mile 227.0 is crossed by approximately 11 trains per day. The Kansas City Southern Railroad bridge at mile 228.2 is crossed by approximately 12 trains per day. Requiring five days advance notice for an opening of the draw would result in a significant savings in maintenance and crew call-out costs with no adverse effect on navigational traffic.

Shoaling is reported to exist throughout the Shreveport area where the bridges cross the Red River making transits hazardous. The Southern Pacific Railroad bridge at mile 227.0 was struck two times by gaming vessels transiting the bridge in 1994. Requiring the bridges to open only during daylight hours will contribute to safety.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) government jurisdictions with populations of less than 50,000.

Since the proposed rule also considers the needs of local commercial vessels, the economic impact is expected to be minimal. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection-of-information requirements under the

Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

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

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under paragraph 2.B.2 of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard proposes to amend part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g)(3); section 117.255 also issued under the authority of Pub. L. 102–587, 102 Stat. 5039.

2. In § 117.491, paragraph (d) is revised to read as follows:

§ 117.491 Red River.

* * * * *

(d) The draws of the Southern Pacific Railroad bridge, mile 227.0, and the Kansas City Southern Railroad bridge, mile 228.2 shall open on signal during daylight hours only, Monday through Friday, if at least five days prior written notice is given.

* * * * *

Dated February 27, 1996.

R.C. North,

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

[FR Doc. 96–8670 Filed 4–5–96; 8:45 am]

BILLING CODE 4910–14–M

46 CFR Parts 10, 12, and 15

[CGD 95–062]

RIN 2115–AF26

Implementation of 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW)

AGENCY: Coast Guard, DOT.

ACTION: Notice of public meeting.

SUMMARY: The Coast Guard plans to hold three public meetings to solicit input from the maritime industry and from the public at large concerning the proposed changes to current domestic rules on licensing, documentation, and manning in compliance with recent amendments to the STCW. The amendments were adopted by a Conference of Parties to STCW in July 1995, and will come into force on February 1, 1997. Some changes to domestic rules must come into force before then to ensure these rules conform to international requirements, and other changes may come into force to allow a more gradual shift in practice. The proposed changes would affect the full range of activities associated with determining that an individual is competent for serving in certain shipboard capacities.

DATES: The meetings will be held May 8, 14, and 23, 1996, from 9:30 a.m. to 4:00 p.m. Comments must be submitted by July 24, 1996.

ADDRESSES: The May 8, 1996, meeting will be held at the New Orleans Airport Hilton, 901 Airline Highway, Kenner, Louisiana 70062. The May 14, 1996, meeting will be held at the Department of Commerce, Bldg. 9, Auditorium, NOAA Western Regional Center, 7600 Sand Point Way NE, Seattle, Washington 98115. The May 23, 1996, meeting will be held at the Department of Transportation, Nassif Building, Room 6200, 400 Seventh Street SW., Washington, DC 20590.

Written comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA), 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. Comments will become part of this docket [CGD 95–062] and will be available for inspection or copying at room 3406, Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

A copy of the 1995 Amendments to STCW may be obtained by writing Commandant (G–MOS), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or by calling (202) 267–0229, between 8 a.m. and 3 p.m. Monday through Friday, except Federal holidays. Requests may also be submitted by facsimile at (202) 267–4570. For additional information or to obtain a copy of the STCW notice of proposed rulemaking (NPRM) [61 FR 13284], published on March 26, 1996, contact Mr. Christopher Young, Operating and Environmental Standards Division (G–MOS), 2100 Second Street, SW., Washington, DC 20593–0001, telephone (202) 267–0216 or fax (202) 267–4570.

FOR FURTHER INFORMATION CONTACT: Mr. James W. Cratty, Project Facilitator, Standards, Evaluation, and Development Division (G–MES), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001, at (202) 267–6742 for public meeting information.

SUPPLEMENTARY INFORMATION:

Background and Discussion

On July 7, 1995, a Conference of Parties to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), meeting at the International Maritime Organization in London, adopted a package of amendments to STCW. The amendments will enter into force on February 1, 1997, unless a third of the parties to the Convention, or parties representing over 50 percent of the world's shipping tons, object to them by August 1, 1996. Because they were adopted unanimously by the Conference, no objections are expected. Consequently, the Coast Guard is taking necessary steps to implement them, and to ensure that U.S. documents and licenses are issued in compliance with them.

On August 31, 1995, the Coast Guard held a public meeting announced at [60 FR 39306; August 2, 1995] to discuss the outcome of the Conference and seek public comment on how the 1995 Amendments to STCW, adopted by the Conference, should be implemented. The meeting also provided an opportunity for the public to comment on the steps that the Coast Guard considers necessary to carry out the requirements of STCW as amended.

In addition, the Coast Guard published a Notice of Inquiry (NI) on November 13, in the Federal Register [60 FR 56970]. The purpose of the NI was to seek information that may be useful in calculating costs and benefits of implementing the 1995 Amendments to the STCW.

On March 26, 1996, the Coast Guard published the NPRM in which it proposed changes to the current domestic rules on licensing, documentation, and manning in compliance with 1995 Amendments to the 1978 STCW. The NPRM invites comments on or before July 24, 1996.

Persons needing the assistance of sign language interpretation at the meetings should notify the person listed above under **FOR FURTHER INFORMATION CONTACT** as soon as possible so that arrangements may be made to provide the necessary assistance.

Attendance is open to the public. With advance notice, and as time permits, members of the public may make oral presentations during the meetings. Persons wishing to make oral presentations should notify the person listed above under **FOR FURTHER INFORMATION CONTACT** no later than 48 hours before the meeting. Written material may be submitted before, during, or after the meetings. Persons unable to attend the public meetings are encouraged to submit written comments as outlined in the NPRM prior to July 24, 1996.

Dated: March 29, 1996.

Joseph J. Angelo,

Director for Standards, Marine Safety and Environmental Protection Directorate.

[FR Doc. 96–8352 Filed 4–5–96; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 73, and 74

[MM Docket No. 96–58, FCC 96–118]

Minor Changes in Broadcast Facilities Without a Construction Permit

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: *This Notice of Proposed Rule Making* (NPRM) in MM Docket No. 96–58 seeks comment regarding various proposals to streamline the Commission's rules and processes applicable to broadcast stations seeking to make minor modifications in their transmission facilities. The proposals set forth in this NPRM would allow broadcast stations to effectuate certain types of minor modifications without first obtaining a construction permit from the Commission authorizing the change. The types of minor modifications that are proposed for this streamlined procedure are those which would be expected to have no potential to cause interference to other stations. The Commission also seeks comments on other types of minor modifications that would be appropriate for this streamlined one-step licensing procedure. The NPRM also proposes some additional changes to relevant rule sections to make clarifications and to conform the rules to existing policy.

DATES: Initial comments are due May 16, 1996; reply comments are due June 17, 1996. Written comments by the public on the proposed and/or modified information collections are due May 16, 1996. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before June 7, 1996.

ADDRESSES: Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10234 NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Dale Bickel, Mass Media Bureau, Audio Services Division, (202) 418–2720, or Richard Waysdorf, Mass Media Bureau, Audio Services Division, (202) 418–2679. For additional information concerning the information collections contained in the NPRM, contact Dorothy Conway at (202) 418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is the synopsis of the Commission's *Notice of Proposed Rule Making* in MM Docket No. 96–58, adopted March 19, 1996, and released March 22, 1996.

The complete text of this NPRM, which was adopted in MM Docket No, 96–58, is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, DC, and may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., at (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, DC 20037.

Synopsis of Order and Notice of Proposed Rule Making

1. In the NPRM, the Commission seeks comment regarding various proposals to streamline the Commission's rules and procedures relating to modifications of broadcast station transmission facilities. The NPRM proposes to modify portions of Section 73 and 74 of the rules to permit broadcast stations to implement certain types of minor modifications of their facilities without first obtaining a construction permit authorizing the modifications. The Commission's Rules generally require that modifications of broadcast licenses and permits may be accomplished only through a two-step process: first, the station files an application for a construction permit, and second, after the facilities are modified, the station files an application for a license for the modified facilities. However, because certain types of minor modifications are unlikely to have any impact on other stations, the requirement of prior review and authorization of the change by the Commission staff often involves redundant analysis and unnecessarily delays the implementation of such changes.

2. Pursuant to a request from the Commission, Congress included in the Telecommunications Act of 1996, Pub. L. No. 104–104, 110 Stat. 56 (1996), a specific provision (Section 403(m)) that authorized the Commission to allow certain types of minor modifications without the need for a construction permit. With this new authority, the Commission, in the NPRM, has proposed that the types of minor license modifications discussed below be permitted without first obtaining a construction permit. In addition, in the NPRM, the Commission explicitly seek suggestions from the public and the broadcast industry as to additional types of minor modifications that could be effectuated through a one-step licensing process without prior approval of the Commission. The NPRM also proposes some additional changes to relevant rule sections to make clarifications and to conform the rules to existing policy.

3. The NPRM proposes that the following types of minor license and permit modifications would be permitted to be implemented without the prior authorization of the Commission, provided that the licensee or permittee file a modification of license application, using FCC Form 302, within 10 days of effectuating the change: 1) commercial FM stations would be permitted to increase effective radiated power up to the maximum level for the class of station; 2) FM and television stations would be permitted to replace one directional antenna with another; 3) FM stations would be permitted to delete contour protection status under Section 73.215 of the rules where the stations they are providing contour protection move to fully spaced

locations; 4) FM stations would be permitted to use formerly licensed main transmission facilities as auxiliary broadcast facilities; 5) FM and television stations would be permitted to change vertically polarized effective radiated power (ERP); and 6) FM and television stations would be permitted to make slight changes in antenna radiation center height.

4. In addition, the NPRM proposes that requests for waiver of the main studio location rule be made by letter with supporting documentation rather than by filing a construction permit application; and that commercial stations seeking to change to noncommercial status file a one-step modification of license application rather than a construction permit application followed by a license application. In both of these cases, prior Commission approval would still be required before the proposed change could be implemented. In addition, the NPRM proposes that directional FM stations would be allowed to commence automatic program tests at reduced power upon completion of construction without the prior approval of the Commission.

5. The proposed rules set forth in the NPRM would allow broadcast stations to make the types of specified modifications to their facilities more quickly and at a lower cost. Additionally, the NPRM seeks additional suggestions from the public as to other types of minor modifications that could also be streamlined through use of the one-step licensing process.

Initial Paperwork Reduction Act of 1995 Analysis

The Federal Communications Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. The NPRM has been submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

This NPRM, MM Docket No. 96–58, ''Amendment of Parts 73 and 74 of the Commission's Rules to Permit Certain Minor Changes in Broadcast Facilities Without A Construction Permit'' which does not have an OMB control number, proposes rules changes that will affect six existing collections. The revisions are proposed to affect the following:

Title: Section 73.1125 Station Main Studio Location.

Form Numbers: FCC 301, FCC 302–AM, FCC 302–FM, FCC 302–TV, FCC 340.

Type of Review: Revision to Existing Collections.

Respondents: Broadcast Permittees/ Licensees.

OMB Control Number: 3060–0027.

Title: Application for Construction Permit for Commercial Broadcast Station.

Number of Respondents for FCC 301: 1825.

Estimated time per response: The burden ranges from 37 hours to 159 hours. These hours include the hours included in the cost for contracting out with attorneys and consulting engineers.

Annual Burden: 7,247.

OMB Control Number: 3060–0034.

Title: Application for Construction Permit for Noncommercial Educational Broadcast Station.

Number of Respondents for FCC 340: 244.

Estimated time per response: The burden ranges from 50 hours to 302.33 hours. These hours include the hours included in the cost for contracting out with attorneys and consulting engineers.

Annual Burden: 1,243.

OMB Control Number: 3060–0627.

Title: Application for AM Broadcast Station License.

Number of Respondents for FCC 302–AM: 449.

Estimated time per response: The burden ranges from 2 hours to 1039.75 hours. These hours include the hours included in the cost for contracting out with attorneys and consulting engineers.

Annual Burden: 1,758.

OMB Control Number: 3060–0506.

Title: Application for FM Broadcast Station License.

Number of Respondents for FCC 302–FM: 757.

Estimated time per response: The burden ranges from 3 to 25 hours. These hours include the hours included in the cost for contracting out with attorneys and consulting engineers.

Annual Burden: 1,675.

OMB Control Number: 3060–0029.

Title: Application for TV Broadcast Station License.

Number of Respondents for FCC 302–TV: 83.

Estimated time per response: The burden ranges from 18 to 25 hours. These hours include the hours included in the cost for contracting out with attorneys and consulting engineers.

Annual Burden: 306.

OMB Control Number: 3060–0171.

Title: Section 73.1125 Station main studio location.

Number of Respondents for Section 73.1125: 155.

Estimated time per response: 0.5 hours (this hour is split between cost and burden, 15 minutes burden for the licensee and 30 minutes cost for a communications attorney).

Annual Burden: 39.

Needs and Uses: On February 8, 1996, President Clinton signed into law the Telecommunications Act of 1996 which revised Section 319(d) of the Communications Act to remove the prohibition against changing the permit requirement for minor broadcast station facilities changes. To implement this change in the law, on March 19, 1996, the Commission adopted a Notice of Proposed Rule Making in MM Docket No. 96–58 seeking comment on revising our regulations to eliminate the two-step application process where appropriate and replace it with a single step licensing procedure. These proposals would cause revisions to the following information collections: FCC 301 (3060–0027), FCC 340 (3060–0034), FCC 302–AM (3060–0627), FCC 302–FM (3060–0506), FCC 302–TV (3060–0029), Section 73.1125 (3060–0171). Among other things, this NPRM proposes to eliminate the present requirement for a construction permit (FCC Forms 301/340) for a broadcast station in certain instances where the changed facilities will not have an adverse impact on other broadcast facilities. In these instances, we will permit the broadcast licensee or permittee to make changes without prior authority from the Commission and file a license application (FCC Forms 302–AM/302–FM/302–TV) with specified exhibits to reflect the change afterwards. Additionally, we propose to eliminate the need to file an application for construction permit on FCC 301/340 to request a main studio move. We propose that these requests be made in a letter form with appropriate justification. These proposed changes would eliminate the delay and expense of completing the construction permit application and will enable licensees/ permittees to make changes with

minimal delay. In addition to these specific proposals, the Commission is also seeking suggestions from the public and the broadcast industry as to additional types of minor modifications that could be effectuated through a one-step licensing process without prior approval of the Commission.

Initial Regulatory Flexibility Analysis

As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in the NPRM. Written public comments are requested on the IFRA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the NPRM, but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Secretary shall send a copy of the NPRM, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603 (a) of the Regulatory Flexibility Act, Public Law No. 96–354, 94 Stat. 1164, 5 U.S.C. Section 601, *et seq.* (1980).

I. *Reason for Action:* This proposed action is necessary to provide more flexibility for AM, FM and television stations to effectuate minor modifications of their facilities in instances where there would not likely be any significant impact on other stations. In addition, this proposed action would allow such minor modifications to be made more quickly than under the current procedures.

II. *Objectives:* The objective of this proceeding is to allow AM, FM, and television station licensees and permittees to bring improved service to the public more efficiently and expeditiously while controlling interference to other stations.

III. *Legal Basis:* The action taken in this NPRM is authorized by Sections 4(i), 5(c)(1), 302, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(c)(1), 302, and 303.

IV. *Description, Potential Impact and Number of Small Entities Affected:* The entities affected by this proposal are AM and FM radio and television station licensees and permittees seeking to effect minor modifications of facilities that have previously been authorized by the Commission. The total number of such licensees and permittees is nearly 15,000. Because the Notice proposes provisions which allow for greater flexibility in operation, the option of whether or not to take advantage of the new rules rests with each licensee or permittee. There is no requirement that any licensee or permittee make any change as a result of these rule amendments. The number of licensees or permittees who might decide to modify their stations pursuant to these rule amendments is unknown, but under the present rules, approximately 150 stations each year file applications that propose the types of facilities modifications that are the subject of these rule amendments.

V. *Recording, Record Keeping and Other Compliance Requirements:* None.

VI. *Federal Rules which Overlap, Duplicate or Conflict with these Rules:* None.

VII. *Any Significant Alternative Minimizing Impact on Small Entities and Consistent with the Stated Objectives:* None.

List of Subjects

47 CFR Part 1

Administrative practice and procedure, Radio, Television.

47 CFR Part 73

Radio broadcasting, Television broadcasting.

47 CFR Part 74

Radio broadcasting, Television broadcasting.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–8595 Filed 4–5–96; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Part 68

[CC Docket No. 96–28; FCC 96–39]

Harmonization of U.S. Network Protection Standard With Canadian Network Protection Standard

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: On February 2, 1996, the Commission adopted a Notice of Proposed Rulemaking (NPRM). The NPRM is intended to address issues associated with ''harmonizing'' U.S. and Canadian requirements for connection of terminal equipment to the public switched network. It seeks comment on whether amending of the Commission's rules regarding network protection would foster greater efficiencies in manufacturing terminal equipment without threatening the reliability of the public network. The Commission's network protection rules govern the terms and conditions under which customer-provided terminal equipment may be connected to the network.

DATES: Comments must be filed on or before April 1, 1996, and reply comments must be filed on or before April 16, 1996.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Marian Gordon, Network Services Division, Special Counsel, Common Carrier Bureau, (202) 418–2337.

SUPPLEMENTARY INFORMATION: This summarizes the Commission's Notice of Proposed Rulemaking in the Matter of Amendment of Part 68 of the Commission's Rules. (CC Docket No. 96–28, FCC 96–39, adopted February 2, 1996, and released February 29, 1996). The file is available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the Commission's Reference Center, Room 239, 1919 M St., N.W., Washington D.C., or copies may be purchased from the Commission's duplicating contractor, ITS, Inc. 2100 M St., N.W., Suite 140, Washington, D.C. 20037, phone (202) 857–3800.

Analysis of Proceeding

The Commission proposes amendments to Part 68 of its rules to foster barrier-free trade between Canada and the United States. The proposed rules are designed to foster greater efficiencies in manufacturing terminal equipment without threatening the reliability of the public switched network. Under the proposed rules, the technical requirements of Part 68 and the Canadian network protection standard CS–03 would be harmonized so that a manufacturer in one country could design terminal equipment to a single, consistent set of technical standards accepted in either the U.S. or Canada. The Commission tentatively concludes that its proposed rules amending Part 68 will eliminate unnecessary differences in terminal attachment requirements between the United States and Canada. It further tentatively concludes that this is consistent with the spirit and letter of the North American Free Trade Agreement (NAFTA), which mandates elimination of trade barriers through reconciliation of differences in standards and testing procedures. The Commission also tentatively concludes that the proposed rules will become a guide for harmonization efforts around the world and will benefit consumers by creating a more competitive equipment marketplace, thereby lowering

equipment costs. It tentatively concludes that the proposed rules are consistent with the Commission's longstanding commitment to ensure that no public harm results from attachment of private equipment to the public switched network.

Ordering Clauses

Accordingly, *it is ordered*, pursuant to Sections 1, 4(i) and (j), 201–205, 218 of the Communications Act as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, and 218, that notice is hereby given of the proposed changes to Part 68 to harmonize it with Canada's CS–03 certification requirements and comment is invited on this proposal.

List of Subjects in 47 CFR Part 68

Registered terminal equipment, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–8597 Filed 4–5–96; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Part 73

[MM Docket No. 96–66; RM–8729]

Radio Broadcasting Services; Sibley, IA, and Brandon, SD

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by 21st Century Radio Ventures, Inc., permittee of Station KAJQ(FM), Channel 262A, Sibley, Iowa, seeking the substitution of Channel 261C3 for Channel 262A, the reallotment of Channel 261C3 from Sibley, Iowa, to Brandon, South Dakota, and the modification of Station KAJQ(FM)'s construction permit to specify Brandon as the station's community of license. Channel 261C3 can be allotted to Brandon in compliance with the Commission's minimum distance requirements with a site restriction of 5.4 kilometers (3.4 miles) east to accommodate's 21st's desired site. The coordinates for Channel 261C3 at Brandon are 43–36–02 and 96–31–15. In accordance with Section 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 261C3 at Brandon or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before May 21, 1996, and reply comments on or before June 5, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: James L. Primm, President, 21st Century Radio Ventures, Inc., 530 Wilshire Boulevard, Suite 301, Santa Monica, California 90401 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 96–66, adopted March 11, 1996, and released March 29, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 96–8123 Filed 4–5–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 96–63; RM–8777]

Radio Broadcasting Services; Green River, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Wagonwheel Communications Corporation proposing the allotment of Channel 268C at Green River, Wyoming, as the community's first local aural transmission service. Channel 268C can be allotted to Green River in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 268C at Green River are North Latitude 41–31–36 and West Longitude 109–28–06.

DATES: Comments must be filed on or before May 23, 1996 and reply comments on or before June 7, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Erwin G. Krasnow, Esq., Verner, Liipfert, Bernhard, McPherson and Hand, 901 15th Street, NW., Suite 700, Washington, DC 20005–2301 (Counsel for Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 96–63, adopted March 15, 1996, and released April 1, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 96–8522 Filed 4–5–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 96–67; RM–8774]

Radio Broadcasting Services; Starkville, MS, and Ethelsville, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Charisma Broadcasting Company, licensee of Station WMSU(FM), Channel 221A, Starkville, Mississippi, requesting the substitution of Channel 222A for Channel 221A, the reallotment of Channel 222A from Starkville, Mississippi, to Ethelsville, Alabama, and the modification of Station WMSU(FM)'s license to specify Ethelsville as its community of license. Channel 222A can be allotted to Ethelsville in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.2 kilometers (5.1 miles) northwest to accommodate Charisma's desired site. The coordinates for Channel 222A are 33–28–50 and 88–15–16. In accordance with Section 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest in the use of Channel 222A at Ethelsville.

DATES: Comments must be filed on or before May 23, 1996, and reply comments on or before June 7, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Bill Milam, Vice President, Charisma Broadcasting Company, Box 980, Starkville, Mississippi, 89759 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 96–67, adopted March 19, 1996, and released April 1, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 96–8521 Filed 4–5–96; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 544

[Docket No. 96–19; Notice 01]

RIN 2127–AF92

Insurer Reporting Requirements; List of Insurers Required to File Reports

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

ACTION: Notice of proposed rulemaking.

SUMMARY: NHTSA proposes to update its lists in appendices A, B, and C of part 544 of passenger motor vehicle insurers that are required to file reports on their motor vehicle theft loss experiences. If these revised appendices are adopted in a final rule, each insurer included in any of these appendices must file a report for the 1993 calendar year not later than October 25, 1996. Further, as long as they remain listed, they must submit reports by each subsequent October 25.

DATES: Comments on this proposed rule must be received by this agency not later than June 7, 1996. If this rule is made final, insurers listed in the appendices would be required to submit reports beginning with the one due October 25, 1996.

ADDRESSES: Comments on this proposed rule must refer to the docket number referenced in the heading of this notice, and be submitted to: Docket Section, NHTSA, Room 5109, 400 Seventh Street, SW, Washington, DC 20590. Docket hours are 9:30 a.m. to 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2739.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 49 U.S.C. 33112, Insurer reports and information, NHTSA requires certain passenger motor vehicle insurers to file an annual report. Each insurer's report includes information about thefts and recoveries of motor vehicles, the rating rules used by the insurer to establish premiums for comprehensive coverage, the actions taken by the insurer to reduce such premiums, and the actions taken by the insurer to reduce or deter theft. Under the agency's implementing regulation, part 544, the following insurers are subject to the reporting requirements: (1) Those issuers of motor vehicle insurance policies whose total premiums account for 1 percent or more of the total premiums of motor vehicle insurance issued within the United States; (2) Those issuers of motor vehicle insurance policies whose premiums account for 10 percent or more of total premiums written within any one State; and (3) Rental and leasing companies with a fleet of 20 or more vehicles not covered by theft insurance policies issued by insurers of motor vehicles, other than any governmental entity.

Pursuant to its statutory exemption authority, the agency has exempted smaller passenger motor vehicle insurers from the reporting requirements.

A. Small Insurers of Passenger Motor Vehicles

Section 33112(f) provides that the agency shall exempt small insurers of passenger motor vehicles if NHTSA finds that such exemptions will not significantly affect the validity or usefulness of the information in the reports, either nationally or on a Sate-by-State basis. The term ''small insurer'' is defined in Section 33112(f) as an insurer whose premiums account for less than 1 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States. However, that section also stipulates that if an insurance company satisfies this definition of a ''small insurer,'' but accounts for 10 percent or more of the total premiums

for all motor vehicle insurance issued in a particular State, the insurer must report about its operations in that State.

As described in the final rule establishing the requirement for insurer reports (52 FR 59, January 2, 1987), in 49 CFR Part 544. NHTSA exercises its exemption authority by listing in appendix A each insurer which must report because it had at least 1 percent of the motor vehicle insurance premiums nationally. Listing the insurers subject to reporting instead of each insurer exempted from reporting because it had less than 1 percent of the premiums nationally is administratively simpler since the former group is much smaller than the latter. In appendix B, NHTSA lists those insurers that are required to report for particular states because each insurer had a 10 percent or greater market share of motor vehicle premiums in those States. In the January 1987 final rule, the agency stated that appendices A and B will be updated annually. It has been NHTSA's practice to update the appendices based on data voluntarily provided by insurance companies to A.M. Best, and made available for the agency each spring. The agency uses the data to determine the insurers' market shares nationally and in each state.

B. Self-insured Rental and Leasing Companies

In addition, upon making certain determinations, NHTSA is authorized to grant exemptions to self-insurers, i.e., any person who has a fleet of 20 or more motor vehicles (other than any governmental entity) which are used primarily for rental or lease and which are not covered by theft insurance policies issued by insurers of passenger motor vehicles, 49 U.S.C. 33112(b)(1) and (f). NHTSA may exempt a self-insurer from reporting, if the agency determines:

(1) The cost of preparing and furnishing such reports is excessive in relation to the size of the business of the insurer; and

(2) The insurer's report will not significantly contribute to carrying out the purposes of chapter 331.

In a final rule published June 22, 1990 (55 FR 25606), the agency granted a class exemption to all companies that rent or lease fewer than 50,000 vehicles because it believed that reports from only the largest companies would sufficiently represent the theft experience of rental and leasing companies. NHTSA concluded that reports by the many smaller rental and leasing companies do not significantly contribute to carrying out NHTSA's statutory obligations, and that exempting such companies will relieve an unnecessary burden on most companies that potentially must report. As a result of the June 1990 final rule, the agency added a new appendix C, which consists of an annually updated list of the self-insurers that are subject to part 544. Following the same approach as in the case of appendix A, NHTSA has included in appendix C each of the relatively few self-insurers which are subject to reporting instead of relatively numerous self-insurers which are exempted. NHTSA updates appendix C based primarily on information from the publications Automotive Fleet Magazine and Travel Business Travel News.

C. When a Listed Insurer Must File a Report

Under Part 544, as long as an insurer is listed, it must file reports on or before each October 25. Thus, any insurer listed in the appendices as of the date of the most recent final rule must file a report by the following October 25, and by each succeeding October 25, absent a further amendment removing the insurer's name from the appendices.

Notice of Proposed Rulemaking

1. Insurers of Passenger Motor Vehicles

Based on the 1993 calendar year A.M. Best data for market shares, NHTSA proposes to amend the list in appendix A of insurers which must report because each had at least one percent of the motor vehicle insurance premiums on a national basis. The list was last amended in a notice published on June 27, 1995 (See 60 FR 33145). One company, General ACC Group, included in the June 1995 listing, is proposed to be removed from appendix A. Two companies, Allmerica Property and Casualty Companies, and Metropolitan Group, that were not listed in appendix A, are proposed to be added.

Each of the 19 insurers listed in appendix A of this notice would be required to file a report not later than October 25, 1996, setting forth the information required by part 544 for each State in which it did business in the 1993 calendar year. As long as those 19 insurers remain listed, they would be required to submit reports by each subsequent October 25 for the calendar year ending slightly less than 3 years before.

Appendix B lists those insurers that would be required to report for particular States for calendar year 1993, because each insurer had a 10 percent or greater market share of motor vehicle premiums in those States. Based on the 1993 calendar year A.M. Best data for market shares, it is proposed that Nodak Mutual Insurance Company, reporting on its activities in the State of North Dakota be added to appendix B.

The 12 insurers listed in appendix B of this notice would be required to report on their calendar year 1993 activities in every State in which they had a 10 percent or greater market share. These reports must be filed no later than October 25, 1996, and set forth the information required by part 544. As long as those 12 insurers remain listed, they would be required to submit reports on or before each subsequent October 25 for the calendar year ending slightly less than 3 years before.

2. Rental and Leasing Companies

Based on information in Automotive Fleet Magazine and Travel Trade Business Travel News for 1993, the most recent year for which data are available, NHTSA is proposing several changes in Appendix C. As indicated above, that appendix lists rental and leasing companies required to file reports. Based on the data reported in the above mentioned publications, it is proposed that the American International Rent-A-Car Corp./ANSA be removed from appendix C. The agency also proposes that four additional rental and leasing companies, Citicorp Bankers Leasing Corporation, Donlen Corporation, Lease Plan International, and USL Capital Fleet Services, be included in appendix C. Accordingly, each of the 13 companies (including franchisees and licensees) listed in this notice in appendix C would be required to file reports for calendar year 1993 no later than October 25, 1996, and set forth the information required by part 544. As long as those 13 companies remain listed, they would be required to submit reports on or before each subsequent October 25 for the calendar year ending slightly less than 3 years before.

NHTSA notes that on July 5, 1994, the Cost Savings Act, (including Title VI-Theft Prevention) was revised and codified ''without substantive change.'' The passenger motor vehicle theft insurers' reporting provisions, formerly at 15 U.S.C. 2032 are now at 49 U.S.C. 33112. In this NPRM, NHTSA proposes to make minor technical amendments to make part 544 reflect its changed statutory authority.

Regulatory Impacts

1. Costs and Other Impacts

This notice has not been reviewed under Executive Order 12866. NHTSA has considered the impact of this proposed rule and has determined the action not to be ''significant'' within the

meaning of the Department of Transportation's regulatory policies and procedures. This proposed rule implements the agency's policy of ensuring that all insurance companies that are statutorily eligible for exemption from the insurer reporting requirements are in fact exempted from those requirements. Only those companies that are not statutorily eligible for an exemption are required to file reports.

NHTSA does not believe that this proposed rule, reflecting more current data, affects the impacts described in the final regulatory evaluation prepared for the final rule establishing part 544. (52 FR 59, January 2, 1987) Accordingly, a separate regulatory evaluation has not been prepared for this rulemaking action. Using the cost estimates in the 1987 final regulatory evaluation, the agency estimates that the cost of compliance will be about $5,770 for any insurer added to appendix C. If this proposed rule is made final, for appendix A, the agency would remove one insurer and add two insurers; for appendix B, the agency would add one insurer; and for appendix C, the agency would remove one company and include four additional companies. The agency therefore estimates that the net effect of this proposal, if made final, would be a cost increase to insurers, as a group of approximately $87,310.

Interested persons may wish to examine the 1987 final regulatory evaluation. Copies of that evaluation have been placed in Docket No. T86–01; Notice 2. Any interested person may obtain a copy of this evaluation by writing to NHTSA, Docket Section, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590, or by calling (202) 366–4949.

2. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted to and approved by the Office of Management and Budget (OMB) pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) This collection of information has been assigned OMB Control Number 2127–0547 (''Insurer Reporting Requirements'') and has been approved for use through October 31, 1996.

3. Regulatory Flexibility Act

The agency has also considered the effects of this rulemaking under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) I certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. The rationale for the certification is that none of the companies proposed to be included on appendices A, B, or C would be construed to be a small entity within the definition of the RFA. ''Small insurer'' is defined in part under 49 U.S.C. 33112 as any insurer whose premiums for all forms of motor vehicle insurance account for less than one percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States, or any insurer whose premiums within any State, account for less than 10 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the State. This notice would exempt all insurers meeting those criteria. Any insurers meeting those criteria is not a small entity. In addition, in this rulemaking, the agency proposes to exempt all ''self insured rental and leasing companies'' that have fleets of fewer than 50,000 vehicles. Any self insured rental and leasing company too large to meet that criterion is not a small entity.

4. Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

5. Environmental Impacts

In accordance with the National Environmental Policy Act, NHTSA has considered the environmental impacts of this proposed rule and determined that it would not have a significant impact on the quality of the human environment.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies of the comments be submitted. All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information deleted should be accompanied by cover letter setting forth the information specified in the agency's confidential business information regulation. (49 CFR part 512).

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after the date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 544

Crime insurance, insurance, insurance companies, motor vehicles, reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Part 544 is proposed to be amended as follows:

PART 544—[AMENDED]

1. The authority citation for part 544 would be revised to read as follows:

Authority: 49 U.S.C. 33112; delegation of authority at 49 CFR 1.50.

2. Section 544.2 Purpose. would be revised to read as follows:

§ 544.2 Purpose.

The purpose of these reporting requirements is to aid in implementing and evaluating the provisions of 49 U.S.C. chapter 331 Theft Prevention to prevent or discourage the theft of motor vehicles, to prevent or discourage the sale or distribution in interstate commerce of used parts removed from stolen motor vehicles, and to help reduce the cost to consumers of comprehensive insurance coverage for motor vehicles.

3. Paragraph (a) of § 544.4 Definitions would be revised to read as follows:

§ 544.4 Definitions.

(a) Statutory terms. All terms defined in 49 U.S.C. 32101 and 33112 are used in accordance with their statutory

meanings unless otherwise defined in paragraph (b) of this section.

* * * * *

4. Paragraph (a) of § 544.5 would be revised to read as follows:

544.5 General requirements for reports.

* * * * *

(a) Each insurer to which this part applies shall submit a report annually not later than October 25, beginning on October 25, 1986. This report shall contain the information required by § 544.6 of this part for the calendar year three years previous to the year in which the report is filed (e.g., the report due by October 25, 1996 shall contain the required information for the 1993 calendar year).

* * * * *

5. Appendix A to Part 544 would be revised to read as follows:

Appendix A—Insurers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements in Each State in Which They Do Business

Aetna Life & Casualty Group
Allmerica Property & Casualty Companies[1]
Allstate Insurance Group
American Family Group
American International Group
California State Auto Association
CNA Insurance Companies
Farmers Insurance Group
Geico Corporation Group
ITT Hartford Insurance Group
Liberty Mutual Group
Metropolitan Group[1]
Nationwide Group
Progressive Group
Prudential of America Group
Safeco Insurance Companies
State Farm Group
Travelers Insurance Group
USAA Group

6. Appendix B to Part 544 would be revised to read as follows:

Appendix B—Issuers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements Only in Designated States

Alfa Insurance Group (Alabama)
Amica Mutual Insurance Company (Rhode Island)
Arbella Mutual Insurance (Massachusetts)
Auto Club of Michigan (Michigan)
Commerce Group, Inc. (Massachusetts)
Commercial Union Insurance Companies (Maine)
Concord Group Insurance Companies (Vermont)
Erie Insurance Group (Pennsylvania)
Kentucky Farm Bureau Group (Kentucky)
Nodak Mutual Insurance Company (North Dakota)[1]
Southern Farm Bureau Casualty Group (Arkansas, Mississippi)
Tennessee Farmers Companies (Tennessee)

7. Appendix C to Part 544 would be revised to read as follows:

Appendix C—Motor Vehicle Rental and Leasing Companies (Including Licensees and Franchisees) Subject to the Reporting Requirements of Part 544

Alamo Rent-A-Car, Inc.
Avis, Inc.
Budget Rent-A-Car Corporation
Citicorp Bankers Leasing Corporation[1]
Dollar Rent-A-Car Systems, Inc.
Donlen Corporation[1]
Hertz Rent-A-Car Division (subsidiary of Hertz Corporation)
Lease Plan International[1]
National Car Rental System, Inc.
Penske Truck Leasing Company
Ryder System, Inc. (Both rental and leasing operations)
U-Haul International, Inc. (Subsidiary of AMERCO)
USL Capital Fleet Services[1]

Issued on: April 1, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–8357 Filed 4–5–96; 8:45 am]

BILLING CODE 4910–59–P

[1] Indicates a newly listed company which must file a report beginning with the report due October 25, 1996

[1] Indicates a newly listed company which must file a report beginning with the report due October 25, 1996

49 CFR Part 571

[Docket No. 96–30; Notice 1]

RIN 2127–AF88

Federal Motor Vehicle Safety Standards; Windshield Wiping and Washing Systems

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

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, NHTSA proposes changes to the Federal Motor Vehicle Safety Standard on windshield wiping and washing systems. The proposals range from applying performance requirements to the systems in light trucks and multipurpose passenger vehicles to rescinding the Standard. This proposed action is part of NHTSA's efforts to implement the President's Regulatory Reinvention Initiative.

DATES: Comments must be received on or before May 23, 1996.

ADDRESSES: Comments must refer to the docket and notice numbers cited at the beginning of this notice and be submitted to: Docket Section, Room 5109, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. It is requested that 10 copies of the comments be provided. The Docket Section is open on weekdays from 9:30 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: For technical issues: Mr. Richard Van Iderstine, Office of Vehicle Safety Standards, NPS–21, telephone (202) 366–5280, FAX (202) 366–4329.

For legal issues: Ms. Dorothy Nakama, Office of Chief Counsel, NCC–20, telephone (202) 366–2992, FAX (202) 366–3820. Both may be reached at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Comments should not be sent or faxed to these persons, but should be sent to the Docket Section.

SUPPLEMENTARY INFORMATION:

President's Regulatory Reinvention Initiative

Pursuant to the March 4, 1995 directive ''Regulatory Reinvention Initiative'' from the President to the heads of departments and agencies, NHTSA undertook a review of its regulations and directives. During the course of this review, NHTSA identified regulations that it could propose to eliminate as unnecessary or to amend to improve their comprehensibility, application, or appropriateness. Among these regulations is Federal Motor Vehicle Safety Standard No. 104, *Windshield wiping and washing systems* (49 CFR § 571.104). Based on its review of the standard, NHTSA is proposing three alternative approaches to amending Standard No. 104.

Background of Standard No. 104

Standard No. 104 was issued in 1967 (32 FR 2408) as one of the initial Federal Motor Vehicle Safety Standards (FMVSSs). At present, the standard applies to passenger cars, multipurpose passenger vehicles (MPVs), trucks, and buses. Standard No. 104 specifies that each vehicle shall have a power-driven windshield wiping system that meets S4.1.1's requirement that each system shall have at least two speeds, each of which wipes at a different number of cycles per minute.

Standard No. 104 specifies additional wiping requirements for passenger cars, but not for the other vehicle types subject to the standard. The passenger car windshield areas to be wiped are specified in paragraphs S4.1.2 and S4.1.2.1 of the standard. S4.1.2 specifies three areas for passenger car windshields, designated as areas ''A'',

''B'', and ''C.'' A specified percentage of the glazing in each area is required to be wiped, as shown in Figures 1 and 2 of SAE Recommended Practice J903a, May 1966, which the standard incorporates by reference. The location of those areas is determined using the angles specified in Tables I, II, III, and IV of Standard No. 104, as applicable. Those tables apply to passenger cars of varying overall widths, namely, from less than 60 inches to more than 68 inches. The angles set forth in the tables vary according to the overall width of the vehicle. Finally, paragraph S4.1.2 provides that all of the glazing counted toward meeting the percentage of each area required to be wiped must lie within the area bounded by a perimeter line on the glazing surface one inch from the edge of the daylight opening.

Standard No. 104 also specifies requirements for windshield washing systems on passenger cars, MPVs, trucks, and buses. Each of those vehicles is required in S4.2.1 or S4.2.2 to have a windshield washing system that meets the requirements of SAE Recommended Practice J942 (SAE J942), ''Passenger Car Windshield Washing Systems,'' November 1965, with a few modifications.

NHTSA's Review of Standard No. 104 and Proposals for Change

In reviewing Standard No. 104 under the President's Regulatory Reinvention Initiative, NHTSA identified three proposals for changes to the Standard and seeks public comment on each proposal. The proposals are: (1) Rescinding the Standard if a finding can be made that the motor vehicle industry would continue to provide the same level of washing and wiping performance in the absence of a standard; (2) upgrading the light truck and MPV windshield wiping requirements to make them equivalent to the passenger car requirements; and (3) eliminating duplicative language by combining Standards Nos. 103 and 104 into a single safety standard and retitling it *Windshield clearance systems,* since Standard No. 103 presently references provisions in Standard No. 104.

Due to the relative simplicity of the proposals, the agency is not setting forth precise regulatory language for implementing those proposals.

In addition to seeking comments on each of the three proposals, the agency also seeks comment on the option of making no changes to the Standard.

1. Proposal One—Rescind Standard No. 104

NHTSA's first alternative proposal is to rescind Standard No. 104. To adopt this proposal, NHTSA would conclude that even if Standard No. 104 should be rescinded, manufacturers would continue to provide means to wipe and wash motor vehicle windshields. It is widely recognized that a motor vehicle must have some means for keeping the windshield wiped and washed so that the driver can view the road ahead. More important, the fact that light trucks and MPVs apparently provide wiping and washing performance comparable to that in passenger cars, despite the absence of performance requirements for light trucks and MPVs, indicates that passenger cars would continue to provide that level of performance in the absence of performance requirements.

In addition, market forces (in the form of customer demand) would be highly likely to ensure that vehicle manufacturers continue to provide windshield wiping and washing systems in motor vehicles. Customer magazines and consumers themselves would be likely to react negatively to vehicles that do not have adequate windshield wiping and washing systems. The agency notes that more than 93 percent of all cars and light trucks have intermittent (i.e., variable speed) wipers even though only two wiper speeds are required by Standard No. 104 and that 15 percent of cars have a rear window wiper, even though one is not required. These installations indicate market forces favoring wiping and washing devices.

NHTSA notes that if Standard No. 104 were rescinded, some States might adopt regulations requiring windshield washing and wiping systems or even regulating their performance. Were the States to adopt such regulations, there would not be any express preemption under 49 U.S.C. 30103(b), Preemption, of State requirements dissimilar to those currently in Standard No. 104. It also does not appear likely that a court would find any implied Federal preemption of State requirements, regardless of whether they are similar or dissimilar to those in the Standard. A State regulation addressing the same subject as a rescinded Federal regulation would be impliedly preempted only if the State regulation conflicted with or otherwise frustrated achieving the purposes of the Federal statute. Even if the agency were to conclude that no regulation, Federal or State, of windshield wiping and washing is necessary, it is not readily apparent how State regulations, even ones differing from those of another State, on this subject would conflict with Federal law or have a deleterious effect on motor vehicle safety.

Finally, the agency notes that rescinding Standard No. 104 would also remove what may be unnecessarily restrictive specifications for windshield wiping and washing systems. For example, at present, S4.1 specifies that a windshield wiping system must have at least two frequencies, one of which is at least 45 cycles per minute, and the other cycle must differ by at least 15 cycles per minute. Manufacturers might develop means to clean windshields that do not operate in cycles, or other means that do not involve the traditional two wiper blades rotating in synchronization.

2. Proposal Two—Upgrading the MPV and Light Truck Requirements to Make Them Equivalent to the Passenger Car Requirement

In the last decade, sales of light trucks and multipurpose passenger vehicles (MPVs) have increased substantially. In addition, these vehicles have been increasingly used to transport passengers. As a result, the number of deaths and injuries associated with those vehicles have substantially increased.

In response, NHTSA has amended certain FMVSSs to ensure that passengers are afforded the same level of protection whether they ride in a passenger car, light truck, or MPV. For example, by model year 1998, the requirements for key FMVSSs such as Standard No. 208, *Occupant crash protection* and Standard No. 214, *Side impact protection* will be virtually identical for passenger cars, light trucks, and MPVs.

Continuing the trend to make FMVSS requirements uniform for all three types of vehicles, this proposal would make similar upgrades in Standard No. 104. As noted above, Standard No. 104 presently specifies no windshield wiping requirements for light trucks and MPVs other than that they have a power-driven windshield wiping and washing system, with at least two speeds, each wiping at a different rate. NHTSA proposes minimum requirements regarding the portions of light truck and MPV windshields that must be wiped.

To adopt equivalent requirements for light trucks and MPVs, whose windshields and driver seating positions may differ from those of passenger cars, this proposal would incorporate a different set of SAE

recommended practices than those applicable to passenger cars.

For minimum windshield wiped area requirements for light trucks and MPVs, this proposal would incorporate relevant provisions of SAE Recommended Practice J198 (SAE J198) ''Windshield Wiper Systems—Trucks, Buses, and Multipurpose Vehicles'' January 1971. In Paragraph 3.1.1, SAE J198 describes the portions of the exterior windshield glazing surface that must be wiped as follows: area A (the largest area, encompassing both the driver's and front passenger's view), area B (an area somewhat smaller than area A) and area C (the smallest area, in front of the driver's view). Each area is established using angles in Table 1 of SAE J198 applied as shown in Figure 1 of SAE J198.

NHTSA tentatively concludes that if minimum windshield wiped area requirements were to be adopted for light trucks and MPVs, the costs, if any, incurred by manufacturers would be slight. It appears that virtually all light trucks and MPVs already meet SAE J198's minimum wiped area requirements, thus minimizing the need for design changes. Nevertheless, NHTSA seeks public comment on cost increases. The potential for a slight cost increase comes from the possibility that the manufacturers may not currently be doing as much performance testing as they would if those requirements were adopted.

As part of this proposal, the agency would adopt minimum performance requirements for windshield washer systems in trucks, buses and MPVs. The standard would be amended to reference the two SAE Recommended Practices addressing the performance of those systems in those vehicles.

As noted above, Standard No. 104 references SAE J942 ''Passenger Car Windshield Washer Systems.'' Despite its title, SAE J942 specifies minimum performance requirements not only for windshield washer systems in passenger cars, but also for those in trucks, buses, and MPVs. Under this proposal, NHTSA would apply SAE J942 to trucks, buses and MPVs with a GVWR 10,000 lbs. and under.

In addition, in May 1991, SAE Recommended Practice J1944 (SAE J1944) ''Truck & Bus Multipurpose Vehicle Windshield Washer System'' was established. SAE J1944 describes minimum performance requirements for windshield washing systems on trucks, buses, and MPVs with a gross vehicle weight rating (GVWR) of 10,000 lbs. or greater. Under this proposal, NHTSA would incorporate SAE J1944's minimum performance requirements by reference and apply them to trucks, buses and MPVs with a GVWR of greater than 10,000 lbs. NHTSA seeks comments on whether this step would improve the safety of any of these vehicles and on the potential cost effects for vehicle or windshield washing system manufacturers.

3. Proposal Three—Combining Standards Nos. 103 and 104

NHTSA's third alternative proposal is to combine Standards Nos. 103 and 104 to make the standards easier to comprehend and apply. The two standards are already substantially interconnected. Standard No. 103 references tables in Standard No. 104 to establish angles used in locating the defrosted areas. If the two standards were combined, the single standard would be titled as a standard on windshield clearance systems. In addition to seeking comments on this proposal, NHTSA would entertain comments on combining this proposal with the preceding proposal.

Rulemaking Analyses and Notices

1. Executive Order 12866 and DOT Regulatory Policies and Procedures

This notice of proposed rulemaking was not reviewed under Executive Order 12866 (Regulatory Planning and Review). NHTSA has analyzed the impact of this rulemaking action and determined that it is not ''significant'' within the meaning of the Department of Transportation's regulatory policies and procedures.

For Proposal One, NHTSA tentatively concludes that if that proposal were adopted as a final rule, there may be slight cost savings to industry, since manufacturers would no longer need to test vehicles for compliance with Standard No. 104. The cost savings would be so minimal that NHTSA is unable to quantify them. NHTSA tentatively believes manufacturers likely would continue to provide essentially the same level of windshield wiping and washing capability as they currently provide.

With respect to Proposal Two, it is NHTSA's tentative conclusion that adoption of that proposal might result in only slightly increased costs to industry, due to testing to new specifications. However, these potential increased costs are so minimal that NHTSA is unable to quantify them.

If Proposal Three were adopted as a final rule, NHTSA anticipates no changes in costs to industry, since no substantive changes to Standard No. 104 would be made.

Based on the foregoing, the agency concludes that the potential impacts are so minimal as not to warrant preparation of a full regulatory evaluation.

2. Regulatory Flexibility Act

NHTSA has also considered the impacts of this rule under the Regulatory Flexibility Act. I hereby certify that this rule would not have a significant economic impact on a substantial number of small entities. As noted above, NHTSA tentatively concludes that only Proposal Two, if adopted as a final rule, might result in slightly increased costs to manufacturers, due to testing to new specifications. Since the cost of new motor vehicles would not be affected, small entities which purchase motor vehicles would similarly not be affected. Therefore, an initial regulatory flexibility analysis has not been prepared.

3. National Environmental Policy Act

NHTSA has also analyzed this proposed rule under the National Environmental Policy Act and determined that it would not have any significant impact on the quality of the human environment.

4. Executive Order 12612 (Federalism)

NHTSA has analyzed this proposed rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that it would not have significant federalism implications to warrant the preparation of a Federalism Assessment.

5. Civil Justice Reform

This proposed rule would not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Procedures for Submitting Comments

Interested persons are invited to submit comments on this advance notice of proposed rulemaking. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for this notice will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for future rulemaking. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Issued on: April 2, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–8648 Filed 4–5–96; 8:45 am]

BILLING CODE 4910–59–P

49 CFR Part 571

[Docket No. 96–31; Notice 1]

RIN 2127–AF87

Federal Motor Vehicle Safety Standards; Windshield Defrosting and Defogging Systems

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

ACTION: Notice of proposed rulemaking.

SUMMARY: NHTSA sets forth alternative proposals for changing the Federal Motor Vehicle Safety Standard on windshield defrosting and defogging systems. The proposals range from applying performance requirements to the systems in light trucks and multipurpose passenger vehicles to rescinding the Standard. This action is part of NHTSA's efforts to implement the President's Regulatory Reinvention Initiative.

DATES: Comments must be received on or before May 23, 1996.

ADDRESSES: Comments must refer to the docket and notice numbers cited at the beginning of this notice and be submitted to: Docket Section, Room 5109, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested that 10 copies of the comments be provided. The Docket Section is open on weekdays from 9:30 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: For technical issues: Mr. Richard Van Iderstine, Office of Vehicle Safety Standards, NPS–21, telephone (202) 366–5280, FAX (202) 366–4329.

For legal issues: Ms. Dorothy Nakama, Office of Chief Counsel, NCC–20, telephone (202) 366–2992, FAX (202) 366–3820.

Both may be reached at the National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Comments should not be sent or faxed to these persons, but should be sent to the Docket Section.

SUPPLEMENTARY INFORMATION:

President's Regulatory Reinvention Initiative

Pursuant to the March 4, 1995, directive ''Regulatory Reinvention Initiative'' from the President to the heads of departments and agencies, NHTSA undertook a review of its regulations. During the course of this review, NHTSA identified regulations that it could propose to eliminate as unnecessary or to amend to improve their comprehensibility, application, or appropriateness. Among these regulations is Federal Motor Vehicle Safety Standard No. 103, *Windshield defrosting and defogging systems* 49 CFR 571.103). After reviewing below the background of the standard, NHTSA explains why it is proposing changes to Standard No. 103.

Background of Standard No. 103

Standard No. 103 was issued in 1967 (32 FR 2408) as one of the initial Federal Motor Vehicle Safety Standards (FMVSSs). The standard, applicable to passenger cars, multipurpose passenger vehicles (MPVs), trucks, and buses, specifies in S4.1 that each of these vehicles shall have a windshield defrosting and defogging system.

Standard No. 103 specifies performance requirements for the windshield defrosting and defogging systems in passenger cars, but not for the systems in the other types of vehicles covered by the Standard. S4.2 of Standard No. 103 specifies that each passenger car windshield defrosting and defogging system shall meet specified provisions of SAE Recommended Practice J902 (SAE J902), ''Passenger Car Windshield Defrosting Systems,'' August 1964.

SAE J902 establishes uniform test procedures and minimum performance requirements for the ''critical area'' of the windshield and for the ''entire windshield.'' SAE J902 prescribes a laboratory evaluation of defroster systems during which a known quantity of water is sprayed on the windshield, forming an ice coating, to provide uniform and repeatable test results. However, while Standard No. 103 incorporates the test procedures and performance requirements of SAE J902, it does not incorporate the SAE J902's definition of ''critical area'' and ''entire windshield.'' Instead, Standard No. 103 substitutes areas of the windshield determined in accordance with Standard No. 104, ''Windshield Wiping and Washing Systems.'' It substitutes Area C from Standard No. 104 for the ''critical area'' and Area A for the ''entire windshield.''

Vehicles manufactured for sale in the ''noncontinental United States,'' which have tropical climates and where snow and icing conditions are thus virtually unknown, have the option of either meeting S4.1 of Standard No. 103 (i.e., installing a windshield defrosting and defogging system) or installing a windshield defogging system which operates either by applying heat to the windshield or by dehumidifying the air inside the passenger compartment of the vehicle. Since air conditioners dehumidify the air in addition to cooling it, all vehicles with air conditioners have defogging capability,

whether or not they have a separate defrosting and defogging system.

Standard No. 103 has had a fairly uneventful history. Very few changes have been made to it since its promulgation, other than an amendment in 1994 to accommodate electric-powered vehicles.

NHTSA's Review of Standard No. 103 and Proposals for Change

Based on its review of Standard No. 103 under the President's Regulatory Reform Initiative, NHTSA offers three proposals for changes to the Standard and seeks public comment on each proposal. The proposals are: (1) Rescinding the Standard; (2) upgrading the light truck and MPV requirements to make them equivalent to the passenger car requirements; and (3) eliminating duplicative language by combining Standard Nos. 103 and 104 into a single safety standard and retitling it *Windshield clearance systems,* since Standard No. 103 presently references provisions in Standard No. 104.

Due to the relative simplicity of the proposals, the agency is not setting forth precise regulatory language for implementing the proposals.

In addition to seeking comments on each of the three proposals, the agency also seeks comment on the option of making no changes to the Standard.

1. Proposal One—Rescind Standard No. 103

NHTSA's first alternative proposal is to rescind Standard No. 103. To adopt this proposal, NHTSA would conclude that even if Standard No. 103 should be rescinded, manufacturers would continue to provide means to defrost and defog windshields. It is widely recognized that, in icing or highly humid conditions, a motor vehicle must have some means for keeping the windshield clear so that the driver can view the road ahead. More important, the fact that light trucks and MPVs provide defrosting and defogging performance comparable to that in passenger cars, despite the absence of performance requirements for light trucks and MPVs, could be said to indicate that passenger cars would continue to provide that level of performance in the absence of performance requirements.

Market forces (in the form of customer demand) would be highly likely to ensure that most vehicle manufacturers continue to provide windshield defrosting and defogging systems in motor vehicles. Customer magazines and consumers themselves would be likely to react negatively to vehicles that do not have adequate windshield defrosting and defogging systems. It should also be noted that nearly 75 percent of all cars have a rear defroster, although this is not required by Standard No. 103, indicating the working of market forces in this area.

NHTSA notes that if Standard No. 103 were rescinded, some States might adopt regulations requiring windshield defrosting and defogging systems or even regulate their performance. Were the States to adopt such regulations, there would not be any express preemption under 49 U.S.C. section 30103(b), Preemption, of State requirements dissimilar to those currently in Standard No. 103. It also does not appear likely that a court would find any implied Federal preemption of State requirements, regardless of whether they are similar or dissimilar to those in the Standard. A State regulation addressing the same subject as a rescinded Federal regulation would be impliedly preempted only if the State regulation conflicted with or otherwise frustrated achieving the purposes of the Federal statute. Even if the agency were to conclude that no regulation, Federal or State, of windshield defrosting and defogging is necessary, it is not readily apparent how State regulations, even ones differing from those of another State, on this subject would conflict with Federal law or have a deleterious effect on motor vehicle safety.

2. Proposal Two—Upgrading the MPV and Light Truck Requirements to Make Them Equivalent to the Passenger Car Requirements

In the last decade, sales of light trucks and multipurpose passenger vehicles (MPV) have increased substantially. In addition, these vehicles have been increasingly used to transport passengers. As a result, the numbers of deaths and injuries associated with those vehicles have substantially increased.

In response, NHTSA has amended some FMVSSs to ensure that the public is afforded the same level of protection whether they ride in a passenger car, light truck, or MPV. For example, by model year 1998, the requirements for key FMVSSs such as Standard No. 208, *Occupant crash protection,* and Standard No. 214, *Side impact protection,* will be virtually identical for passenger cars, light trucks, and MPVs.

In keeping with the trend to make FMVSS requirements uniform for all three of these types of vehicles, under this proposal NHTSA would specify performance requirements in Standard No. 103 for light trucks and MPVs. As noted above, Standard No. 103 presently specifies no requirements for light trucks and MPVs, other than that they have a windshield defrosting and defogging system. This proposal would establish minimum performance requirements for windshield defrosting and defogging systems in light trucks and MPVs, including minimum requirements regarding the portions of the windshield that must be defrosted.

As part of this proposal, the agency would extend passenger car requirements for light trucks and MPVs, by extending S4.3's *Demonstration procedure* to light trucks and MPVs. However, the minimum windshield areas to be defrosted for light trucks and MPVs may differ somewhat than those for passenger cars, since the windshields of these various vehicle types differ, and the driver views different windshield areas of each vehicle type while viewing the road ahead. Because of potential differences in windshield viewing areas between the passenger cars and other vehicle types, NHTSA seeks public comment on extending S.4.3 to light trucks and MPVs.

Any minimum requirements for windshield defrosting in light trucks and MPVs would likely be based on the defrosted areas specified in SAE Recommended Practice J382 (SAE J382) ''Windshield Defrosting Systems Performance Requirements—Trucks, Buses, and Multipurpose Vehicle'' (January 1971). Paragraph 3.1 of SAE J382 describes the portions of the windshield that must be defrosted as follows: Area A (the largest area, encompassing both the driver's and front passenger's view), Area B (an area somewhat smaller than Area A) and Area C (the smallest area, in front of the driver), described in Table 1 of SAE J382.

NHTSA believes that if requirements concerning minimum windshield defrosted areas were to be adopted for light trucks and MPVs, the costs, if any, incurred by manufacturers would be slight. It appears that virtually all light trucks and MPVs already meet SAE J382's minimum defrosted area requirements, thus eliminating any possibility of a need for design changes. Nevertheless, NHTSA seeks public comment on cost increases. The potential for a slight cost increase comes from the possibility that the manufacturers may not currently be doing as much performance testing as they would if those requirements were adopted.

The agency does not propose to extend Standard No. 103 to heavier trucks and buses, as it is not aware of an SAE or other standard for windshield

defrosting and defogging systems on heavier trucks and buses. NHTSA therefore requests information whether there are any industry (or other) standards for windshield defrosting and defogging systems on trucks and buses with a gross vehicle weight rating (GVWR) over 10,000 lbs. If such a standard exists, should NHTSA consider including it in Standard No. 103, making Standard No. 103 apply to trucks and buses with a GVWR over 10,000 lbs.?

Consistent with the agency's intent to make Standard No. 103 as uniform as possible for all vehicle types, if Proposal Two is adopted, NHTSA also proposes to remove from Standard No. 103, S4.(b) that applies to vehicles sold in the ''noncontinental United States.'' As earlier described, S4.(b) provides that each passenger car, multipurpose passenger vehicle, truck and bus manufactured for sale in the noncontinental U.S. may, at the option of the manufacturer, have a windshield defogging system which operates differently than the generally applicable requirements. NHTSA requests public comment whether S4.(b) should be removed.

3. Proposal Three—Combining Standard Nos. 103 and 104

NHTSA's third alternative proposal is to combine Standards Nos. 103 and 104 to make the standards easier to comprehend and apply. The two standards are already substantially interconnected. Standard No. 103 references tables in Standard No. 104 to establish the angles used in locating the defrosted areas. If the two standards were combined, the single standard would be titled as a standard on windshield clearance systems. In addition to seeking comments on this proposal, NHTSA would entertain comments on combining this proposal with the preceding proposal.

Rulemaking Analyses and Notices

1. Executive Order 12866 and DOT Regulatory Policies and Procedures

This notice of proposed rulemaking was not reviewed under Executive Order 12866 (Regulatory Planning and Review). NHTSA has analyzed the impact of this rulemaking action and determined that it is not ''significant'' within the meaning of the Department of Transportation's regulatory policies and procedures.

For Proposal One, NHTSA tentatively concludes that if that proposal were adopted as a final rule, there may be slight cost savings to industry, since manufacturers would no longer need to test vehicles for compliance with Standard No. 103. The cost savings would be so minimal that NHTSA is unable to quantify them. NHTSA tentatively believes manufacturers likely would continue to provide essentially the same level of defrosting and defogging capability as they currently provide.

With respect to Proposal Two, it is NHTSA's tentative conclusion that adoption of that proposal might result in only slightly increased costs to industry, due to testing to new specifications. However, these potential increased costs are so minimal that NHTSA is unable to quantify them.

If Proposal Three were adopted as a final rule, NHTSA anticipates no changes in costs to industry, since no substantive changes to Standard No. 103 would be made.

Based on the foregoing, the agency concludes that the potential impacts are so minimal as not to warrant preparation of a full regulatory evaluation.

2. Regulatory Flexibility Act

NHTSA has also considered the impacts of this rule under the Regulatory Flexibility Act. I hereby certify that this rule would not have a significant economic impact on a substantial number of small entities. As noted above, NHTSA tentatively concludes that only Proposal Two, if adopted as a final rule, might result in slightly increased costs to manufacturers, due to testing to new specifications. Since the cost of new motor vehicles would not be affected, small entities which purchase motor vehicles would similarly not be affected. Therefore, an initial regulatory flexibility analysis has not been prepared.

3. National Environmental Policy Act

NHTSA has also analyzed this proposed rule under the National Environmental Policy Act and determined that it would not have any significant impact on the quality of the human environment.

4. Executive Order 12612 (Federalism)

NHTSA has analyzed this proposed rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that it would not have significant federalism implications to warrant the preparation of a Federalism Assessment.

5. Civil Justice Reform

This proposed rule would not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Procedures for Submitting Comments

Interested persons are invited to submit comments on this notice of proposed rulemaking. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for this notice will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Issued on: April 2, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–8647 Filed 4–5–96; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AD20

Endangered and Threatened Wildlife and Plants; Proposed Special Rule for the Conservation of the Northern Spotted Owl on Non-Federal Lands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Extension of Public Comment Period.

SUMMARY: The Service issued a Draft Environmental Alternatives Analysis (EAA) for the proposed special rule for the conservation of the northern spotted owl on non-Federal lands in California and Washington, which is currently out for public comment. The proposed special rule was published in the Federal Register on February 17, 1995 (60 FR 9484). The comment period for both documents was scheduled to end on April 8, 1996. The intent of this document is to extend the comment period to June 3, 1996.

The Service has received numerous requests to extend the comment period for these documents from state regulatory agencies, conservation groups and industry officials in both Washington and California. In addition, the State of Washington has prepared a proposed rule under authority of the Washington Timber Practices Board that would address impacts of forest practices to the northern spotted owl. The state has asked the Service to consider their proposed state rule as a possible alternative to the current special rule proposed by the Service. The Service seeks additional comments from the interested public, agencies, and interest groups on the Draft EAA, the proposed special rule, and on the State of Washington's proposed rule as a possible alternative to the rule currently proposed by the Fish and Wildlife.

DATES: The comment period for written comments is extended until June 3, 1996.

ADDRESSES: Comments and materials concerning this Draft Environmental Alternatives Analysis and the proposed rule should be sent to Mr. Michael J. Spear, Regional Director, Region 1, U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181. The complete file for this proposed rule will be available for public inspection, by appointment during normal business hours, at the U.S. Fish and Wildlife Service, Office of Technical Support for Forest Resources, 333 S.W. 1st Avenue, 4th Floor, Portland, Oregon 97204, (503/326–6218).

FOR FURTHER INFORMATION CONTACT: Mr. Curt Smitch, Assistant Regional Director, Region 1, U.S. Fish and Wildlife Service, 3704 Griffin Lane S.E., Suite 102, Olympia, Washington 98501, (206/534–9330); or Ron Crete, Office of Technical Support for Forest Resources, 333 S.W. 1st Avenue, Portland, Oregon 97232–4181, (503/326–6218).

SUPPLEMENTARY INFORMATION: The Service has prepared a draft document called an Environmental Alternatives Analysis (EAA) that describes and analyzes the potential environmental effects of the proposed special rule and six alternatives for the conservation of the northern spotted owl on non-Federal lands in Washington and California. Each alternative would revise to varying degrees the Federal prohibitions and exceptions regarding the incidental take of spotted owls on non-Federal lands in California and Washington. The proposed rule, analyzed in the Draft EAA as Alternative 3, was published in the Federal Register on February 17, 1995 (60 FR, No. 33, Page 9484).

In addition, the State of Washington has prepared a proposed rule to address the impacts of forest practices on northern spotted owls in that state. The state's proposed rule is similar in many ways to the Service's proposed 4(d) rule, although there are some differences. The state has asked the Service to consider the state rule as an alternative to the Service's current proposed rule.

The Service is in the process of analyzing the state rule, and plans to publish in the Federal Register within two weeks a summary of the state's rule and a comparison of that rule with the Service's proposed rule. The state's comment period for their proposed rule has expired, however, the Service is interested in receiving comment from the interested public regarding the possibility of the Washington state rule as an alternative to the Service's currently proposed special rule. To receive a copy of the State of Washington proposed rule and the state's Draft Environmental Impact Statement, write to Washington State Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504–7012, Attn: Judith Holter.

The Service's Draft EAA, including all maps, tables, charts, and graphs, remains available on the Internet's World Wide Web at http://www.r1.fws.gov/4deaa/welcome.html.

Dated: April 3, 1996.

Don Weathers,

Acting Regional Director, U.S. Fish and Wildlife Service, Region 1, Portland, Oregon.

[FR Doc. 96–8766 Filed 4–5–96; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 681

[Docket No. 960401094–6094–01; I.D. 022296D]

RIN 0648–AI32

Western Pacific Crustacean Fisheries; Amendment 9

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule to implement Amendment 9 to the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (FMP). The rule would establish a new annual harvest limitation program for the Northwestern Hawaiian Islands (NWHI) lobster fishery based on the status of stocks and an explicit level of risk of overfishing. This would eliminate operational problems with the current quota system. Current prohibitions on retaining juvenile lobsters and berried lobsters would be eliminated. The rule would establish framework procedures to implement regulatory changes if needed in the future. The rule is intended to maintain the productivity of the stocks while providing a reasonable opportunity for permit holders to participate in the fishery and to maintain their markets. The changes also would improve the

administration of the management program and improve enforcement efforts.

DATES: Written comments must be received by May 23, 1996.

ADDRESSES: Copies of Amendment 9 and the associated environmental assessment and Regulatory Impact Review/Initial Regulatory Flexibility Analysis (IRFA) may be obtained from Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1405, Honolulu, HI 96813.

Comments on the proposed rule should be sent to Hilda Diaz- Soltero, Director, Southwest Region, NMFS (Regional Director), 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802. Send comments on the modifications to approved collection-of-information requirements to the Regional Director and to the Office of Information and Regulatory Affairs, Office of Management and Budget, ATTN: Paperwork Reduction Project 0648–0204 and 0648–0214, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds at (808) 522–8220; Svein Fougner at (310) 980–4034; or Alvin Z. Katekaru at (808) 973–2985.

SUPPLEMENTARY INFORMATION: The FMP was originally approved in 1983 and governs fishing for spiny and slipper lobster in the NWHI. The FMP originally included a variety of measures that have traditionally been used in crustacean fisheries, including size limits, a ban on retention of berried female lobsters, area closures, and escape vents for sublegal lobsters. At that time, the stock was estimated to be able to support a fishery of one million or more lobsters per year.

The FMP has been amended eight times as more information has become available and problems in the fishery have been identified. In 1992, through Amendment 7, an annual quota, closed season, and limited entry program were established (57 FR 10437, March 26, 1992) in response to a dramatic decline in lobster landings and catch-per-unit effort (CPUE) from 1990 through 1991. The annual quota is derived by a formula that reflects a ''constant escapement'' management goal; that is, the harvest is limited to the surplus above a given ''optimum'' biomass of about 1.4 million lobsters. Amendment 8 to the FMP, which NMFS approved in 1994, eliminated a landing requirement for permit renewal and modified notification and reporting procedures (Final rule, 59 FR 56004, November 10, 1994).

Amendment 9 is the result of a comprehensive review by NMFS of the quota-setting procedure established under Amendment 7. The review was prompted by the difficulties in implementing the current annual quota process and because information suggests that the overall productivity of lobster stocks might be significantly lower than estimated in the late 1970s and early 1980s. There appear to have been major environmental shifts that have reduced overall marine resource productivity in the NWHI, as declines similar to that seen in lobster stocks are seen in sea bird populations as well as in Hawaiian monk seals. Fishing mortality also is believed to have impacted lobster productivity.

Scientists from the NMFS Honolulu Laboratory, Southwest Fisheries Science Center, thoroughly reviewed the lobster stock model and analyzed three alternative harvest policies for establishing an annual quota or harvest guideline: Constant escapement, constant catch, and constant harvest rate. Details of this analysis are contained in Appendix 4 of Amendment 9.

On August 9, 1995, the Council approved Amendment 9, which was received by NMFS on February 21, 1996. NMFS will approve, disapprove, or partially disapprove Amendment 9 by May 24, 1996. See the Notice of Availability published on February 22, 1996 (61 FR 7771). Amendment 9 includes the following measures:

1. *Establish an annual harvest guideline based on a constant harvest rate and a specific level of risk of overfishing.* Under the constant harvest rate policy, the harvest guideline, which is expressed in terms of the total number of lobsters (spiny and slipper combined), would be proportional to the estimated exploitable population size. Harvest guidelines would be raised or lowered as the stock increased or decreased, capitalizing on strong years and offering greater protection during less productive periods. Under the proposed alternative, the projected average catch would be 288,000 lobsters with a CPUE of 1.2 lobsters (total) and an average Spawning Potential Ratio (SPR) of 0.5 (the overfishing level is 0.20 SPR).

The Council initially voted on a range of acceptable risk levels of overfishing (7.5–10.0 percent) on which to base the annual harvest guideline. The Council subsequently clarified its position (via fax on November 2, 1995) and selected 10 percent as the risk level to be applied by the Regional Director to determine the annual harvest guideline. The Council believes that this is consistent with its Scientific and Statistical Committee's (SSC) view that, with the conservative nature of the harvest guideline and stock model, a 10 percent level of risk of dropping below the 0.2 SPR threshold for overfishing in any given year is biologically acceptable. The Council and its SSC believe this presents an extremely low risk of overfishing the NWHI lobster stocks. Accordingly, the Council has concluded that the constant harvest rate strategy is risk averse, which is consistent with the prevention of overfishing as mandated by the Magnuson Fishery Conservation and Management Act (Magnuson Act).

The harvest guideline would be determined by the Regional Director. The harvest guideline would be published in the Federal Register no later than March 31 each year, and the Regional Director would directly notify each permit holder of the harvest guideline by mail or by phone. The harvest guideline would be used as an objective, but the Regional Director would be expected to close the fishery as close as practicable to the date on which the harvest guideline is projected to be reached based on a continuing review of catch and effort data provided by permit holders.

2. *Allow the retention of egg-bearing (''berried'') female lobsters and eliminate size limits.* The FMP and implementing regulations prohibit fishers from retaining berried lobsters or lobsters with a tail width of less than 50 mm. While definitive data are not available, there is good reason to believe that the mortality of small and berried lobsters that are caught and released is very high. The lobsters share the NWHI with large and relatively lightly fished stocks of predators including snappers, jacks, and octopus. The NMFS Honolulu laboratory has documented on videotape predation on released lobsters from a research vessel. Common fishing practices result in lobsters being out of the water for periods of 30 minutes or more. Lobsters may die from exposure on a vessel, may be injured in handling and not be able to recover after release, or may suffer mortality from predation upon release. The members of the SSC agreed that mortality is probably high, and concluded that a 75 percent mortality rate was appropriate for modeling the effects of incidental mortality under different management strategies and risk levels. The SSC noted that the retention of all lobsters was beneficial when the mortality rate was higher than 25 percent.

The Council discussed the issues and concluded it would like to minimize the waste associated with handling and release mortality by eliminating the

prohibitions on retention of small or berried lobsters. Therefore, Amendment 9 would allow, but not require, retention of small and berried lobsters. The existing escape vent requirement would remain in place to minimize the harvest of immature lobsters in the fishery.

The Council believes that the potential for highgrading (i.e., the retention of only more valuable lobsters in the total catch) is low when there are two or more permit holders competing for the harvest guideline. Since this is a derby fishery, in which the permit holders fish as quickly as possible without trip or vessel limits, a permit holder who chooses not to retain all of the catch provides a greater opportunity for competitors to increase their portion of a fixed harvest limit. Since NMFS expects that few (if any) vessels will carry observers, estimates of highgrading will be made using catch and effort data. If these data indicate that juvenile or berried lobsters are not being landed (but instead being discarded), NMFS will account for such discards in calculating the subsequent year's harvest guideline. Therefore, highgrading would result in a decrease in the following year's harvest guideline.

NMFS recognizes that the retain-all strategy is a new approach to the management of lobster. Success of this approach depends on the actual mortality of discarded lobsters and how well uncertainties about the actual mortality are taken into account. Likewise, if significant highgrading occurs, the benefits gained from a retain-all approach could be substantially reduced. In view of these uncertainties, NMFS specifically requests comments on the proposed elimination of the size limits and of the prohibition on retaining berried females. NMFS also specifically requests comments on the potential for, and possible problems resulting if, there is significant highgrading.

3. *Eliminate the in-season quota adjustment.* Under the current system, NMFS announces an initial quota in February and announces a final quota as soon as practicable after the first month of fishing. The in-season quota adjustment has proven to be unworkable, given the extreme sensitivity of the quota formula to changes in CPUE. For example, in 1994, the initial quota was 200,000 lobsters, but after applying the CPUE from the first month of fishing to the formula in the FMP, NMFS calculated the final quota to be only 20,000 lobsters. The fishery was closed by emergency action because the actual catch had already exceeded the final quota by the time the final quota was determined. The formula used to derive the initial quota reduces variability through the use of a long time-series of data; however, using data from the first month of fishing to derive the final quota reintroduces variability. Under Amendment 9, the harvest guideline would be set once annually and not be adjusted during the year.

4. *Authorize the Regional Director to close the fishery.* The regulations do not now authorize closure of the fishery by direct notice to the permit holders. Therefore, there can be considerable delay between determination of the likely date the fishery would be expected to reach its harvest limit and the actual publication of a document in the Federal Register. The Council concluded that the fishery is sufficiently small (there are only 15 persons with limited entry permits) that direct notice to permit holders by telephone or radio would be feasible and would provide the most effective means of ensuring timely closure of the fishery with minimal likelihood of premature or late closure.

5. *Establish broad framework procedures for future regulatory changes.* The FMP currently has framework procedures dealing with protected species conservation, and the annual harvest guideline is set under a specific framework (i.e., formula). The Council concluded that flexibility to consider future changes in management measures under broad framework procedures would be advantageous, rather than relying on the lengthy procedures of the FMP amendment process. In the Council's view, the new framework procedures of Amendment 9 would provide a mechanism for more rapid response to new information than would the FMP amendment process.

6. *Conduct a 5-year review of the new program.* The Council is aware that the proposed new management approach of Amendment 9 would be a unique approach for crustacean fishery management and warrants a complete review of effectiveness. There would be an annual stock assessment and annual report on the fishery, but the overall management program should be evaluated to determine how the stocks and the permit holders have been affected. Therefore, Amendment 9 would commit the Council to a full review of the program in 5 years.

This proposed rule would eliminate the requirement that fishers notify NMFS in advance of plans to embark on each fishing trip, so that NMFS may place observers on the fishing vessel. Although the single vessel fishing in 1994 under an Experimental Fishing Permit carried a NMFS observer, NMFS lacks the resources to send observers on lobster trips on a regular basis. Therefore, NMFS proposes to relieve fishermen of the burden of reporting each trip in advance. This proposal accords with President Clinton's directive that agencies reduce public reporting requirements.

No substantive changes were made in the proposed regulations as submitted by the Council. The proposed rule includes some technical changes to the current regulations. These include changes in the definitions for clarity, eliminating the permit renewal process as permits would not have a fixed expiration date, authorizing any NMFS employee designated by the Regional Director to access sales data, and removing gender specific language.

Classification

Section 304(a)(1)(D) of the Magnuson Act requires NMFS to publish regulations proposed by a Council within 15 days of receipt of the amendment and regulations. At this time, NMFS has not determined that Amendment 9 is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. In making that determination, NMFS will take into account the data, views, and comments received during the comment period.

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

The Council prepared an IRFA as part of the regulatory impact review, which describes the impact this proposed rule would have on small entities, if adopted. To the extent there are impacts, they are expected to be beneficial. Under the proposed harvest guideline, there will likely be fewer years in which the fishery is closed. The proposed harvest strategy would eliminate the prohibitions on retaining small or berried lobsters. The increased harvest guideline and reduction in costs may result in a substantial increase of gross annual revenues. All vessels in this fishery (15 vessels have permits) are considered small entities. No new reporting, recordkeeping, or compliance requirements would be imposed by this rule. No Federal rules are known to duplicate, overlap, or conflict with this rule. The reasons for, objectives of, and legal basis for this rule are described elsewhere in this preamble. Multiple alternatives are analyzed in the IRFA. A copy of the IRFA is available from, and public comments on the IRFA may be sent to, the Council (see **ADDRESSES**).

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

This rule includes a reduction in collection-of-information requirements subject to the Paperwork Reduction Act. The current rule, which was approved by the Office of Management and Budget (OMB) under OMB Control No. 0648–0204, requires that permits be renewed annually. Under the proposed rule, permits would be effective until modified, suspended, or revoked. It would be the responsibility of the permit holder to advise NMFS of any changes in permit information such as change of ownership or the vessel covered by the permit. The estimated burden would decrease from one-half hour per year to one-half hour per 3 years. Vessel owners also would no longer be required to notify NMFS prior to departing on each fishing trip, a requirement approved by OMB under OMB Control No. 0648–0214. This would reduce the estimated burden by 5 minutes per vessel per trip, or up to 30 minutes per year. The total burden is estimated to decrease by about 10 hours per year. A request for approval of this modification is being submitted to OMB for approval. Send comments regarding these burden estimates or any other aspect of these collection-of-information requirements, including suggestions for reducing the burden, to the Regional Director and to OMB (see **ADDRESSES**).

The Southwest Region, NMFS, has initiated formal consultation under section 7 of the Endangered Species Act to consider the possible impacts of the fishery, as it would operate under the proposed rule, on Hawaiian monk seals and other listed species and listed critical habitat. The results of the consultation will be considered in determining whether to approve the proposed amendment.

List of Subjects in 50 CFR Part 681

Fisheries, Reporting and recordkeeping requirements.

Dated: April 4, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 681 is proposed to be amended as follows:

PART 681—WESTERN PACIFIC CRUSTACEAN FISHERIES

1. The authority citation for part 681 continues to read as follows:

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

2. In § 681.2, the definitions of ''Carapace length'', ''Final quota'', ''Initial quota'', ''Processing'', ''Processor'', ''Receiving Vessel'', ''Tail width of slipper lobster'', ''Tail width of spiny lobster'', and ''U.S.-harvested lobster'' are removed; the definition of ''Harvest guideline'' is added in alphabetical order, and the definition of ''Slipper lobster'' is revised to read as follows:

§ 681.2 Definitions.

* * * * *

Harvest guideline means a specified numerical harvest objective.

* * * * *

Slipper lobster means any crustacean of the family *Scyllaridae*.

* * * * *

3. In § 681.4, paragraphs (b)(2), (d), and (f) are revised, paragraph (g) is removed, paragraphs (h) through (l) are redesignated as paragraphs (g) through (k) respectively, to read as follows:

§ 681.4 Permits.

* * * * *

(b) * * *

(2) Each application must be submitted on a Southwest Region Federal Fisheries application form obtained from the Pacific Area Office containing all the necessary information, attachments, certification, signature, and fees.

* * * * *

(d) *Change in application information*. Any change in information on the permit application form submitted under paragraph (b)(2) of this section must be reported to the Pacific Area Office at least 10 days before the effective date of the change. Failure to report such change is a basis for permit sanctions.

* * * * *

(f) *Expiration*. Permits issued under this section will remain valid indefinitely unless transferred, revoked, suspended, or modified under 15 CFR part 904.

* * * * *

4. In § 681.5, paragraphs (b) and (d) are removed, paragraphs (c) and (e) are redesignated as paragraphs (b) and (c) respectively, and paragraph (a) and newly redesignated (b) are revised to read as follows:

§ 681.5 Recordkeeping and reporting.

(a) *Daily Lobster Catch Report*. The operator of any vessel engaged in commercial fishing for lobster subject to this part must maintain on board the fishing vessel, while fishing for lobster, an accurate and complete NMFS Daily Lobster Catch Report on a form provided by the Regional Director. All information specified on the form, which has been approved under the Paperwork Reduction Act, must be recorded on the form within 24 hours after the completion of the fishing day. The Daily Lobster Catch Reports for a fishing trip must be submitted to the Regional Director within 72 hours of each landing of lobsters.

(b) *Lobster Sales Report*. The operator of any vessel engaged in commercial fishing for lobster subject to this part must submit to the Regional Director, within 72 hours of off-loading of lobster, an accurate and complete Lobster Sales Report on a form provided by the Regional Director, and attach packing or weigh-out slips provided to the operator by the first-level buyer(s), unless the packing/weigh-out slips have not been provided in time by the buyer(s). The form, which has been approved under the Paperwork Reduction Act, must be signed and dated by the vessel operator.

* * * * *

5. In § 681.7, paragraphs (a)(5), (b)(2) through (b)(4) are removed, paragraphs (b)(5) through (b)(14) are redesignated as paragraphs (b)(2) through (b)(11) respectively, and paragraph (b)(1)(i) through (b)(1)(v), newly redesignated paragraphs (b)(6), (b)(7), (b)(9), and (b)(11) are revised to read as follows:

§ 681.7 Prohibitions.

* * * * *

(b) * * *

(1) * * *

(i) Without a limited access permit issued under § 681.28;

(ii) By methods other than lobster traps or by hand for lobsters, as specified in § 681.22;

(iii) From closed areas for lobsters, as specified in § 681.21;

(iv) During a closed season, as specified in § 681.27; or

(v) After the date announced by the Regional Director, as specified in § 681.29(b)(3), and until the fishery opens again in the following calendar year.

* * * * *

(6) Leave a trap unattended in the Management Area except as provided in § 681.22(f).

(7) Maintain on board the vessel or in the water, more than 1200 traps per fishing vessel, of which no more than

1100 can be assembled traps, as specified in § 681.22(e).

* * * * *

(9) Land lobsters taken in Permit Area 1 after the closure date announced by the Regional Director, as specified in § 681.29 (b)(3), until the fishery opens again the following year.

* * * * *

(11) Refuse to make available to an authorized officer and employee of NMFS designated by the Regional Director for inspection and copying any records that must be made available in accordance with § 681.11(a).

* * * * *

6. Section 681.10 is revised to read as follows:

§ 681.10 Observers.

All fishing vessels subject to this part must carry an observer when requested to do so by the Regional Director.

7. In § 681.11, paragraph (a) introductory text is revised to read as follows:

§ 681.11 Availability of records for inspection.

(a) Upon request, any first-level buyer must immediately allow an authorized officer and any employee of NMFS designated by the Regional Director, to access, inspect, and copy all records relating to the harvest, sale, or transfer of management unit species taken by vessels that have permits issued under this part or that are otherwise subject to this part, including, but not limited to information concerning:

* * * * *

8. Section 681.12 is added to subpart A to read as follows:

§ 681.12 Framework procedures.

(a) *Introduction*. New management measures may be added through rulemaking if new information demonstrates that there are biological, social, or economic concerns in Permit Areas 1, 2, or 3. The following framework process authorizes the implementation of measures that may affect the operation of the fisheries, gear, harvest guidelines, or changes in catch and/or effort.

(b) *Annual report*. By June 30 of each year, the Council-appointed Crustaceans Plan Team will prepare an annual report on the fisheries in the management area. The report shall contain, among other things, recommendations for Council action and an assessment of the urgency and effects of such action(s).

(c) *Procedure for established measures*. (1) Established measures are management measures that, at some time, have been included in regulations implementing the FMP, and for which the impacts have been evaluated in Council/NMFS documents in the context of current conditions.

(2) Following the framework procedures of Amendment 9 to the FMP, the Council may recommend to the Regional Director that established measures be modified, removed, or re-instituted. Such recommendation shall include supporting rationale and analysis, and shall be made after advance public notice, public discussion, and consideration of public comment. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Director.

(d) *Procedure for New Measures*. (1) New measures are management measures that have not been included in regulations implementing the FMP, or for which the impacts have not been evaluated in Council/NMFS documents in the context of current conditions.

(2) Following the framework procedures of Amendment 9 to the FMP, the Council will publicize, including by Federal Register notice, and solicit public comment on, any proposed new management measure. After a Council meeting at which the measure is discussed, the Council will consider recommendations and prepare a Federal Register notice summarizing the Council's deliberations, rationale, and analysis for the preferred action, and the time and place for any subsequent Council meeting(s) to consider the new measure. At subsequent public meeting(s), the Council will consider public comments and other information received to make a recommendation to the Regional Director about any new measure. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Director.

9. In Subpart B, §§ 681.21 and 681.22 are removed and §§ 681.23 through 681.32 are redesignated as §§ 681.21 through 681.30, respectively.

10. In newly redesignated § 681.25, in paragraphs (b) and (g)(1), the words ''He'' and ''he'' are removed and the words ''The Regional Director'' and ''the Regional Director'' are added in their place, respectively.

11. In newly redesignated § 681.26, in paragraphs (a) introductory text, (b)(1), and (b)(3), the words ''he'', ''He'', and ''He'' are removed and the words ''the Regional Director'', ''The Regional Director'', and ''The Regional Director'' are added in their place, respectively.

12. In newly redesignated § 681.28, paragraphs (b) and (c) are removed, paragraphs (d), (e), and (f) are redesignated as paragraphs (b), (c) and (d), respectively, and paragraphs (a)(8) and newly redesignated paragraph (c) are revised to read as follows:

§ 681.28 Limited access management program.

(a) * * *

(8) A limited entry permit has no fixed expiration date.

* * * * *

(c) *Replacement of a vessel covered by a limited access permit*. A limited access permit issued under this section may, without limitation as to frequency, be transferred by the permit holder to a replacement vessel owned by that person.

* * * * *

13. In newly redesignated § 681.29, the section heading is revised, and paragraph (c) is removed, paragraph (d) is redesignated as paragraph (c), and paragraphs (a) and (b) are revised to read as follows:

§ 681.29 Harvest limitation program.

(a) *General*. A harvest guideline for Permit Area 1 will be set annually for the calendar year and shall:

(1) Apply to the total catch of spiny and slipper lobsters; and

(2) Be expressed in terms of numbers of lobsters.

(b) *Harvest guideline*. (1) The Regional Director shall use information from daily lobster catch reports and lobster sales reports from previous years, and may use information from research sampling and other sources, to establish the annual harvest guideline in accordance with the FMP.

(2) NMFS shall publish a document indicating the annual harvest guideline in the Federal Register by March 31 each year, and shall use other means to notify permit holders of the harvest guideline for the year.

(3) The Regional Director shall determine, on the basis of the information reported to NMFS during the open season by the operator of each vessel fishing, when the harvest guideline will be reached. Notice of this determination, with a specification of the date after which fishing for lobster or further landings of lobster taken in Permit Area 1 is prohibited, will be announced to each permit holder and operator of each permitted vessel not less than 7 days prior to the effective date.

* * * * *

14. Newly redesignated § 681.30 is revised to read as follows:

§ 681.30 Five-year review.

Five years after the effective date of the rule implementing Amendment 9, the Council, in cooperation with the NMFS, will conduct a review of the

effectiveness and impacts of the NWHI management program, including biological, economic, and social aspects of the fishery.

[FR Doc. 96–8767 Filed 4–5–96; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 61, No. 68
Monday, April 8, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Modification of Total Amount of Tariff-rate Quota for Imported Raw Cane Sugar

AGENCY: Office of the Secretary, USDA.
ACTION: Notice.

SUMMARY: This notice modifies the aggregate quantity of raw cane sugar that may be entered under subheading 1701.11.10 of the Harmonized Tariff Schedule of the United States (HTS) during fiscal year 1996 (FY 96). As modified, such aggregate quantity is 2,017,195 metric tons, raw value.

EFFECTIVE DATE: April 1, 1996.

ADDRESSES: Inquiries may be mailed or delivered to the Sugar Team Leader, Import Policy and Programs Division, Foreign Agricultural Service, Room 5531, South Building, U.S. Department of Agriculture, Washington, DC 20250–1000.

FOR FURTHER INFORMATION CONTACT: Stephen Hammond (Sugar Team Leader); telephone: 202–720–1061.

SUPPLEMENTARY INFORMATION: Paragraph (a)(i) of additional U.S. note 5 to chapter 17 of the HTS provides in part that ''* * * the aggregate quantity of raw cane sugar entered, or withdrawn from warehouse for consumption, under subheading 1701.11.10, during any fiscal year, shall not exceed in the aggregate an amount (expressed in terms of raw value), not less than, 1,117,195 metric tons, as shall be established by the Secretary of Agriculture (hereinafter referred to as ''the Secretary''), and the aggregate quantity of sugars, syrups, and molasses entered, or withdrawn from warehouse for consumption, under subheadings 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10 and 2106.90.44, during any fiscal year, shall not exceed in the aggregate an amount (expressed in terms of raw value), not less than 22,000 metric tons, as shall be established by the Secretary.'' On August 3, 1995, the Secretary established the aggregate quantity of 1,117,195 metric tons, raw value, of raw cane sugar that may be entered under subheading 1701.11.10 of the HTS and the aggregate quantity of 22,000 metric tons (raw value basis) for certain sugars, syrups, and molasses that may be entered under subheadings 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10, and 2106.90.44 of the HTS during FY 96. (60 FR 42142) On November 9, 1995, the Secretary increased the aggregate quantity of raw cane sugar that may be entered under subheading 1701.11.10 to 1,417,195 metric tons. Again on January 17, 1996, the Secretary increased the aggregate quantity of raw cane sugar that may be entered under subheading 1701.11.10 to 1,817,195 metric tons.

Paragraph (a)(ii) of additional U.S. note 5 to chapter 17 of the HTS provides that ''[w]henever the Secretary believes that domestic supplies of sugars may be inadequate to meet domestic demand at reasonable prices, the Secretary may modify any quantitative limitations which have previously been established * * *.'' The U.S. sugar production forecast for FY 96 released on March 12, 1995, in the World Agricultural Supply and Demand Estimates (WASDE) was reduced by 10,000 short tons raw value (STRV) to 7.5 million STRV from the WASDE production forecast released on January 16, 1996. The domestic wholesale refined sugar prices in the midwest market have been increasing since the tariff-rate quota increase was announced by the Secretary. During the first week of November 1995 the refined sugar price was 26.50 cents per pound. The refined sugar price during the first week of January 1996 was 28.75–29.25 cents per pound, which represents a 2.25 cent per pound increase. Today refined prices range from 29.50–31.50 cents per pound.

Paragraph (b)(i) of U.S. additional note 5 provides that ''[t]he quota amounts established [by the Secretary] may be allocated among supplying countries and areas by the United States Trade Representative.''

Notice

Notice is hereby given that I have determined, in accordance with paragraph (a)(ii) of additional U.S. note 5 to chapter 17 of the HTS, that an aggregate quantity of up to 2,017,195 metric tons, raw value, of raw cane sugar described in subheading 1701.11.10 of the HTS may be entered or withdrawn from warehouse for consumption during the period from October 1, 1995 through September 30, 1996.

This modified quota amount will be allocated among supplying countries and areas by the United States Trade Representative.

Signed at Washington, DC, on April 2, 1996.

Dan Glickman,
Secretary of Agriculture.

[FR Doc. 96–8618 Filed 4–5–96; 8:45 am]
BILLING CODE 3410–10–M

Animal and Plant Health Inspection Service

[Docket No. 96–009–1]

Availability of Environmental Assessments and Findings of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.
ACTION: Notice.

SUMMARY: We are advising the public that two environmental assessments and findings of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of permits to allow the field testing of genetically engineered organisms. The environmental assessments provide a basis for our conclusion that the field testing of the genetically engineered organisms will not present a risk of introducing or disseminating a plant pest and will not have a significant impact on the quality of the human environment. Based on its findings of no significant impact, the Animal and Plant Health Inspection Service has determined that environmental impact statements need not be prepared.

ADDRESSES: Copies of the environmental assessments and findings of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are requested

to call ahead on (202) 690–2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, BBEP, APHIS, Suite 5B05, 4700 River Road Unit 147, Riverdale, MD 20737–1237; (301) 734–7612. For copies of the environmental assessments and findings of no significant impact, contact Mr. Clayton Givens at (301) 734–7612; e-mail: cgivens@aphis.usda.gov. Please refer to the permit numbers listed below when ordering documents.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 (referred to below as the regulations) regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained or a notification acknowledged before a regulated article may be introduced into the United States. The regulations set forth the permit application requirements and the notification procedures for the importation, interstate movement, and release into the environment of a regulated article.

In the course of reviewing each permit application, APHIS assessed the impact on the environment that releasing the organisms under the conditions described in the permit application would have. APHIS has issued permits for the field testing of the organisms listed below after concluding that the organisms will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment. The environmental assessments and findings of no significant impact, which are based on data submitted by the applicants and on a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field tests.

Environmental assessments and findings of no significant impact have been prepared by APHIS relative to the issuance of permits to allow the field testing of the following genetically engineered organisms:

Permit No.	Permittee	Date issued	Organisms	Field test location
95–326–02 ...	University of Florida ..	2–23–96	*Metaseiulus occidentalis,* a predatory mite, genetically engineered to express a *lacZ* marker.	Florida.
95–324–01 ...	DNA Plant Technology Corporation.	2–29–96	*Vitis vinifera,* grape plants genetically engineered to express tolerance to sulfonylurea herbicides.	California.

The environmental assessments and findings of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372; 60 FR 6000–6005, February 1, 1995).

Done in Washington, DC, this 2nd day of April 1996.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–8627 Filed 4–5–96; 8:45 am]

BILLING CODE 3410–34–P

Cooperative State Research, Education, and Extension Service

Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92–463, 86 Stat. 770–776), the Cooperative State Research, Education, and Extension Service announces the following meeting:

Name: Committee of Nine.

Date: May 15, 1996; May 16, 1996.

Time: 8:30 a.m.–5 p.m.; 8:30 a.m.–Noon.

Place: USDA, CSREES, 14th & Independence Avenue, SW, Room 3854 South Building, Washington, DC 20250.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the state agricultural experiment stations.

Contact Person for Agenda and More Information: Dr. George E. Cooper, Executive Secretary, U.S. Department of Agriculture, Cooperative State Research, Education, and Extension Service, 14th and Independence Avenue SW., Room 3851, South Building, Washington, DC 20250, Telephone: 202–720–4088.

Done at Washington, DC, this 25th day of March 1996.

Bob H. Robinson,

Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 96–8619 Filed 4–5–96; 8:45 am]

BILLING CODE 3410–22–M

CIVIL RIGHTS COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Commission on Civil Rights.

DATE AND TIME: Friday, April 12, 1996, 9:30 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, NW, Room 540, Washington, DC 20425.

STATUS

Agenda

I. Approval of Agenda
II. Approval of Minutes of March 22, 1996 Meeting
III. Announcements
IV. Staff Director's Report
V. Program Planning Discussion
VI. Commission's Subpoena Power
VII. State Advisory Committee Appointments for California, Iowa, Mississippi, New Hampshire, North Carolina (interim) and Vermont
VIII. Future Agenda Items
11:00 a.m. Briefing on Consumer Racism and Sexism

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications (202) 376–8312.

Dated: April 3, 1996.

Miguel A. Sapp,

Parliamentarian.

[FR Doc. 96–8822 Filed 4–4–96; 2:36 pm]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the

provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Address Systems Information Survey.

Form Number(s): DC–20a.

Agency Approval Number: 0607–0772.

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Burden: 180 hours.

Number of Respondents: 2,150.

Avg Hours Per Response: Five minutes.

Needs and Uses: As part of the research and development effort for Census 2000, the Census Bureau is investigating various ways to build, improve, and maintain its master address file (MAF). The Census Bureau conducted a survey in 1993–4 of counties and Minor Civil Divisions (MCDs) that, at that time, did not use exclusively city style addresses (street name and house number) to determine the extent to which they use non city style addresses (rural route, box number, post office box, etc.) and their plans to convert to city style addresses in the future. We are using this information to create the mailing list from which the decennial census questionnaires will be mailed and to help determine the cost for Census 2000. We are requesting a reinstatement of this survey so that we may get updated information from counties and MCDs that have not yet converted on their plans to convert to city style addresses.

Affected Public: State, local or tribal government.

Frequency: One–time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Jerry Coffey, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Acting DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jerry Coffey, OMB Desk Officer, Room 10201, New Executive Office Building, Washington, DC 20503.

Dated: April 2, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–8517 Filed 4–5–96; 8:45 am]

BILLING CODE 3510–07–F

Estimates of the Voting Age Population for 1995

Under the requirements of the 1976 amendment to the Federal Election Campaign Act, Title 2, United States Code, Section 441a(e), I hereby give notice that the estimates of the voting age population for July 1, 1995, for each state and the District of Columbia are as shown in the following table.

I have certified these counts to the Federal Election Commission.

Dated: March 26, 1996.

Ronald H. Brown,

Secretary of Commerce.

ESTIMATES OF THE POPULATION OF VOTING AGE FOR EACH STATE AND THE DISTRICT OF COLUMBIA: JULY 1, 1995

[In thousands]

Area	Population 18 and over
United States	194,015
Alabama	3,173
Alaska	414
Arizona	3,025
Arkansas	1,834
California	22,796
Colorado	2,765
Connecticut	2,477
Delaware	538
District of Columbia	440
Florida	10,794
Georgia	5,277
Hawaii	878
Idaho	815
Illinois	8,704
Indiana	4,316
Iowa	2,177
Kansas	1,873
Kentucky	2,888
Louisiana	3,103
Maine	936
Maryland	3,770
Massachusetts	4,642
Michigan	7,030
Minnesota	3,364
Mississippi	1,935
Missouri	3,942
Montana	634
Nebraska	1,194
Nevada	1,132
New Hampshire	853
New Jersey	5,982
New Mexico	1,185
New York	13,599
North Carolina	5,396
North Dakota	471
Ohio	8,291
Oklahoma	2,400
Oregon	2,344
Pennsylvania	9,163
Rhode Island	752
South Carolina	2,729
South Dakota	523
Tennessee	3,946
Texas	13,324
Utah	1,277
Vermont	438
Virginia	5,006
Washington	1,013
West Virginia	1,406
Wisconsin	3,770
Wyoming	344

Note: These estimates are consistent with the population as enumerated in the 1990 census, and have not been adjusted for census coverage errors.

Source: Population Distribution Branch, Bureau of the Census, Washington, D.C.

For a description of methodology see Current Population Reports, P25–1127.

[FR Doc. 96–8025 Filed 4–5–96; 8:45 am]

BILLING CODE 3510–DT–M

Bureau of Export Administration

Transportation and Related Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Transportation and Related Equipment Technical Advisory Committee will be held April 30, 1996, 9:00 a.m., in the Herbert C. Hoover Building, Room 1617M(2), 14th Street between Constitution & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to transportation and related equipment or technology.

Public Session

1. Opening remarks by the Chairman and introductions.

2. Presentation of public papers or comments.

3. Review of Wassenaar Arrangement and its implementation in the Export Administration Regulations (EAR).

4. Update on status of directive on civil gas turbine engine ''hot section'' technology, developmental aircraft, and commercial communications satellites.

5. Report on Missile Technology Control Regime negotiations.

Closed Session

6. Discussion of matters properly classified under Executive Order 12958, 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 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 distribution of public presentation materials to Committee members, the Committee suggests that you forward your public presentation materials two weeks prior to the meeting 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 December 22, 1994, 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 Subcommittee thereof, dealing with the classified materials listed in 5 U.S.C. 552(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 or copies of the minutes call (202) 482–2583.

Dated: April 2, 1996

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 96–8519 Filed 4–5–96; 8:45 am]

BILLING CODE, 3510–DT–M

Foreign—Trade Zones Board

[Order No. 812]

Grant of Authority for Subzone Status, Thomson Consumer Electronics, Inc. (Consumer Electronic Products), Indianapolis, Indiana Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Indianapolis Airport Authority, grantee of Foreign-Trade Zone 72, for authority to establish special-purpose subzone status at the consumer electronics products warehouse/distribution facilities of Thomson Consumer Electronics, Inc., located at sites in Indianapolis, Bloomington and Marion, Indiana, was filed by the Board on October 31, 1995, and notice inviting public comment was given in the Federal Register (FTZ Docket 67–95, 60 FR 56567, 11/9/95); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby authorizes the establishment of a subzone (Subzone 72L) at the Thomson Consumer Electronics, Inc., facilities in Indianapolis, Bloomington and Marion, Indiana, at the locations described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 27th day of March 1996.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–8512 Filed 4–5–96; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–427–030]

Large Power Transformers From France; Preliminary Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of preliminary results of the antidumping duty administrative review; large power transformers from France.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty finding on large power transformers (LPTs) from France in response to a request by respondent, Jeumont Schneider Transformateurs (JST). This review covers shipments of this merchandise to the United States during the period June 1, 1994 through May 31, 1995.

We have preliminarily determined that sales have not been made below normal value (NV). Interested parties are invited to comment on these preliminary results. Parties who submit argument are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: April 8, 1996.

FOR FURTHER INFORMATION CONTACT: Elisabeth Urfer or Maureen Flannery, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–4733.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:

Background

The Treasury Department published in the Federal Register an antidumping finding on LPTs from France on June 14, 1972 (37 FR 11772). On June 6, 1995, we published in the Federal Register (60 FR 29821) a notice of opportunity to

request an administrative review of the antidumping finding on LPTs from France covering the period June 1, 1994 through May 31, 1995.

In accordance with 19 CFR 353.22(a)(1)(1995), JST requested that we conduct an administrative review of its sales. We published a notice of initiation of this antidumping duty administrative review on July 14, 1995 (60 FR 36260). The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of Review

Imports covered by the review are shipments of LPTs; that is, all types of transformers rated 10,000 kVA (kilovolt-amperes) or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electric power. The term ''transformers'' includes, but is not limited to, shunt reactors, autotransformers, rectifier transformers, and power rectifier transformers. Not included are combination units, commonly known as rectiformers, if the entire integrated assembly is imported in the same shipment and entered on the same entry and the assembly has been ordered and invoiced as a unit, without a separate price for the transformer portion of the assembly. This merchandise is currently classifiable under the Harmonized Tariff Schedule (HTS) item numbers 8504.22.00, 8504.23.00, 8504.34.33, 8504.40.00, and 8504.50.00. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

This review covers one manufacturer/exporter of transformers, JST, and the period June 1, 1994 through May 31, 1995.

Export Price

For sales made by JST we calculated an export price, in accordance with section 772(a) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States prior to importation into the United States.

We calculated export price based on the delivered price to unrelated purchasers. We made deductions for international freight, foreign inland freight, U.S. inland freight, and U.S. duties.

Normal Value

We preliminarily determine that the use of constructed value (CV) is warranted to calculate NV for JST, in accordance with section 773(a) of the Act. While the home market is viable, the particular market situation in this case, which requires that the subject merchandise be built to each customer's specifications, does not permit proper price-to price comparisons in either the home market or a third country.

Petitioner and JST agree that CV should be used to calculate NV. Petitioner notes that because LPTs are built to each purchaser's specifications, the likelihood of finding identical merchandise in the home and U.S. markets is remote, and that changing a single specification in an LPT frequently results in literally hundreds of changes to the other physical attributes of the unit. We have reviewed the specifications submitted, as well as information regarding the relationship of certain specifications to costs and have determined that the particular market situation does not permit proper price-to-price comparisons in this case. We have therefore based NV on CV. In addition, we note that in past proceedings involving large, custom-built capital equipment, including prior reviews of this finding, we have normally resorted to CV. (*See, e.g., Large Power Transformers from France; Final Result of Antidumping Administrative Review,* 60 FR 62808, December 7, 1995; and *Mechanical Transfer Presses From Japan: Final Results of Antidumping Duty Administrative Review,* 58 FR 68117, December 23, 1993.)

CV consists of the cost of materials and fabrication, general expenses, profit, and packing. We used packing costs for merchandise exported to the United States. We made a circumstance-of-sale adjustment by deducting from CV home market direct selling expenses, *i.e.*, warranties and commissions, and adding to CV U.S. direct selling expenses, *i.e.*, commissions, selling expenses, and credit. We also made a circumstance-of-sale adjustment for JST's exchange rate guarantee.

JST reported an aggregate profit figure based on its home market sales. JST urges the Department to use this figure for profit, particularly if the Department uses JST's SG&A figures for 1994, because SG&A and profit are both derived from JST's financial statements, and are, therefore, linked. While we have used JST's actual SG&A figures, we question the appropriateness of using JST's submitted profit figure, for the reasons explained in the proprietary memo to the *Deputy Assistant Secretary for Compliance.* Instead, we have calculated a profit figure based on JST's parent company, Schneider SA as facts otherwise available. However, there may be other profit figures that would be more appropriate for use in the calculation of CV. As examples, we could calculate JST's profit based only on above-cost sales if we had cost data for home market sales, or there may be other relevant information in JST's books and records. Therefore, we are inviting comment on this issue for the final results.

Preliminary Results of the Review

As a result of our comparison of export price to normal value, we preliminarily determine that no dumping margin exists for sales of LPTs made to the United States by JST during the period June 1, 1994 to May 31, 1995.

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of LPTs from France entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) The cash deposit rate for the reviewed company will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 24 percent, the rate established in the first notice of final results of

administrative review published by the Department (47 FR 10268, March 10, 1982).

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Paul L. Joffe,

Deputy Assistant Secretary for Import Administration.

Dated: March 29, 1996.

[FR Doc. 96–8510 Filed 4–5–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–201–504]

Porcelain-on-Steel Cooking Ware from Mexico; Final Results of Antidumping Duty New Shipper Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty New Shipper Administrative Review.

SUMMARY: On February 9, 1996, the Department of Commerce (the Department) issued preliminary results of a new shipper administrative review of the antidumping duty order on porcelain-on-steel cooking ware (POS cooking ware) from Mexico (61 FR 4957). The review covers one manufacturer/exporter of the subject merchandise, Esmaltaciones San Ignacio, S.A. (San Ignacio) to the United States during the period January 1, 1995 through June 30, 1995.

We gave interested parties an opportunity to comment on our preliminary results and no comments were received. Therefore, the final results remain unchanged from the preliminary results. The final weighted-average dumping margin for the reviewed firm is listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: April 8, 1996.

FOR FURTHER INFORMATION CONTACT: Laura Merchant or Thomas Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230; telephone (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Background

On February 9, 1996, the Department issued preliminary results (61 FR 4957) of its new shipper review of the antidumping duty order on porcelain-on-steel cooking ware from Mexico (51 FR 43415, December 2, 1986). The preliminary results indicated that San Ignacio sold subject merchandise at not less than normal value during the POR. We invited parties to comment on the preliminary results.

The Department has now conducted this review in accordance with section 751 of the Act and section 353.22 of its regulations.

Scope of the Review

Imports covered by the review are shipments of POS cooking ware, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses.

This merchandise is currently classifiable under Harmonized Tariff Schedule (HTS) item number 7323.94.00. Kitchenware currently entering under HTS item number 7323.94.00.30 is not subject to the order. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Final Results of Review

We gave interested parties an opportunity to comment on our preliminary results. We received no comments. The final results remain unchanged from the preliminary results as the Department used the same methodology described in the preliminary results. As a result of our comparison of the export price (EP) and normal value (NV), we determine that the following weighted-average dumping margin exists:

Manufacturer/Exporter	Margin
San Ignacio	0.00

The results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the determination and for future deposits of estimated duties. The posting of a bond or security in lieu of a cash deposit, pursuant to section 751(a)(2)(B)(iii) of the Act and section 353.22(h)(4) of the Department's regulations, will no longer be permitted for this firm. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the reviewed company will be zero percent; (2) for exporters not covered in this review, but covered in previous reviews or the original less-than-fair-value (LTFV) investigation, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered by this review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters not previously reviewed will continue to be 29.52 percent, the ''All Others'' rate made effective by the final results of review published on January 9, 1995 (see *Notice of Final Results of Antidumping Duty Administrative Review,* 60 FR 2378) and as amended on February 8, 1995 (60 FR 7521). This is the ''All Others'' rate from the LTFV investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this

review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This new shipper administrative review and notice are in accordance with section 751(a)(2)(B) of the Act (19 U.S.C. 1675(a)(2)(B)) and 19 CFR 353.22(h).

Dated: March 27, 1996.

Susan G. Esserman,

Assistant Secretary, for Import Administration.

[FR Doc. 96–8516 Filed 4–5–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–804]

Sparklers From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review

SUMMARY: In response to a request by the petitioners, the Elkton Sparkler Company and the Diamond Sparkler Company, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on sparklers from the People's Republic of China (PRC). This review covers one manufacturer, Guangxi Native Produce Import and Export Corporation, Beihai Fireworks and Firecrackers Branch (Guangxi), of the subject merchandise, and the review period June 1, 1994, through May 31, 1995.

Guangxi failed to submit a response to our questionnaire. As a result, we have preliminarily determined to use facts otherwise available for cash deposit and appraisement purposes.

Interested parties are invited to comment on these preliminary results.

Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: April 8, 1996.

FOR FURTHER INFORMATION CONTACT: Matthew Blaskovich or Zev Primor, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482–5831/4114.

SUPPLEMENTARY INFORMATION:

Background

On June 6, 1995, the Department published in the Federal Register (60 FR 29821) a notice of ''Opportunity to Request an Administrative Review'' of the antidumping duty order on sparklers from the PRC. On June 20, 1995, the petitioners requested, in accordance with 19 CFR 353.22 (a), that we conduct an administrative review of Guangxi for the period June 1, 1994, through May 31, 1995. We initiated the review on August 16, 1995 (60 FR 42501).

The initiation notice indicated that the review would cover Guangxi and conditionally all other exporters of this merchandise. The Department is now conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (the Tariff Act).

Scope of the Review

The products covered by this administrative review are sparklers from the PRC. Sparklers are fireworks, each comprising a cut-to-length wire, one end of which is coated with a chemical mix that emits bright sparks while burning. Sparklers are currently classifiable under subheading 3604.10.00 of the Harmonized Tariff Schedules (HTS). The HTS subheadings are provided for convenience and customs purposes. The written description remains dispositive as to the scope of this proceeding.

The review covers Guangxi and the period June 1, 1994, through May 31, 1995.

Use of Facts Available

On September 7, 1995, we mailed Guangxi and the Chinese Chamber of Commerce, Guangxi Province (CCC), a questionnaire seeking information necessary to conduct a review of any shipments of the subject merchandise made to the United States during the period of review (POR). While Guangxi was required to respond to this questionnaire, we requested that the CCC forward the questionnaire to any PRC manufacturers which, according to our criteria, should be entitled to receive a separate antidumping duty rate. In addition, a short questionnaire was sent to the CCC (which forwarded our questionnaires to the China Chamber of Commerce of Importers & Exporters of Food Stuffs, Native Produce & Animal by Products), the Embassy of the People's Republic of China, and the (Chinese) Ministry of Foreign Trade and Economic Cooperation. This questionnaire sought to ascertain whether Guangxi or any other PRC manufacturer shall be entitled to a separate rate by demonstrating both de jure and de facto absence of central government control with respect to exports.

The questionnaires were due on November 7, 1995. We did not receive a response from any party. As a result of Guangxi failing to submit a response to our questionnaire, the necessary information to issue preliminary results for the POR is not on the record. The Department finds that, in not responding to the questionnaire, Guangxi failed to cooperate by not acting to the best of its ability to comply with a request for information from the Department. Therefore, we must base our preliminary results on facts otherwise available (section 776(a) of the Tariff Act).

Where the Department must base the entire dumping margin for a respondent in an administrative review on the facts available because that respondent failed to cooperate, section 776(b) authorizes the Department to use an inference adverse to the interests of that respondent in choosing the facts available. Section 776(b) also authorizes the Department to use as adverse facts available information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. Accordingly, in this case, we preliminarily assign to Guangxi a margin of 93.54 percent, the margin calculated in the remand of the less-than-fair-value (LTFV) final determination (*See Sparklers from the People's Republic of China: Adverse Decision and Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order in Accordance with Decision Upon Remand,* 58 FR 40624 (July 29, 1993)).

Because information from prior segments of the proceeding constitutes secondary information, section 776(c) provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonable at its disposal. The Statement of

Administrative Action (SAA) provides that ''corroborate'' means simply that the Department will satisfy itself that the secondary information it uses has probative value.

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only source for margins is administrative determinations. Thus, in an administrative review, if the Department chooses as total adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant.

Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin (*see e.g., Fresh Cut Flowers from Mexico; Preliminary Results of Antidumping Duty Administrative Review*, (60 FR 49567) where the Department disregarded the highest margin in that case as adverse BIA because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin). In this case, we have used the highest rate from any prior segment of the proceeding, 93.54 percent rate.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that a margin of 93.54 percent exists for Guangxi for the period June 1, 1994, through May 31, 1995.

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed not later than 37 days after the date of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. The Department will publish the final results of the administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing. Upon completion of this administrative review, the Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of the final results of administrative review for all shipments of sparklers from the PRC, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) the cash deposit rate for Guangxi will be the PRC country-wide rate of 93.54 percent; (2) for previously reviewed or investigated companies that received separate rates not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) the cash deposit rate for any non-PRC exporter will be the rate established for that firm; and (4) the cash deposit rate for all other PRC manufacturers or exporters will be 93.54 percent. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: March 28, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration

[FR Doc. 96–8511 Filed 4–5–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–485–602]

Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Romania; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request by the petitioner, The Timken Company (Timken), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished or unfinished (TRBs), from Romania. The review covers shipments of the subject merchandise to the United States during the period June 1, 1994, through May 31, 1995. The review indicates the existence of dumping margins during the period of review.

We have preliminarily determined that sales have been made below normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs to assess antidumping duties equal to the difference between the export price and the NV.

Interested parties are invited to comment on these preliminary results. Parties who submit arguments are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: April 8, 1996.

FOR FURTHER INFORMATION CONTACT: Heith Rodman or Maureen Flannery, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone: (202) 482–4733.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Background

On June 19, 1987, the Department published in the Federal Register (52 FR 23320) the antidumping duty order on TRBs from Romania. On June 6, 1995, the Department published in the Federal Register (60 FR 29821) a notice of opportunity to request an administrative review of this antidumping duty order. On June 30, 1995, in accordance with 19 CFR 353.22(a), the petitioner requested that

we conduct an administrative review of the following firms: Tehnoimportexport, S.A. (TIE); Tehnoforestexport; S.C. Rulmenti S.A. Alexandria (Alexandria); S.C. Rulmentul S.A. Brasov (Brasov); S.C. Rulmenti S.A. Birlad (Birlad); S.C. Rulmenti Grei S.A. Ploiesti (Ploiesti); S.C. Rulmenti S.A. Slatina (Slatina); and S.C. URB Rulmenti Suceava S.A. (Suceava). We published the notice of initiation of this antidumping duty administrative review on July 14, 1995 (60 FR 36260), and an amended initiation notice on August 16, 1995 (60 FR 42500).

Scope of this Review

Imports covered by this review are shipments of TRBs from Romania. These products include flange, take-up cartridge, and hanger units incorporating tapered roller bearings, and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. This merchandise is currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 8482.20.00, 8482.91.00, 8482.99.30, 8483.20.40, 8483.30.40, and 8483.90.20. Although the HTS item numbers are provided for convenience and Customs purposes, the written description of the scope of this order remains dispositive.

This review covers eight companies and the period June 1, 1994 through May 31, 1995. Of the eight companies for which petitioner requested a review, only TIE made shipments of the subject merchandise to the United States during the period of review. Alexandria and Brasov produced the merchandise sold by TIE to the United States, but have stated that they did not ship TRBs directly to the United States. Tehnoforestexport, Barlad, Ploiesti, Slatina, and Suceava have responded that they did not produce or sell TRBs subject to this review.

Separate Rates

To establish whether a company is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China* (56 FR 20588, May 6, 1991) (*Sparklers*), as amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China* (59 FR 22585, May 2, 1994) (*Silicon Carbide*). Under this policy, exporters in non-market-economy (NME) countries are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to exports. Evidence supporting, though not requiring, a finding of *de jure* absence of government control includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *De facto* absence of government control with respect to exports is based on four criteria: (1) Whether the export prices are set by or subject to the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has autonomy in making decisions regarding the selection of management; and (4) whether each exporter has the authority to negotiate and sign contracts.

TIE is the only company covered by this review with shipments of the subject merchandise to the United States during the period of review. Therefore, TIE is the only firm for which we have made a determination of whether it should receive a separate rate.

We have found that the evidence on the record demonstrates an absence of government control, both in law and in fact, with respect to TIE according to the criteria identified in *Sparklers* and *Silicon Carbide*. For further discussion of the Department's preliminary determination that TIE is entitled to a separate rate, see *Decision Memorandum to the Director, Office of Antidumping Compliance,* dated March 28, 1996, ''Assignment of a separate rate for Tehnoimportexport, S.A. in the 1994/1995 administrative review of tapered roller bearings and parts thereof, finished or unfinished, from Romania,'' which is on file in the Central Records Unit (room B099 of the Main Commerce Building).

Export Price

Information on the record indicates that TIE was the only Romanian exporter of the subject merchandise to the United States during the period of review. For sales made by TIE, the Department used export price, in accordance with section 772(a) of the Act, in calculating U.S. price. We calculated export price based on the price to unrelated purchasers. We made deductions, where appropriate, for foreign inland freight and ocean freight. We used surrogate information from Thailand to value foreign inland freight for reasons explained in the ''Normal Value'' section of this notice.

Normal Value

For merchandise exported from an NME country, section 773(c)(1) of the Act provides that the Department shall determine NV using factors of production methodology if available information does not permit the calculation of NV using home market or third country prices under section 773(a) of the Act. In every case conducted by the Department involving Romania, Romania has been treated as an NME country. None of the parties to this proceeding has contested such treatment in this review. Accordingly, we calculated NV in accordance with section 773(c) of the Act and section 353.52 of the Department's regulations. In accordance with section 773(c)(3) of the Act, the factors of production utilized in producing TRBs include, but are not limited to—(a) hours of labor required, (b) quantities of raw materials employed, (c) amounts of energy and other utilities consumed, and (d) representative capital cost, including depreciation. In accordance with section 772(c)(4) of the Act, the Department valued the factors of production, to the extent possible, using the prices or costs of factors of production in market economy countries that are—(a) at a level of economic development comparable to that of Romania, and (b) a significant producer of comparable merchandise.

We determined that Poland and Thailand are at a level of economic development comparable to that of Romania. We have found that both Poland and Thailand are significant producers of bearings, but that Poland's economy is more similar to Romania's. Therefore, we have selected Poland as the primary surrogate country. Where we have been unable to locate publicly available published information to establish surrogate values from Poland, we have used Thailand as a secondary surrogate country. For a further discussion of the Department's selection of these surrogate countries, *see Memorandum for Maureen Flannery,* dated February 12, 1996, ''Surrogate Country Selection for Tapered Roller Bearings from Romania,'' and *Memorandum to the File,* dated March 29, 1996, ''Selection of the surrogate country in the 1994/1995 administrative review of tapered roller bearings and parts thereof, finished or unfinished, from Romania,'' which are on file in the Central Records Unit (room B099 of the Main Commerce Building).

For purposes of calculating NV, we valued the Romanian factors of

production as follows, in accordance with section 773(c)(3) of the Act:

- Where materials used to produce TRBs were imported into Romania from market-economy countries, we used the import price to value the material input. To value all other direct materials used in the production of TRBs, we used the European currency unit (ECU) per metric ton value of imports into Poland from the countries of the European Community for the period June 1994 through May 1995, obtained from the *EUROSTAT, Monthly EC External Trade (EUROSTAT).* We made adjustments to include freight costs incurred between the suppliers and the TRB factories. We also made an adjustment for scrap steel which was sold.
- For direct labor, we used the average monthly wages for the metal products manufacturing industry reported in the August 1995 issue of the *Statistical Bulletin,* published by the Central Statistical Office in Warsaw. To determine the number of hours worked each month, we used information published by the International Labour Office in the *Yearbook of Labour Statistics, 1995.*
- Because we could not find a value for factory overhead from Poland, we used the public rates for Thai bearing companies, used by the Department in the 1988–1990 administrative review of AFBs from Romania (AFBs from Romania), and submitted by petitioner for the record of this review. Factory overhead was reported as a percentage of total cost of materials.
- For selling, general, and administrative expenses, we used information from a publicly available summarized version of selling, general, and administrative expenses from Thai bearing companies used in AFBs from Romania, and submitted by petitioner for the record of this review, because we had no usable information from Poland for these expenses.
- For profit, we could not find a value for the bearing industry or other metal manufacturing industry in Poland. We also could not find a value for the bearing industry in the secondary surrogate country, Thailand. We therefore used information for the pipe industry, a similar metal manufacturing industry, in Thailand, from the *Preliminary Results of the 1992–1993 Administrative Review of Pipe and Tube from Thailand (Pipe and Tube from Thailand).* That review contained public information indicating that the profit from the pipe and tube industry in Thailand is greater than eight percent. We are using eight percent as the profit margin in this preliminary determination not because it was formerly the statutory minimum profit figure, but because publicly available information indicates that the profit figure is not less than eight percent. No other public information is available. If additional public information becomes available either as a result of the final determination in *Pipe and Tube from Thailand* or otherwise, we will consider using that information in our final results. We are inviting comments on this issue.
- To value the packing materials, we used the ECU per metric ton value of imports into Poland from the countries of the European Community as published in the EUROSTAT. Some materials used to pack TRBs were imported into Romania from market-economy countries and, in these instances, we used the import price to value the packing material. We adjusted these values to include freight costs incurred between the suppliers and the TRB factories.
- To value foreign inland freight, we used information from a publicly available summarized version for foreign inland freight reported for the 1987/1988 administrative review of circular welded carbon steel pipes and tubes from Thailand, because we had no usable information from Poland for this expense.

Currency Conversion

We made currency conversions in accordance with Section 773A(a) of the Act. Currency conversions were made at the daily rates certified by the Federal Reserve Bank where available. Where certified Federal Reserve Bank rates were not available, we used average monthly exchange rates published by the International Monetary Fund in *International Financial Statistics.*

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Tehnoimportexport, S.A.	6/1/94–5/31/95	35.86
Tehnoforestexport	6/1/94–5/31/95	*0.00
S.C. Rulmenti S.A. Alexandria	6/1/94–5/31/95	*0.00
S.C. Rulmentul S.A. Brasov	6/1/94–5/31/95	*0.00
S.C. Rulmenti S.A. Barlad	6/1/94–5/31/95	*0.00
S.C. Rulmenti Grei S.A. Ploiesti	6/1/94–5/31/95	*0.00
S.C. Rulmenti S.A. Slatina	6/1/94–5/31/95	*0.00
S.C. URB Rulmenti Suceava S.A.	6/1/94–5/31/95	*0.00

*No shipments during the period of review, but never determined to merit a separate rate. Therefore, we applied the Romania-wide rate established in the most recent segment of the proceeding.

Parties to the proceedings may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of TRBs from Romania entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) The cash deposit rate for TIE will be the rate we determine in the final results of review; (2) for the other companies named above which had no shipments during

the period of review and which were not found to have separate rates, Tehnoforestexport, Alexandria, Brasov, Barlad, Ploiesti, Slatina, and Suceava, and for all other Romanian exporters, the cash deposit rate will be 00.00%, the Romania-wide rate established in the most recent segment of the proceeding; and (3) for non-Romanian exporters of subject merchandise from Romania, the cash deposit rate will be the rate applicable to the Romanian supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: March 29, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–8508 Filed 4–5–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–834–802, A–835–802, A–844–802]

Agreement Suspending the Antidumping Investigation on Uranium From Kazakstan, Kyrgyzstan and Uzbekistan

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of price determination on uranium from Kazakstan, Kyrgyzstan and Uzbekistan.

SUMMARY: Pursuant to Section IV.C.1. of the antidumping suspension agreement on uranium from Kazakstan, the Department of Commerce (the Department) calculated a price for uranium of $12.25/lb. On the basis of this price, the export quota for uranium pursuant to Section IV.A. of the Kazakstani agreement, as amended on March 27, 1995, is 500,000 lbs. for the period April 1, 1996, through September 30, 1996. Exports pursuant to other provisions of the Kazakstani agreement are not affected by this price. The export quota for uranium pursuant to Section IV.A. of the Uzbek agreement, as amended on October 13, 1995, was determined by the last price determination (60 FR 52368), so this notice does not affect them. The Kyrgyz have no Appendix A quota, so this notice does not affect them.

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Alexander Braier or Yury Beyzarov, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482–1324 or (202) 482–2243, respectively.

Price Calculation

Background

Section IV.C.1. of the antidumping suspension agreement on uranium from Kazakstan specifies that the Department will issue its observed market price on April 1, 1996, and use it to determine the quota applicable to exports from Kazakstan during the period April 1, 1996, to September 30, 1996. Consistent with the Department's letter of interpretation dated February 22, 1993, we provided interested parties with our preliminary price determination on March 15, 1996.

Calculation Summary

Section IV.C.1. of the Kazakstani agreement specifies how the components of the market price are reached. In order to determine the spot market price, the Department utilized the monthly average of the Uranium Price Information System Spot Price Indicator (UPIS SPI) and the weekly average of the Uranium Exchange Spot Price (Ux Spot). In order to determine the long-term market price, the Department utilized the weighted-average long-term price as determined by the Department on the basis of information provided by market participants and a simple average of the UPIS U.S. Base Price for the months in which there were new contracts reported. Our letters to market participants provided a contract summary sheet and directions requesting the submitter to report his/her best estimate of the future price of merchandise to be delivered in accordance with the contract delivery schedules (in U.S. dollars per pound U_3O_8 equivalent). Using the information reported in the proprietary summary sheets, the Department calculated the present value of the prices reported for any future deliveries assuming an annual inflation rate of 2.52 percent, which was derived from a rolling average of the annual GDP Implicit Price Deflator index from the past four years. The Department used the base quantities reported on the summary sheet for the purpose of weight-averaging the prices of the long-term contracts submitted by market participants. We then calculated a simple average of the UPIS U.S. Base Price and the long-term price determined by the Department.

Weighting

The Department used the average spot and long-term volumes of U.S. utility and domestic supplier purchases, as reported by the Energy Information Administration (EIA), to weight the spot and long-term components of the observed price. In this instance, we have used purchase data from the period 1991–1994. During this period, the spot market accounted for 73.10 percent of total purchases, and the long-term market for 26.90 percent.

As in previous determinations, the Department used the Energy Information Administration's (EIA) *Uranium Industry Annual* to determine the available average spot- and long-term volumes of U.S. utility purchases. We have updated the data to reflect the period 1991 through 1994. The EIA has withheld certain contracting data from the public versions of the *Uranium Industry Annual 1993* and the *Uranium Industry Annual 1994* because this data was business proprietary. The Department has used this data to update its weighting calculation. Accordingly, it may only be released under Administrative Protective Order.

Calculation Announcement

The Department determined, using the methodology and information described above, that the observed market price is $12.25. This reflects an average spot market price of $12.46, weighted at 73.10 percent, and an average long-term contract price of $11.67, weighted at 26.90 percent. Since this price is above the $12.00/lb. minimum expressed in Appendix A of the amended Kazakstani agreement, Kazakstan receives a quota of 500,000 lbs. for the period April 1, 1996, to September 30, 1996.

Comment

Consistent with the Department's letter of interpretation dated February 22, 1993, we provided interested parties our preliminary price determination on March 15, 1996. We received a comment from interested parties stating that the

Department should use the UPIS ''U.S. Base Price Indicator'' as one of the indicating variables for the long term price as opposed to the UPIS ''Base Price Indicator,'' because the former represents U.S. utility purchases, while the latter represents purchases worldwide. As a result of the comment, we have used the UPIS ''U.S. Base Price Indicator'' in our calculation.

After analysis of the above comment, we have determined that the observed market price for uranium is $12.25/lb. The Department invites parties to provide pricing information for use in the next price determination. Any such information should be provided for the record and should be submitted to the Department by September 5, 1996.

Dated: April 1, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–8509 Filed 4–5–96; 8:45 am]

BILLING CODE 3510–DS–P

Indiana University, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–117. *Applicant:* Indiana University, Bloomington, IN 47402. *Instrument:* Noninvasive Blood Pressure Measurement Monitor. *Manufacturer:* TNO Biomedical Instrumentation, The Netherlands. *Intended Use:* See notice at 61 FR 4768, February 8, 1996.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides: (1) noninvasive monitoring preventing sleep disruption, (2) hydrostatic height correction, and (3) discrimination of increased cardiac output versus increased peripheral resistance. The National Institutes of Health advises in its memorandum dated January 31, 1996 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 96–8514 Filed 4–5–96; 8:45 am]

BILLING CODE 3510–DS–F

University of California, Davis; Notice of Decision on Application for Duty-free Entry of Scientific Instrument

This is a decision pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

DECISION: Denied. Applicant has failed to establish that domestic instruments of equivalent scientific value to the foreign instrument for the intended purposes are not available.

REASONS: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for the following docket.

Docket Number: 95–078. *Applicant:* University of California, Davis, Exercise Science Department, 264 Hickey Gym, Davis, CA 95616. *Instrument:* Nitrogen Analyzer, Model N2-TEST. *Manufacturer:* Erich Jaeger, Germany. *Date of Denial without Prejudice to Resubmission:* December 4, 1995.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 96–8515 Filed 4–5–96; 8:45 am]

BILLING CODE 3510–DS–F

Tulane University Hospital and Clinic, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–116. *Applicant:* Tulane University Hospital and Clinic, New Orleans, LA 70112. *Instrument:* Electron Microscope, Model H7100. *Manufacturer:* Hitachi Scientific Instruments, Japan. *Intended Use:* See notice at 61 FR 4767, February 8, 1996. *Order Date:* December 17, 1993.

Docket Number: 95–118. *Applicant:* The Colorado College, Colorado Springs, CO 80903. *Instrument:* Electron Microscope, Model CM 100. *Manufacturer:* Philips, The Netherlands. *Intended Use:* See notice at 61 FR 4768, February 8, 1996. *Order Date:* May 4, 1995.

Docket Number: 95–119. *Applicant:* California State University, Los Angeles, CA 90032. *Instrument:* Electron Microscope, Model JEM-1200EX II. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 61 FR 4768, February 8, 1996. *Order Date:* February 28, 1994.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. *Reasons:* Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 96–8523 Filed 4–5–96; 8:45 am]

BILLING CODE 3510–DS–F

National Oceanic and Atmospheric Administration

[I.D. 032996A]

Gulf of Mexico 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 Gulf of Mexico Fishery Management Council will convene public meetings.

DATES: See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The Mackerel AP and all SSC meetings will be held at the Pontchartrain Hotel, 2031 St. Charles

Avenue, New Orleans, LA 70104; telephone: (800) 777–6193.

Council address: Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle (for Mackerel related issues), and Steven Atran (for reef fish related issues), Gulf of Mexico Fishery Management Council, telephone: (813) 228–2815.

SUPPLEMENTARY INFORMATION: The meetings are scheduled as follows: Mackerel Advisory Panel (AP), April 29, 1996, 10:00 a.m. to 5:00 p.m.; Standing and Special Mackerel Scientific and Statistical Committee (SSC), April 30, 1996, 10:00 a.m. to 5:00 p.m.; Standing and Special Shrimp Scientific and Statistical Committee (SSC), May 1, 1996, 8:00 a.m. to 11:00 a.m.; and Standing and Special Reef Fish Scientific and Statistical Committee (SSC), May 1, 1996, 12:00 noon to 4:00 p.m.

The Mackerel AP during its meeting on April 29 and the SSC during its meeting on April 30, will review the following mackerel assessment information and develop their recommendations to the Council: A stock assessment for the fishery prepared by NMFS; a report of a scientific stock assessment panel which will recommend the range of allowable biological catch (ABC) for the 1996–1997 season; and a report of a scientific socioeconomic panel which examines social and economic impacts of various levels of total allowable catch (TAC), for the 1996–1997 season.

The Council will use these recommendations when they set TAC and trip and bag limits for king and Spanish mackerel for the 1996–1997 mackerel season at the Council meeting on May 13–16, 1996 in Houston, TX.

The Shrimp SSC during its meeting on May 1, will review a regulatory amendment for royal red shrimp allowing TAC to be exceeded to collect information for respecifying maximum sustainable yield, a discussion paper on availability of data and analyses to address bycatch issues in the forthcoming plan amendment and a NMFS study comparing effort data from the bycatch characterization project and that collected from the commercial fishery.

The Reef Fish SSC during its meeting on May 1, will review an amendment to the Reef Fish Fishery Management Plan. Proposed Amendment 14 will address a license limitation system to replace the current moratorium on fish trap endorsements, a prohibition on trap fishing in an area of the exclusive economic zone off Dry Tortugas in south Florida, an additional revision to the framework procedure and a revision to transferability of vessel permits.

The SSC consists of scientists and the APs of fishermen and other user groups who advise the Council on fishery issues.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by April 22, 1996.

Dated: April 1, 1996.

Richard W. Surdi,

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

[FR Doc. 96–8553 Filed 4–5–96; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0072]

Submission for OMB Review; Comment Request Entitled Contract Cost Principles and Procedures—Automatic Data Processing Equipment Leasing Costs

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0072).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Contract Cost Principles and Procedures—Automatic Data Processing Equipment Leasing Costs. A request for public comments was published at 61 FR 3377, January 31, 1996. No comments were received.

DATES: *Comment Due Date:* May 8, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 18th and F Streets, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0072, Contract Cost Principles and Procedures—Automatic Data Processing Equipment Leasing Costs, in all correspondence.

FOR FURTHER INFORMATION CONTACT:

Mr. Jeremy F. Olson, Federal Acquisition Policy Division, GSA (202) 501–3221.

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR Part 31, Contract Cost Principles and Procedures, contains cost principles and procedures for (1) the pricing of contracts, subcontracts, and modifications to contracts and subcontracts whenever cost analysis is performed; and (2) the determination, negotiation, or allowance of costs when required by a contract clause. However, certain cost elements that are reviewed pursuant to this part require supporting documentation. One of these involves a justification of automatic data processing equipment leasing costs under FAR 31.205–2. The information is used by the contracting officer to determine the allowability of a cost element.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *30* minutes per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *3,172*; responses per respondent, *1*; total annual responses, *3,172*; preparation hours per response, *.5*; and total response burden hours, *1,586*.

OBTAINING COPIES OF PROPOSALS: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0072, Contract Cost Principles and Procedures—Automatic Data Processing Equipment Leasing Costs, in all correspondence.

Dated: April 2, 1996.
Beverly Fayson,
FAR Secretariat.
[FR Doc. 96–8606 Filed 4–5–96; 8:45 am]
BILLING CODE 6820–EP–M

[OMB Control No. 9000–0073]

Submission for OMB Review; Comment Request Entitled Advance Payments

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0073).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Advance Payments. A request for public comments was published at 61 FR 3378, January 31, 1996. No comments were received.

DATES: *Comment Due Date:* May 8, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW., Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0073, Advance Payments, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy F. Olson, Federal Acquisition Policy Division, GSA (202) 501–3221.

SUPPLEMENTARY INFORMATION:

A. Purpose

Advance payments may be authorized under Federal contracts and subcontracts. Advance payments are the least preferred method of contract financing and require special determinations by the agency head or designee. Specific financial information about the contractor is required before determinations by the agency head or designee. Specific financial information about the contractor is required before such payments can be authorized (see FAR 32.4 and 52.232–12). The information is used to determine if advance payments should be provided to the contractor.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *1* hour per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *500;* responses per respondent, *1;* total annual responses, *500;* preparation hours per response, *1;* and total response burden hours, *500*.

OBTAINING COPIES OF PROPOSALS: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0073, Advance Payments, in all correspondence.

Dated: April 2, 1996.
Beverly Fayson,
FAR Secretariat.
[FR Doc. 96–8607 Filed 4–5–96; 8:45 am]
BILLING CODE 6820–EP–M

[OMB Control No. 9000–0074]

Submission for OMB Review; Comment Request Entitled Limitation of Costs/Funds

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0074).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Limitation of Costs/Funds. A request for public comments was published at 61 FR 3378, January 31, 1996. No comments were received.

DATES: *Comment Due Date:* May 8, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 18th and F Streets NW., Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0074, Limitation of Costs/Funds, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy F. Olson, Federal Acquisition Policy Division, GSA, (202) 501–3221.

SUPPLEMENTARY INFORMATION:

A. Purpose

Firms performing under Federal cost-reimbursement contracts are required to notify the contracting officer in writing whenever they have reason to believe—

(1) The costs the contractors expect to incur under the contracts in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of the estimated cost of the contracts; or

(2) The total cost for the performance of the contracts will be greater or substantially less than estimated. As a part of the notification, the contractors must provide a revised estimate of total cost.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *30* minutes per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *63,456*; responses per respondent, *1*; total annual responses, *63,456*; preparation hours per response, *0.5*; and total response burden hours, *31,728*.

OBTAINING COPIES OF PROPOSALS: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0074, Limitation of Costs/Funds, in all correspondence.

Dated: April 2, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–8608 Filed 4–5–96; 8:45 am]

BILLING CODE 6820–EP–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.129A through R]

Rehabilitation Training: Rehabilitation Long-Term Training Notice inviting applications for new awards for fiscal year (FY) 1996

Purpose of Program: The Rehabilitation Long-Term Training program provides financial assistance for—

(1) Projects that provide basic or advanced training leading to an academic degree in areas of personnel shortages in rehabilitation as identified by the Secretary;

(2) Projects that provide a specified series of courses or program of study leading to award of a certificate in areas of personnel shortages in rehabilitation as identified by the Secretary; and

(3) Projects that provide support for medical residents enrolled in residency training programs in the specialty of physical medicine and rehabilitation.

Eligible Applicants: State agencies and other public or nonprofit agencies and organizations, including institutions of higher education, are eligible for assistance under the Rehabilitation Long-Term Training program.

Deadline for Transmittal of Applications: May 31, 1996.

Deadline for Intergovernmental Review: August 30, 1996

Applications Available: April 16, 1996.

Available Funds: $900,000.

Estimated Range of Awards: $90,000—$110,000.

Estimated Average Size of Awards: $100,000.

Estimated Number of Awards: 9.

NOTE: The Department is not bound by any estimates in this notice.

Project Period, Maximum Number of Awards, and Absolute Priorities: The Secretary is conducting a single competition to select a total of 9 grant awards across the 14 priority areas. The project period and maximum number of awards to be made in each priority area are listed in the following chart. Under 34 CFR 75.105(c)(3) and 34 CFR 386.1, the Secretary gives an absolute preference to applications that meet one of the following priorities. The Secretary funds under this competition only applications that propose to provide training in one of the following areas of personnel shortage:

CFDA No.	Priority Area	Project Period
84.129A	Prosthetics and Orthotics (1)	Up to 36 months
84.129C–1.	Administration of community (2) rehabilitation programs	Up to 60 months
84.129C–3.	Rehabilitation administration (3)	Up to 60 months
84.129D	Occupational therapy (2)	Up to 36 months
84.129E	Rehabilitation technology (3)	Up to 36 months
84.129F	Vocational evaluation and work adjustment (4)	Up to 36 months
84.129G	Community rehabilitation program personnel (1)	Up to 36 months
84.129H	Rehabilitation of individuals who are mentally ill (3)	Up to 36 months
84.129K	Supported Employment services, including services of employment specialists for individuals with disabilities (2)	Up to 36 months
84.129L	Undergraduate education in the rehabilitation services (3)	Up to 60 months
84.129M	Independent living (3)	Up to 36 months
84.129P	Specialized personnel for rehabilitation of individuals who are blind or have vision impairment (4)	Up to 36 months
84.129Q	Rehabilitation of individuals who are deaf or hard of hearing (5)	Up to 36 months
84.129R	Job development and job placement services to individuals with disabilities (2)	Up to 36 months

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, 86; and (b) The regulations for this program in 34 CFR Parts 385 and 386.

For Applications or Information Contact: Sylvia Johnson, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3320, Switzer Building, Washington, D.C. 20202–2649. Telephone: (202) 205–9312. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletin, and Press Releases); or on the World Wide Web (at http://www.ed.gov/money.html). However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

Program Authority: 29 U.S.C. 774

Dated: April 2, 1996.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–8577 Filed 4–5–96; 8:45 am]

BILLING CODE 4000–01–P

Notice of Availability

SUMMARY: The Department announces the availability of a draft document entitled ''Report on the Section 504 Self-Evaluation'' (Self-evaluation), conducted by the Department of Education under section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794).

The Self-evaluation contains (1) an evaluation of the accessibility of the Department's programs, activities, and facilities to persons with disabilities; (2) recommendations for improving the accessibility of the Department; and (3) summaries of the self-evaluations conducted by each principal office of the Department.

DATES: Comments on the Self-evaluation must be received on or before April 29, 1996.

ADDRESSES: All comments (oral or written) concerning and all requests for copies of the Self-evaluation should be addressed to Eunice Fiorito, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3316, Mary E. Switzer Building, Washington D.C. 20202–2500. Telephone number: (202) 205–8355. FAX: (202) 205–9252. Internet:

Eunice__Fiorito@ed.gov Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–5465. The Self-evaluation is available in alternative formats upon request. A copy of the Self-evaluation report is available in the Department's Public Reading Room located in Federal Office Building 10B in Washington D.C. The Self-evaluation may also be obtained by accessing the Internet Gopher Server at gopher.ed.gov (under Announcements, Bulletins and Press Releases, select Invitations for Public Comment) and on the World Wide Web (at http://www.ed.gov/comments/).

FOR FURTHER INFORMATION CONTACT: Eunice Fiorito. Telephone: (202) 205–8355. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–5465.

SUPPLEMENTARY INFORMATION: Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), provides that no otherwise qualified person with a disability shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity conducted by any Executive agency. The Department of Education published regulations implementing section 504 in 34 CFR Part 105. Pursuant to 34 CFR 105.10, the Department of Education has conducted a self-evaluation of its current policies and practices, assessing how well they meet the requirements of section 504 and its implementing regulations, and recommending modifications of those policies and practices where necessary. Under 34 CFR 105.10(b), the Department is soliciting comments (both oral and written) from interested persons, particularly persons with disabilities or organizations representing persons with disabilities, regarding the Department's Self-evaluation.

Dated: April 2, 1996.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–8538 Filed 4–5–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER95–1269–000]

e prime, inc.; Notice of Issuance of Order

April 2, 1996.

On June 26, 1995, e prime, inc. (e prime) filed an application for authorization to sell power at market-based rates, and for certain waivers and authorizations. In particular, e prime requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by e prime. On March 29, 1996, the Commission issued an Order Conditionally Accepting And Suspending Revised Transmission Tariffs And Conditionally Accepting Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's March 29, 1996 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (F), (G), and (I):

(F) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by e prime should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214 (1995).

(G) Absent a request to be heard within the period set forth in Ordering Paragraph (F) above, e prime is hereby authorized to issue securities and to assume obligations or liabilities as guarantor, endorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of the applicant, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(I) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of e prime's issuances of securities or assumptions of liabilities * * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is April 29, 1996.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–8587 Filed 4–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–827–000]

Universal Power Services, L.L.C.; Notice of Issuance of Order

April 2, 1996.

On January 16, 1996, as amended February 2, 1996, Universal Power Services, L.L.C. (Universal) submitted for filing a rate schedule under which Universal will engage in wholesale electric power and energy transactions as a marketer. Universal also requested waiver of various Commission regulations. In particular, Universal requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Universal.

On March 21, 1996, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Universal should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Universal is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Universal's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is April 22, 1996.

Copies of the full text of the order are available from the Commission's Public

Reference Branch, 888 First Street, N.E. Washington, D.C. 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–8588 Filed 4–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EC96–13–000, et al.]

IES Utilities, Inc., et al.; Electric Rate and Corporate Regulation Filings

April 1, 1996.

Take notice that the following filings have been made with the Commission:

1. IES Utilities, Inc.

[Docket No. EC96–13–000]

Take notice that on March 22, 1996, IES Utilities, Inc. tendered for filing additional information to its March 1, 1996, filing in the above-referenced docket.

Comment date: April 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Northern States Power Company (Minnesota); Northern States Power Company (Wisconsin)

[Docket Nos. ER90–349–009, ER90–406–005 and ER91–21–005]

Take notice that on March 6, 1996, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) tendered for filing its compliance refund report in the above-referenced dockets.

Comment date: April 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Electrade Corporation

[Docket No. ER94–1478–006 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On February 27, 1996, Electrade Corporation filed certain information as required by the Commission's October 12, 1994 order in Docket No. ER94–1478–000.

4. Delmarva Power & Light Company

[Docket No. ER96–852–000]

Take notice that on March 19, 1996, Delmarva Power & Light Company tendered for filing an amendment in the above referenced docket.

Comment date: April 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Wisconsin Electric Power Company

[Docket No. ER96–883–000]

Take notice that on March 21, 1996, Wisconsin Electric Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: April 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Electric Power

[Docket No. ER96–1057–000]

Take notice that on March 21, 1996, Wisconsin Electric Power Company tendered for filing supplemental information to its February 13, 1996, filing in the above-referenced docket.

Comment date: April 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. North American Power Brokers, Inc.

[Docket No. ER96–1156–000]

Take notice that on March 20, 1996, North American Power Brokers, Inc. tendered for filing an amendment to its February 23, 1996, filing in the above-referenced docket.

Comment date: April 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Wisconsin Power and Light Company

[Docket No. ER96–1352–000]

Take notice that on March 20, 1996, Wisconsin Power and Light Company (WPL) tendered for filing a signed Service Agreement under WP&L's Bulk Power Tariff between itself and American Electric Power Service Corporation as Agent for the AEP Operating Companies, Industrial Energy Applications, The Dayton Power and Light Company, UtiliCorp United Inc., Koch Power Services Inc., Peco Energy Company, Catex Vitol Electric L.L.C., Michigan Public Power Agency, Western Gas Resources Power Marketing, Inc., Commonwealth Edison Company, and Jpower Inc. WP&L respectfully requests a waiver of the Commission's notice requirements, and an effective date of October 1, 1995.

Comment date: April 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Delmarva Power & Light Company

[Docket No. ER96–1358–000]

Take notice that on March 21, 1996, Delmarva Power & Light Company (Delmarva) tendered for filing an agreement between Delmarva and the Delaware Municipal Electric Corporation (DEMEC) under which Delmarva offers to sell capacity and energy to DEMEC each month the Agreement is effective. DEMEC has the right to purchase all, some or none of the capacity energy subject to the condition that each kilowatt which DEMEC does determine to purchase shall be purchased under a 100% load factor basis. In addition, charges under the Agreement have an upper and a lower bound. The Agreement provides that the price shall not be less than Delmarva's forecasted system incremental cost to supply and shall not exceed 3.698 cents per kilo-watt hour, which is derived from the Settlement in Docket Nos. ER93–96–000 and EL93–11–000, which was approved by the Commission on December 7, 1994.

Comment date: April 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Maine Public Service Company

[Docket No. ER96–1359–000]

Take notice that on March 21, 1996, Maine Public Service Company submitted agreements under its Umbrella Power Sales tariff.

Comment date: April 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Delmarva Power & Light Company

[Docket No. ER96–1360–000]

Take notice that on March 21, 1996, Delmarva Power & Light Company (Delmarva) of Wilmington, Delaware, filed an eight-year power supply contract (the Service Agreement) under which Delmarva will provide requirements service to three Delaware Municipal customers, Smyrna, Middletown and Clayton. Delmarva states that the Service Agreement supersedes the Rate Schedule under which each customer previously received requirements service from Delmarva.

Delmarva, with the concurrence of three Municipal customers, requests an effective date of February 1, 1996.

Delmarva states that the filing has been posted and has been served upon the affected customer and the Delaware Public Service Commission.

Comment date: April 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Atlantic City Electric Company

[Docket No. ER96–1361–000]

Take notice that on March 21, 1996, Atlantic City Electric Company (AE) tendered for filing a rate schedule under which it will make sales for resale of power and capacity at market-based rates. AE also tendered for filing a Network Transmission Service Tariff which are consistent with, or superior to, the *pro forma* tariffs published with

the Commission's Open Access NOPR in Docket No. RM95–8–000.

AE requests that the rate schedule and the Tariffs be accepted to become effective as of April 20, 1996.

Comment date: April 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Allegheny Power Service Corp. on Behalf of Monongahela Power Co. The Potomac Edison Company, and West Penn Power Co. (Allegheny Power)

[Docket No. ER96–1363–000]

Take notice that on March 20, 1996, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), filed a Service Agreement to add Baltimore Gas and Electric Company as a Customer under Allegheny Power's Point-to-Point Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission. Allegheny Power proposes to make service available to Baltimore Gas and Electric Company as of March 1, 1996.

Copies of the filing has been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: April 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Duke Power Company

[Docket No. ER96–1364–000]

Take notice that on March 21, 1996, Duke Power Company (Duke or Company) tendered for filing revisions to Service Schedule E and Appendix A which are part of the Interconnection Agreement between Duke and Yadkin, Inc. (Yadkin) dated October 17, 1983, as amended. The revised Service Schedule E replaces the method of accounting for the energy in the Storage Energy Account. The revision to Appendix A replaces the current basis of settlement related to the energy charges under Service Schedule C. The Interconnection Agreement is on file with the Commission and has been designated as Rate Schedule FERC No. 282.

Comment date: April 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Central Illinois Light Company

[Docket No. ER96–1365–000]

Take notice that on March 19, 1996, Central Illinois Light Company (CILCO) tendered for filing proposed rate changes for full requirements service to the Village of Riverton, Illinois.

The charges to Riverton reflect a negotiated agreement between CILCO and Riverton which provides for full-requirements service through the end of February, 2001.

The filing states that the total increase to Riverton does not exceed $200,000 based upon actual billing data for twelve months ending December 31, 1994.

CILCO request waiver of the notice requirements of Section 35.3 of the Commission's Regulations so that the proposed rate schedule can be made effective March 1, 1996, in accordance with the agreement of both parties.

CILCO states that a copy of its filing was served on the Village of Riverton and the Illinois Commerce Commission.

Comment date: April 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Aquila Power Corporation

[Docket No. ER96–1366–000]

Take notice that on March 19, 1996, Aquila Power Corporation (Aquila) tendered for filing, revisions to Aquila's FERC Electric Rate Schedule No. 1 (Rate Schedule) and Statement of Policy and Code of Conduct with respect to the Relationship between Aquila Power Corporation, Its Parent, and Affiliates (Code of Conduct). Aquila states that the filing was made in order to facilitate Aquila's plans to (1) broker (for no fee) energy and capacity sales on behalf of the electric utility divisions of its parent, UtiliCorp United Inc. (UtiliCorp), on a non-exclusive basis; (2) purchase certain scheduling services from such electric utility affiliates (EUAs); and (3) market power from facilities owned by UtiliCorp's nontraditional power sellers, such as Qualifying Facilities (Qfs)—all under the same terms and conditions already approved by the Commission in similar proceedings.

Comment date: April 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Minnesota Power & Light Company

[Docket No. ER96–1367–000]

Take notice that on March 20, 1996, Minnesota Power & Light Company tendered for filing a signed Service Agreement with Federal Energy Sales, Inc., and a Service Agreement and reciprocal Letter Agreement with Eastex Power Marketing, Inc. under its Wholesale Coordination Sales Tariff to satisfy its filing requirements under this tariff.

Comment date: April 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Yankee Atomic Electric Company

[Docket No. ER96–1368–000]

Take notice that on March 21, 1996, Yankee Atomic Electric Company (Yankee) tendered for filing Yankee's report on decommissioning expenditures for 1995.

Comment date: April 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Wisconsin Electric Power Company

[Docket No. ER96–1369–000]

Take notice that on March 22, 1996, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing an Electric Service Agreement and a Transmission Service Agreement between itself and Jpower. The Transmission Service Agreement allows Jpower to receive transmission service under Wisconsin Electric's FERC Electric Tariff, Original Volume No. 5, under Docket No. ER95–1474, Rate Schedule STNF.

Wisconsin Electric requests an effective date of March 30, 1996, and waiver of the Commission's notice requirements to allow for economic transactions. Copies of the filing have been served on Jpower, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: April 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Wisconsin Electric Power Company

[Docket No. ER96–1370–000]

Take notice that on March 22, 1996, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing an Electric Service Agreement and a Transmission Service Agreement between itself and Aquila Power Corporation (Aquila). The Electric Service Agreement provides for service under Wisconsin Electric's Coordination Sales Tariff. The Transmission Service Agreement allows Aquila to receive transmission service under Wisconsin Electric's proposed FERC Electric Tariff, Original Volume No. 5, Rate Schedule STNF, under Docket No. ER95–1474.

Wisconsin Electric requests an effective date of sixty days from date of filing. Copies of the filing have been served on Aquila, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: April 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. TPC 4, Inc.

[Docket No. QF88–364–003]

On March 28, 1996, TPC 4, Inc. tendered for filing a supplement to its filing in this docket.

The supplement pertains to the ownership structure of the facility. No determination has been made that the submittal constitutes a complete filing.

Comment date: April 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–8585 Filed 4–5–96; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 2290–006 California]

Southern California Edison Co.; Notice of Availability of Environmental Assessment

April 2, 1996.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a new license for the Kern River No. 3 Hydroelectric Project, located near the towns of Kernville and Fairview in Kern and Tulare Counties, California and has prepared a final Environmental Assessment (EA) for the project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the existing project and has concluded that approval of the project, with appropriate environmental protection or enhancement measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 2A, of the Commission's offices at 888 First Street, NE., Washington, DC 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–8586 Filed 4–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–277–000, et al.]

Williston Basin Interstate Pipeline Company, et al.; Natural Gas Certificate Filings

April 2, 1996.

Take notice that the following filings have been made with the Commission:

1. Williston Basin Interstate Pipeline Company

[Docket No. CP96–277–000]

Take notice that on March 25, 1996, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, filed in Docket No. CP96–277–000 a request pursuant to Section 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to abandon a farm tap at Station 2248+21 on the Williston-Minot pipeline in Mountrail County, North Dakota, and the service provided through it, to Montana-Dakota Utilities Company (Montana-Dakota). Williston Basin makes this request under its blanket certificate issued in Docket No. CP82–487–000, *et al.* pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Williston Basin indicates that Montana-Dakota, a local distribution company, who is the only customer that receives service from this tap, has requested that the tap be abandoned.

Comment date: May 17, 1996, in accordance with Standard Paragraph G at the end of this notice.

2. Questar Pipeline Company

[Docket No. CP96–280–000]

Take notice that on March 26, 1996, Questar Pipeline Company (Questar), 79 South State Street, Salt Lake City, Utah 84111 filed in Docket No. CP96–280–000, a request pursuant to Sections 157.205 and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216(b)) for authority to abandon, by removal, the Barnum and Whittier District Regulator Stations (DRS) in Morgan County, Utah, each comprising one ¾-inch tap, approximately 105 feet of ¾-inch pipeline, a can-type regulator set and appurtenant facilities under Questar's blanket authorization issued in Docket No. CP82–491–000, 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.

Questar proposes to abandon the two DRSs because Mountain Fuel Supply Company (Mountain Fuel), Questar's local distribution affiliate and the only customer receiving service through the subject facilities, has advised Questar that the two DRSs are no longer required as delivery points into Mountain Fuel's distribution system. Questar states that service once provided through the DRSs is now tied directly into existing Mountain Fuel distribution systems and that no abandonment of service to Mountain Fuel will result from the proposed action. Questar further states that the total investment associated with the two DRS facilities proposed to be abandoned is $3,185.

Comment date: May 17, 1996, in accordance with Standard Paragraph G at the end of this notice.

3. Texas Eastern Transmission Corporation

[Docket No. CP96–283–000]

Take notice that on March 28, 1996, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, P.O. Box 1642, Houston, Texas 77251–1642, filed a prior-notice request with the Commission in Docket No. CP96–283–000 pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct and operate a metering and regulating station in Middlesex County, New Jersey, under Texas Eastern's blanket certificate issued in Docket No. CP82–535–000 pursuant to Section 7 of the NGA, all as more fully set forth in the request which is open to the public for inspection.

Texas Eastern proposes to construct and operate, at the request of Public Service Electric and Gas Company (PSE&G—an existing firm customer), a new metering and regulating station adjacent to its existing metering and regulating facility in Middlesex County at approximately Mile Post 1463.56 on its 20-inch diameter Lines 1 and 2. Texas Eastern states that it would install an 8-inch hot tap on both Lines 1 and 2, dual 8-inch meter runs, one 2-inch turbine meter run, and other appurtenant facilities at an estimated cost of $404,000. Texas Eastern also states that PSE&G would reimburse

Texas Eastern for all construction expenses for the proposed metering and regulating station.

Texas Eastern also proposes to abandon and remove the existing metering and regulating station (constructed in 1950) currently adjacent to the proposed facilities once the new metering and regulating station has been constructed. Texas Eastern states that it delivers up to 16,000 Dekatherms of natural gas per day at the current metering and regulating station and that PSE&G has requested Texas Eastern to deliver up to 60,000 Dekatherms via the proposed facilities. Texas Eastern would deliver the new quantities of natural gas under its open-access rate schedules and existing contracts with PSE&G. Since Texas Eastern would not abandon the existing metering and regulating facilities until after the new facilities have been completed, no natural gas service to PSE&G or any other existing Texas Eastern customer would be interrupted or abandoned.

Comment date: May 17, 1996, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

G. Any person or the Commission's staff may, within 45 days after the 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 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 therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–8604 Filed 4–5–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RM95–4–000]

Revisions to Uniform System of Accounts, Forms, Statements, and Reporting Requirements for Natural Gas Companies

Issued April 2, 1996.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order On Electronic and Paper Filing Specifications for Form No. 11.

SUMMARY: The Commission is adopting final electronic filing specifications for the Form No. 11, entitled ''Instruction Manual for Electronic Filing of Form No. 11,'' and instructions for filing the Form No. 11 on paper.

DATES: Pipelines must implement the data sets for Form No. 11 on May 15, 1996.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Richard A. White, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–0491

Elizabeth A. Taylor, Office of Pipeline Regulation, 888 First Street, NE., Washington, DC 20426, (202) 208–0826

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 the document during normal business hours in Room 2–A, 888 First 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 if dialing locally or 1–800–856–3920 if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, 1200, or 300 bps, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this document will be available on CIPS in ASCII and WordPerfect 5.1 format. 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 2–A, 888 First Street, NE., Washington, DC 20426.

The Commission's bulletin board system can also be accessed through the FedWorld system directly by modem or through the Internet. To access the FedWorld system by modem:

- Dial (703) 321–3339 and logon to the FedWorld system.
- After logging on, type: /go FERC

To access the FedWorld system, through the Internet:

- Telnet to: fedworld.gov
- Select the option: [1] FedWorld
- Logon to the FedWorld system
- Type: /go FERC

or:

- Point your Web Browser to: http://www.fedworld.gov
- Scroll down the page to select FedWorld Telnet Site
- Select the option: [1] FedWorld
- Logon to the FedWorld system
- Type: /go FERC

Order on Electronic and Paper Filing Specifications for Form No. 11

September 28, 1995, the Federal Energy Regulatory Commission (Commission) issued Order No. 581, amending its Uniform System of Accounts, its forms, and its reports and statements for natural gas companies.[1] These changes necessitated that modifications be made to the Commission's electronic filing requirements. In this order, the Commission is adopting electronic and paper filing specifications for the Form No. 11, and authorizing the Commission staff to issue in the future, further electronic and paper filing specifications related to the forms that were modified by Order Nos. 581 and 582.[2]

I. Background

Order No. 581 contains several new and revised electronic filing requirements. Interstate pipelines transporting or storing gas under subparts B and G must now provide an electronic Index of Customers through a downloadable file that is updated quarterly.[3] The discount rate report, previously filed only on paper, will now be filed both on paper and electronically.[4] In addition, Order No.

[1] Revisions to Uniform System of Accounts, Forms, Statements, and Reporting Requirements for Natural Gas Companies, 60 FR 53,019 (October 11, 1995), *order on reh'g*, Order No. 581, 74 FERC ¶ 61,223 (1996).

[2] Filing Requirements for Interstate Natural Gas Company Rate Schedules and Tariffs, 60 FR 52,960 (October 11, 1995). Order No. 582 is a companion order to Order No. 581, which revised the regulations governing the form and composition of interstate natural gas pipeline tariffs and filing requirements. Order No. 582 required that changes be made to the electronic specifications for filings under subpart D of Part 154. Work on these filing specifications will be completed by the working group established for that purpose.

[3] *See* 18 CFR 284.106(c) and 284.223(b). II FERC Stats. & Regs. ¶¶ 24,866 and 24,943. No paper copies of the Index of Customers are required to be filed. The Notice Adopting Electronic Filing Specifications for the Index of Customers and Discount Transportation Rate Report was issued on February 29, 1996, in Docket No. RM95–4–000.

[4] *See* 18 CFR 284.7(c)(6). II FERC Stats. & Regs. ¶ 24,847. In its ''Order on Clarification and Granting Rehearing Solely for the Purpose of Further Consideration,'' 73 FERC ¶ 61,215 (1995), the Commission clarified that the discount rate reports should be filed solely on paper until the electronic

Continued

581 required that the electronic filing requirements for Form Nos. 2, 2–A, and 11 be modified to recognize changes made to these forms.

Although Order No. 581 required that revisions to existing electronic filing requirements be made, it did not include the final electronic filing specifications. The Commission wanted to provide the industry the opportunity to participate in the formulation of the specifications and formats for the electronic filing requirements. To ensure the widest possible input, the Commission directed its staff to convene an informal technical conference. The first conference was convened on December 1, 1995. Subsequent conferences were held on December 12, 1995, and February 7, 1996. As a result of the discussions at those meetings, the staff has formulated the final electronic filing requirements for the Form No. 11.[5] Staff has also made minor modifications to the paper version of the Form No. 11, and to the paper filing specifications included in the form, to ensure conformity between the electronic and paper versions of the form.

The final electronic filing specifications for the Form No. 11, entitled ''Instruction Manual for Electronic Filing of the Form No. 11'' and the instructions for filing the Form No. 11 on paper, are attached to this order as Appendices A and B, respectively.[6]

The first electronic filing of the Form No. 11 under the new filing instructions will be May 15, 1996. May 15 is one of the four scheduled filing dates provided for in section 260.3 of the Commission's regulations. Details of the electronic filing specifications and the modifications to the instructions for filing on paper are described below.

II. Electronic Filing Specifications for Form No. 11

Consistent with the convention adopted in the manuals for electronic filing of the Index of Customers and discount rate reports, a three-character code to identify the filing pipeline will be used. Previously, the electronic filing requirements for Form No. 11 specified a six-digit company code available from the Energy Information Agency. In the future, the three-digit code assigned by the Commission as part of the docket number in all dockets with the prefix ''TM,'' will be used to identify the filing pipeline. The new code's short length allows it to be used not only in the data, but as part of the filename. A complete list of the pipelines' three-digit codes is included in these filing specifications.

The file naming convention adopted for the Index of Customers and discount rate reports is adapted for use with the Form No. 11. The filename contains a letter code of E to designate the file as containing Form No. 11 data. The name also contains the three-digit pipeline code so all parties will be able to identify the file as originating from a particular filing company. Finally, the name incorporates the last two digits of the year of the report period, and Q1, Q2, Q3, or Q4 to designate the calendar quarter being reported.

All lines of Part II of the form must be entered, even though some information may not apply to all filing companies. For example, if the filing company does not have any sales rate schedules, it must still enter a record for line 1, Total Sales. The record would consist of the record identifier, D, the line number 1, and the text, Total Sales, interspersed with tabs and followed by a hard return.

In addition to the file specifications and definitions, the filing instructions contain aids to filing. One such aid is a presentation of a sample tab-delimited file, and a sample of what it would look like when displayed in a text editor. These samples are intended to help the pipeline accurately create the file. Also included is a section entitled ''File Creation Hints/ Do's and Don'ts, which contains helpful hints on creating a tab-delimited file in several popular software applications.

III. Paper Filing Specifications for Form No. 11

In the process of developing the electronic filing specifications for Form No. 11, it became apparent that not all of the paper copy instructions were conducive to translation into electronic filing specifications. In order to accurately capture the data reported on the Form No. 11 electronically, certain modifications to the paper form are necessary.

The Commission's regulations at section 385.2011(c)(5) require the respondent to state that the paper copies contain the same information as contained on the electronic media.[7] Thus, minor modifications are being made to the instructions for filing Form No. 11 on paper to ensure conformity between the paper version of Form No. 11 and the electronic version. Making the two versions of the Form No. 11 agree also enables the respondent to use the electronic file to create the paper version of the form, reducing the chances of inadvertent inconsistencies between the two versions. The specific changes to Form No. 11 are listed below, and appear in the revised form attached at Appendix B.

Under Item IV, ''What and Where to Submit,'' of the General Information section, a second paragraph is added noting that Form No. 11 must be filed electronically as well as on paper. This paragraph is added to ensure that all respondents are aware that Form No. 11 must be filed both on paper and electronically.

In the electronic instructions, all negative amounts must be designated using a ''−'' in front of the first nonzero digit. General Instruction II is modified to permit negative amounts to be reported by either placing a ''−'' in front of the number, or by enclosing the number in parentheses.

The second sentence in General Instruction IV, requiring a footnoted item to be marked with an X, is removed. Footnote identification is conformed to the footnote identification in the electronic filing specifications discussed below.

In the previously effective electronic filing requirements, items which were not applicable were designated with a ''.001.'' In the new electronic filing requirements, items not applicable are left blank. To conform the paper copy instructions to the electronic instructions, General Instruction VI is added. If a data item is not applicable (for example, a respondent has no storage rate schedules), its value must be omitted, that is, left blank. If a report item applies to the respondent (for example, the respondent has a sales rate schedule in its tariff, but there are no data to report during the month reported), its value is entered as ''0''.

The specific instruction previously applicable to lines numbered 6–7 and 10–11 now refers to lines numbered 2.001, 2.002 and 4.001, 4.002 to recognize the line numbering adopted in the electronic filing specifications. On the paper version of the form, the number of lines necessary to report transportation and storage data varies by pipeline, since the number of transportation and storage rate

filing specifications are issued. The Notice Adopting Electronic Filing Specifications for the Index of Customers and Discount Transportation Rate Report was issued on February 29, 1996, in Docket No. RM95–4–000.

[5] Work on Form Nos. 2 and 2–A will be completed by the working group established for that purpose. That working group, ''Forms,'' met again on March 20, 1996.

[6] These Appendices are not being published in the Federal Register. These filing formats can be obtained by writing to the Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, Division of Information Services, Washington, DC 20426, or in person in Room 2A, 888 First Street, N.E., Washington, DC.

[7] 18 CFR 385.2011(c)(5).

schedules varies. The line number on the paper version, therefore, has no special connotation. Conversely, the line number in the electronic filing identifies the type of data being entered. For example line number 1 always refers to sales data and line 7, Gathering-Firm. Since the transportation and storage data may require any number of lines, associating that data with specific line numbers is not feasible. In the electronic filing, the headings at lines 2, Transportation of Gas for Others, and 4, Storage, are not reported, making some other means of identifying the rate schedules as either transportation or storage necessary. Adopting the sequential numbering 2.001, 2.002, 2.003, *etc.*, identifies all items with the prefix 2 as related to transportation rate schedules. Similarly, all numbers in the sequence 4.001, 4.002, 4.003, *etc.*, identify these items as related to storage rate schedules. This method of line numbering permits any number of rows of transportation and storage data to be reported without disturbing the rest of the line numbering sequence.

The line numbering on Part II of the paper version of Form No. 11 is modified to be consistent with the line numbering in the electronic filing instructions. A sentence is added to the specific instruction explaining how the lines are to be numbered.

A new specific instruction is added to explain how footnotes are identified on Parts I and II. The new instructions read as follows:

''In Part I, enter a footnote reference for each item footnoted. The reference shall be a concatenation of the letter of the item footnoted and the number of the footnote. Enter the footnote number together with the footnote text in Part III. Enter up to ten footnote references separated by /. Refer to the item footnoted in the first position of the footnote reference (*e.g.*, e2 indicates footnote 2 applies to item e, the company's name. Use x if the footnote applies to the entire table, *e.g.*, x3).''

''In Part II, the footnote reference shall be a concatenation of the column letter and the footnote number. Enter the footnote number together with the footnote text in Part III. Enter up to ten footnote references separated by /. Refer to the item footnoted in the first position of the footnote reference (*e.g.*, c5 indicates footnote 5 applies to the number in column c, the quantity. Use x if the footnote applies to the entire table, *e.g.*, x7).''

Two additional instructions are added to clarify that the pipeline name must be the full legal name of the pipeline, and that the pipeline code is the three-digit FERC pipeline code. The Commission's ultimate goal is to discontinue paper filing. These two data elements will be crucial to identification of the data as coming from a particular respondent. To ensure consistent reporting between the paper version and electronic version of the form, the pipeline code is added to the identification information on the paper form.

Subsequent to the turn of the century, many software programs will have difficulty processing dates which identify only the last two digits of the year. To avoid this potential difficulty, all dates reported in the form will contain all four digits of the year to be reported. Therefore, the Report Period is clarified to require begin and end dates in the format MM/DD/YYYY. Similarly, the submission date is formatted as MM/DD/YYYY.

The components of the address of the filing company are no longer listed horizontally. They will now be entered vertically with the number and street of the address on one line and the city, state, and zip code on another line. This arrangement allows the information on Part I to be ordered as it appears in the electronic record.

The numbers (1) and (2) appearing before the signature and phone number, respectively, are removed. These numbers do not appear in the electronic record.

A space to enter a footnote designation is added to provide the filing company the opportunity to record a footnote on Part I if appropriate. For example, a company which recently changed its name may wish to enter a footnote to highlight the name change.

Items reported on Part I are no longer designated by a number, but by a letter. This change conforms the paper copy to the electronic copy of the form.

On Part II, Revenue Data, the heading Total Quantities and Revenues is changed to Total Quantities (1000s of Dth) and Revenues (1000s of $) to clarify the instructions for reporting these items. An instruction is added to indicate that the month reported must be in the format MM/YYYY. The line numbering is changed to incorporate the new line numbering for transportation and storage rate schedules as explained above.

Part III, Footnotes, is modified by replacing the columns entitled Line No. Reference and Column Reference with a single column entitled Footnote Number. As discussed above, this change conforms the method of incorporating footnotes on the paper copy of Form No. 11 to the method adopted in the electronic version of Form No. 11. Since the location of the footnote is no longer dependent on knowing the month reported, this item is eliminated.

The Commission Orders

(A) The specifications for filing the Form No. 11 electronically and on paper are adopted.

(B) The Commission staff is authorized to issue in the future, further electronic and paper filing specifications related to the forms that were modified by Order Nos. 581 and 582.

By the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–8603 Filed 4–5–96; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5454–8]

Science Advisory Board Request for Nomination of Members and Consultants

In accordance with its standard operating procedures (SAB–FRL–2657–4 dated August 21, 1984), the Science Advisory Board (SAB), including the Clean Air Scientific Advisory Committee (CASAC) and the Clean Air Act Compliance Advisory Council (CAACAC), of the Environmental Protection Agency (EPA) is soliciting nominations for Members and Consultants (M/Cs). As part of this effort, the Agency is publishing this notice to describe the purpose of the SAB and to invite the public to nominate appropriately qualified candidates of any gender or ethnic background to fill upcoming vacancies. This process supplements other efforts to identify qualified candidates.

The SAB is composed of Non-Federal Government scientists and engineers who are employed on an intermittent basis to provide independent advice directly to the EPA Administrator on technical aspects of public health and environmental issues confronting the Agency. Members of the SAB are appointed by the Administrator—generally in October—to serve two years terms with some possibilities for reappointment. Consultants are appointed throughout the year, as the need arises, by the Staff Director of the Science Advisory Board to serve renewable one-year terms and serve on SAB committees, as needed. Many individuals serve as consultants prior to serving as members.

Any interested person or organization many nominate qualified persons to serve on the SAB. Nominees should be qualified by education, training and

experience to evaluate scientific, engineering and/or economics information on issues referred to and addressed by the Board.

Members and Consultants most often serve in association with one of the following standing committees: Clean Air Act Compliance Analysis Council, Clean Air Scientific Advisory Committee, Drinking Water Committee, Ecological Processes and Effects Committee, Environmental Economics Advisory Committee, Environmental Engineering Committee, Environmental Health Committee, Integrated Human Exposure Committee, Radiation Advisory Committee, and Research Strategies Advisory Committee.

Members and Consultants can expect to attend 1–6 meetings per year, based upon the activity of the committee on which they serve. M/Cs generally serve as Special Government Employees (SGEs) (40 CFR part 3, subpart F or EPA Ethics Advisory 88–6 dated 7/6/88) and receive compensation, in addition to reimbursement at the Federal Government rate for travel and per diem expenses while serving on the SAB. SGEs are required to complete an application package, including a Confidential Financial Disclosure Report.

Nominees should be identified by name, occupation, position, address, telephone number, fax number, email address (if available) and SAB committee of primary interest. Nominations should include a current resume that addresses the nominee's background, experience, qualifications, and specific areas of expertise.

Information on the nominees will be entered into the SAB's data base for potential M/Cs which will be consulted whenever vacancies arise and/or when special expertise is needed for particular reviews. This request for nominations does not imply any commitment by the Agency to select individuals to serve as a member of or consultant to the Science Advisory Board from the responses received.

Nominations should be submitted to: Ms. Carolyn Osborne, Project Coordinator, Science Advisory Board, USEPA, 401 M Street, SW, Washington, DC 20460 Tel: (202) 260–8414 no later than June 14, 1996. Additional information concerning the Science Advisory Board, its structure, function, and composition, may be found in the Annual Report of the Staff Director which is available by calling (202) 260–8414 or by way on Internet at BARNES.Don@EPAMAIL.GOV.

Dated: March 29, 1996.

Donald G. Barnes,

Staff Director Science Advisory Board.

[FR Doc. 96–8662 Filed 4–5–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5455–2]

Access to Confidential Business Information by a New Team Subcontractor to TechLaw, Inc.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice.

SUMMARY: TechLaw, Inc. the prime contractor on the Region I Enforcement Support Services (ESS) Contract 68–W4–0019 has added Northbridge Environmental Management Consultants as a team subcontractor.

In Federal Register notice, vol. 60, No. 67, EPA informed that TechLaw, Inc. and its team subcontractors required access to information in Region I Superfund files to perform work under the ESS contract. This information, some of which may be claimed or determined to be confidential business information (CBI), has been submitted to EPA under environmental statutes administered by the Agency. This access authorization now applies to Northbridge Environmental Management Consultants.

DATES: Comments should be submitted to EPA on or before April 15, 1996.

FOR FURTHER INFORMATION CONTACT: Mary H. Grealish, Project Officer, U.S. Environmental Protection Agency, (HBS), JFK Federal Building, Boston, MA 02203–2211. Telephone (617) 223–5507.

Dated: March 26, 1996.

Patricia L. Meaney,

Acting Regional Administrator.

[FR Doc. 96–8666 Filed 4–5–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5454–6]

National Environmental Justice Advisory Council; Notification of Meeting and Public Comment Period(s) Open Meeting

Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, notice is hereby given that the National Environmental Justice Advisory Council (NEJAC) along with the subcommittees will meet on the dates and times described below. All times noted are Eastern Daylight Time. All meetings are open to the public. Due to limited space, seating at the NEJAC meeting will be on a first-come basis. Documents that are the subject of NEJAC reviews are normally available from the originating EPA office and are not available from the NEJAC. The meetings will occur at the Westin Hotel in the Renaissance Center in Detroit, MI. Phone: (313) 568–8000.

The full NEJAC will convene on Wednesday, May 29 from 8 a.m. to 8:30 a.m and from 6:15 p.m. to 8:30 p.m., on Thursday, May 30 from 11:45 a.m. to 6:00 p.m., and on Friday, May 31 from 8:30 a.m. to 3:00 p.m. to discuss the NEPA environmental justice guidance update, relocation roundtables, follow-up on pending items from the December meeting, and various NEJAC new business interest items. A public comment period is scheduled from 6:30–8:30 p.m. on Wednesday, May 29 and from 12:00 p.m.–1:00 p.m. on Thursday, May 30.

The six subcommittees will meet on Wednesday, May 29, from 8:30 a.m. to 6:00 p.m. and on Thursday, May 30, from 8:00 a.m. to 11:00 a.m. Any member of the public wishing further information on the subcommittee meetings should contact the specific Designated Federal Official at the telephone number listed below.

Members of the public who wish to make a brief oral presentation should contact Lena Schaye of PRC Environmental Management, Inc. no later than May 20, 1996 in order to have time reserved on the agenda. In general, each individual or group making an oral presentation will be limited to a total time of five minutes. Written comments of any length (at least 35 copies) should be received no later than May 20, comments received after that date will be provided to the Council as logistics allow. They should be sent to PRC Environmental Management, Inc., 1593 Spring Hill Road, Suite 300, Vienna, VA 221882. Telephone number is 703/287–8880 or FAX: 703/287–8910. Internet e-mail address is schayel@prcemi.com.

Subcommittee/Federal Official and Telephone Number

Enforcement—Ms. Sherry Milan—202/564–2619
Health & Research—Mr. Lawrence Martin—202/260–0673
International—Ms. Lorry Frigerio—202/260–6623
Indigenous Peoples—Ms. Elizabeth Bell—202/260–8106
Public Participation—Mr. Robert Knox—202/564–2604
Waste/Facility Siting—Ms. Jan Young—202/260–1691

FOR FURTHER INFORMATION CONTACT: For hearing impaired individuals or non-English speaking attendees wishing to

make arrangements for a sign language or foreign language interpreter, please call or fax Lena Schaye of PRC Environmental Management, Inc. at Phone: 703/287–8880 or Fax: 703/287–8910.

Dated: April 1, 1996.

Clarice E. Gaylord,

Designated Federal Official, National Environmental Justice Advisory Council.

[FR Doc. 96–8667 Filed 4–5–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5455–3]

Risk Assessment and Risk Management Commission; Change in Meeting Date and Location

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Commission on Risk Assessment and Risk Management, established as an Advisory Committee under Section 303 of the Clean Air Act Amendments of 1990, will release of its draft report on May 9, from 1:00–3:00 p.m. at the Resources Conservation Center at 1616 P Street, NW, Washington, DC 20036 in the Kimball Conference Room (see 61 FR 8283, March 4, 1996). Unfortunately, the draft report will not be available until May 9th instead of April 24th as originally planned.

There will be a briefing and the draft report will be available to the public at that time. If you are unable to attend, but wish to receive a copy of the draft report, either fax your request to 202–233–9540, mail your request to the Commission on Risk Assessment and Risk Management, 529 14th Street, NW, Room 452, Washington, DC 20045, or obtain via the internet at http://www.riskworld.com. Be sure to indicate your complete mailing address and a phone number where you can be reached. If you have already requested a copy of the draft report, it is not necessary to send another request.

Comments on the draft report must be received no later than June 15. Please your comments to the Commission address listed above.

If you need additional information, please call 202–233–9537. The report will not be available prior to May 9th.

Dated: April 2, 1996.

Gail Charnley,

Executive Director, Commission on Risk Assessment and Risk Management.

[FR Doc. 96–8668 Filed 4–5–96; 8:45 am]

BILLING CODE, 6560–50–M

[FRL–5454–5]

Science Advisory Board Notification of Public Advisory Committee Meetings

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that several committees of the Science Advisory Board (SAB) will meet on the dates and times described below. All times noted are Eastern Time. All meetings are open to the public. Due to limited space, seating at meetings will be on a first-come basis. For further information concerning specific meetings, please contact the individuals listed below. Documents that are the subject of SAB reviews are normally available from the originating EPA office and are *not* available from the SAB Office.

1. Lakes Biocriteria Subcommittee Meeting

The Lakes Biocriteria Subcommittee of the Ecological Processes and Effects Committee (EPEC) of the Science Advisory Board (SAB) will meet on April 22–23, 1996, at the Washington Information Center (WIC), Room 17, at the EPA Waterside Mall Complex, 401 M Street, SW, Washington, DC 20460. The meeting will begin at 8:30 a.m. on April 22 and at 8:00 a.m. on April 23, and will end no later than 5:00 p.m. on both days. The meeting is open to the public and seating is on a first come basis.

The purpose of the meeting is to review the Agency's draft technical guidance document on Lake and Reservoir Bioassessment and Biocriteria. The document describes a set of protocols for biological assessment/monitoring to assess the total ecological health of lakes and reservoirs. The technical guidance is the second in a series of guidance documents being developed to assist states to develop biocriteria, numeric values or narrative expressions that measure attainment of biological integrity of aquatic communities inhabiting waters that have been given a designated aquatic life use; in 1994, a subcommittee of EPEC reviewed draft guidance on biocriteria for streams and small rivers. The charge to the Lakes Biocriteria Subcommittee is to review for scientific adequacy and pertinence: (1) The selection and treatment of biotic parameters used to evaluate lake and reservoir resource quality; (2) the selection and treatment of habitat characteristics used to classify and to assess lakes and reservoirs; (3) recommended sampling design; and (4) techniques to determine significant deviations from the criteria.

Single copies of the review materials provided to the Subcommittee can be obtained by contacting Chris Faulker, Assessment and Watershed Protection Division (4503F), EPA Office of Water, 401 M Street, SW., Washington, DC 20460, telephone (202) 260–6228. Members of the public desiring additional information concerning the meeting, including an agenda, should contact Ms. Constance Valentine, Staff Secretary, Science Advisory Board (1400F), US EPA, 401 M Street, SW, Washington DC 20460, by telephone at (202) 260–6552, fax at (202) 260–7118, or via The INTERNET at: Valentine.Connie@EPAMAIL.EPA.GOV.

Anyone wishing to make an oral presentation at the meeting should contact Stephanie Sanzone, Designated Federal Official for EPEC, no later than 4:00 p.m., April 17, 1996, at (202) 260–6557 or via the Internet at Sanzone.Stephanie@epamail.epa.gov. The request should identify the name of the individual who will make the presentation, the organization they represent, if any, and an outline of the issues to be addressed. At least 35 copies of any written comments to the Subcommittee are to be given to Ms. Sanzone no later than the time of the presentation for distribution to the Subcommittee and the interested public. See below for additional information on providing comments to the SAB.

2. Integrated Risk Project Steering Committee Teleconference

The Steering Committee for the Science Advisory Board's (SAB) Integrated Risk Project will hold a public teleconference on April 29, 1996 from 2:00 p.m.–5:00 p.m. The purpose of the teleconference is to discuss various aspects of the Integrated Risk Project, including project organization, scope, and schedule.

Background:

In a letter dated October 25, 1995, to Dr. Matanoski, Chair of the SAB Executive Committee, Deputy Administrator Fred Hansen charged the SAB to update its 1990 report, Reducing Risk: Setting Priorities and Strategies for Environmental Protection. Specifically, the charge is to: (1) Develop an updated ranking of the relative risk of different environmental problems based upon explicit scientific criteria; (2) provide an assessment of techniques and criteria that could be used to descriminate among emerging environmental risks and identify those that merit serious, near-term Agency attention; (3) assess the potential for risk reduction and propose alternative technical risk reduction strategies for the

environmental problems identified; and (4) identify the uncertainties and data quality issues associated with the relative rankings. The project will be conducted by several SAB panels, working at the direction of an ad hoc Steering Committee established by the Executive Committee.

Single copies of Reducing Risk can be obtained by contacting the SAB's Committee Evaluation and Support Staff (1400), 401 M Street, SW, Washington, DC 20460, telephone (202) 260–8414, or fax (202) 260–1889. Members of the public who wish to participate in the teleconference meeting should contact Ms. Constance Valentine, Staff Secretary, no later than April 24, 1996 at Science Advisory Board (1400F), US EPA, 401 M Street, SW, Washington DC 20460, by telephone at (202) 260–6552, fax at (202) 260–7118, or via The INTERNET at: Valentine.Connie@EPAMAIL.EPA.GOV.

Anyone wishing to make an oral presentation at the meeting should contact Stephanie Sanzone, Designated Federal Official, no later than 4:00 p.m., April 24, 1996, at (202) 260–6557 or via the Internet at Sanzone.Stephanie@epamail.epa.gov. The request should identify the name of the individual who will make the presentation, the organization they represent, if any, and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to Ms. Sanzone for distribution to the Committee and the interested public. See below for additional information on providing comments to the SAB.

3. Ecological Processes and Effects Committee Teleconference

The Ecological Processes and Effects Committee (EPEC) of the Science Advisory Board (SAB) will hold a public teleconference on May 13, 1996, from 3:00 to 5:00 p.m. to continue discussions of ecological risks and the potential for risk reduction as part of an SAB project to update the 1990 SAB report, Reducing Risk: Setting Priorities and Strategies for Environmental Protection.

Background

In a letter dated October 25, 1995, to Dr. Matanoski, Chair of the SAB Executive Committee, Deputy Administrator Fred Hansen charged the SAB to update its 1990 report, Reducing Risk: Setting Priorities and Strategies for Environmental Protection. Specifically, the charge is to: (1) Develop an updated ranking of the relative risk of different environmental problems based upon explicit scientific criteria; (2) provide an assessment of techniques and criteria that could be used to descriminate among emerging environmental risks and identify those that merit serious, near-term Agency attention; (3) assess the potential for risk reduction and propose alternative technical risk reduction strategies for the environmental problems identified; and 4) identify the uncertainties and data quality issues associated with the relative rankings. The project will be conducted by several SAB panels, including EPEC, working at the direction of an ad hoc Steering Committee established by the Executive Committee.

Single copies of Reducing Risk can be obtained by contacting the SAB's Committee Evaluation and Support Staff (1400), 401 M Street, SW, Washington, DC 20460, telephone (202) 260–8414, or fax (202) 260–1889. Members of the public who wish to participate in the teleconference meeting should contact Ms. Constance Valentine, Staff Secretary, no later than 4:00 p.m. on May 8, 1996 at Science Advisory Board (1400F), US EPA, 401 M Street, SW, Washington DC 20460, by telephone at (202) 260–6552, fax at (202) 260–7118, or via The INTERNET at: Valentine.Connie@EPAMAIL.EPA.GOV.

Anyone wishing to make an oral presentation at the meeting should contact Stephanie Sanzone, Designated Federal Official for EPEC, no later than 4:00 p.m. on May 8, 1996, at (202) 260–6557 or via the Internet at Sanzone.Stephanie@epamail.epa.gov. The request should identify the name of the individual who will make the presentation, the organization they represent, if any, and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to Ms. Sanzone for distribution to the Committee and the interested public. See below for additional information on providing comments to the SAB.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes. For conference call meetings, opportunities for oral comment will be limited to no more than five minutes per speaker and no more than fifteen minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Dated: March 26, 1996.

John R. Fowle III,

Acting Staff Director, Science Advisory Board.

[FR Doc. 96–8665 Filed 4–5–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice 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 the proposal complies with the standards of section 4 of the BHC Act, including 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'' (12 U.S.C. 1843). 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.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 22, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. D & D Bancshares, Inc., Mount Auburn, Iowa; to engage *de novo* in making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

2. Peoples Bancorp, Inc., Prairie du Chien, Wisconsin; to engage *de novo* through its subsidiary, Northridge Consulting Corp., Prairie du Chien, Wisconsin, in providing appraisal services, pursuant to § 226.25(b)(13) of the Board's Regulation Y. This activity will take place in western and southwestern Wisconsin, northeastern Iowa, and southwestern Minnesota.

Board of Governors of the Federal Reserve System, April 2, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–8574 Filed 4–5–96; 8:45 am]

BILLING CODE 6210–01–F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. 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 standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company 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'' (12 U.S.C. 1843). Any request for a hearing 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. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 2, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Associated Banc-Corp., Green Bay, Wisconsin; to acquire 100 percent of the voting shares of Mid-America National Bancorp, Incorporated, Chicago, Illinois, and thereby indirectly acquire Mid-America National Bank of Chicago, Chicago, Illinois.

In connection with this application, Applicant's subsidiary, Associated Illinois Banc-Corp., Green Bay, Wisconsin, has applied to merge with Mid-America National Bancorp, Incorporated, Chicago, Illinois.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Flathead Holding Company of Bigfork, Bigfork, Montana; to acquire 23.44 percent of the voting shares of BankWest, N.A., Kalispell, Montana.

2. Straight River Bancshares, Inc., Ellendale, Minnesota; to become a bank holding company by acquiring 99 percent of the voting shares of Bank of Ellendale, Ellendale, Minnesota.

C. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. U.S. Bancorp, Portland, Oregon; to merge with California Bancshares, Inc, San Ramon, California, and thereby indirectly acquire Alameda First National Bank, Alameda, California; The Bank of Milpitas, N.A., Milpitas, California; The Bank of San Ramon Valley, San Ramon, California; Commercial Bank of Fremont, Fremont, California; Community First National Bank, Pleasanton, California; Concord Commercial Bank, Concord, California; Lamorinda National Bank, Walnut Creek, California; Modesto Banking Company, Modesto, California, and Westside Bank, Tracy, California.

In connection with this application, U.S. Bancorp, Portland, Oregon also has applied to acquire CBI Mortgage, Modesto, California, and thereby engage in mortgage lending pursuant to § 225.25(b)(1) of the Board's Regulation Y; Island Bancorp Leasing, Alameda, California, and therby engage in leasing pursuant to § 225.25(b)(1) of the Board's Regulation Y; LNB Corp., Alameda, California, and Eden Financial Corp., Alameda, California, and thereby act as trustee for deeds of trust pursuant to § 225.25(b)(3) of the Board's Regulation Y.

U.S. Bancorp also has applied to acquire an option for 19.9 percent of California Bancshares.

Board of Governors of the Federal Reserve System, April 2, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–8573 Filed 4–5–96; 8:45 am]

BILLING CODE 6210-01-F

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 April 29, 1996.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Lon J. Rylander, Ashby, Minnesota; to acquire an additional 8.35 percent, for a total of 25.16 percent, of the voting shares of Ashby Bancshares, Inc., Ashby, Minnesota, and thereby indirectly acquire First State Bank of Ashby, Ashby, Minnesota.

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. B. John Barry, Aspen, Colorado; to acquire an additional 15.7 percent, for a total of over 25 percent; Thomas J. Barry, Prescott, Arizona, to acquire an additional 7.7 percent, for a total of 9.9 percent; Michael B. Barry, St. Paul, Minnesota, to acquire an additional 8 percent, for a total of 9.9 percent; and Jessica M. Barry, St. Paul, Minnesota, to acquire an additional 6 percent, for a total of 9.9 percent, of the voting shares of Redwood Empire Bancorp, Santa Rosa, California, and thereby indirectly acquire National Bank of the Redwoods, Santa Rosa, California.

Board of Governors of the Federal Reserve System, April 2, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–8575 Filed 4–5–96; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[Dkt. C–3611]

Equifax Credit Information Services, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Georgia-based corporation to follow reasonable procedures to assure maximum possible accuracy when preparing consumer reports as required by the Fair Credit Reporting Act and to also maintain reasonable procedures to limit the furnishing of consumer reports to the purposes listed under Section 604 of the Fair Credit Reporting Act.

DATES: Complaint and Order issued August 14, 1995.[1]

FOR FURTHER INFORMATION CONTACT: Christopher W. Keller or Donald D'Entremont, FTC/S–4429, Washington, DC 20580. (202) 326–3159 or 326–2736.

SUPPLEMENTARY INFORMATION: On Wednesday, February 22, 1995, there was published in the Federal Register, 60 FR 98420, a proposed consent agreement with analysis In the Matter of Equifax Credit Information Services, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 84 Stat. 1128–36; 15 U.S.C. 1681–1681(f))

Donald S. Clark,

Secretary.

[FR Doc. 96–8657 Filed 4–5–96; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

[Dkt. No. C–3597]

Eskimo Pie Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a Virginia-based corporation from misrepresenting the existence or amount of calories or any other nutrient or ingredient in any frozen dessert product and from falsely claiming that any frozen dessert product has been approved, endorsed or recommended by any person, group or organization. In addition, the consent order requires a disclosure statement, should Eskimo Pie represent that any frozen dessert is a useful or appropriate part of a diabetic's diet.

DATES: Complaint and Order issued August 11, 1995.[1]

FOR FURTHER INFORMATION CONTACT: C. Steven Baker or Barbara Di Giulio, Federal Trade Commission, Chicago Regional Office, 55 East Monroe St., Suite 1860, Chicago, IL 60630 (312) 353–8156.

SUPPLEMENTARY INFORMATION: On Monday, June 5, 1995, there was published in the Federal Register, 60 FR 29601, a proposed consent agreement with analysis In the Matter of The Eskimo Pie Corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Donald S. Clark,

Secretary.

[FR Doc. 96–8656 Filed 4–5–96; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

[Dkt. C–3635]

First Data Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, First, Data, a New Jersey-based corporation, to divest, within 12 months to a Commission-approved acquirer, either its own MoneyGram business or First Financial's Western Union business. If the divestiture is not completed on time, the consent order allows the Commission to appoint a trustee.

DATES: Complaint and Order issued January 16, 1996.[1]

FOR FURTHER INFORMATION CONTACT: Ann Malester, FTC/S–2307, Washington, DC. 20580. (202) 326–2682.

SUPPLEMENTARY INFORMATION: On Thursday, October 5, 1995, there was published in the Federal Register 60 FR 52188, a proposed consent agreement with analysis In the Matter of First Data Corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the

[1] Copies of the Complaint, the Decision and Order, and Commissioner Varney's statement are available from the Commission's Public reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC. 20580.

complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to divest, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Donald S. Clark,

Secretary.

[FR Doc. 96–8658 Filed 4–5–96; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3595]

IHI Clinics, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a Georgia corporation and its officers from misrepresenting the performance, success or efficacy of their smoking cessation, weight loss and maintenance seminars, or any such programs, and from representing that the U.S. Government has rated their group hypnosis method as the best way to stop smoking. The consent order requires the respondents to possess and rely upon competent and reliable scientific evidence to substantiate any representation about the performance or efficacy of any smoking cessation or weight loss program, before they make such a claim.

DATES: Complaint and Order issued August 1, 1995.[1]

FOR FURTHER INFORMATION CONTACT: Matthew Daynard, FTC/H–200, Washington, DC 20580. (202) 326–3291.

SUPPLEMENTARY INFORMATION: On Thursday, December 1, 1994, there was published in the Federal Register, 59 FR 61620, a proposed consent agreement with analysis In the Matter of IHI Clinics, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 96–8659 Filed 4–5–96; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3612]

Jerry's Ford Sales, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, three corporations in Virginia and their President and CEO, in any advertisement to promote any extensions of consumer credit, to cease and desist from misrepresenting the terms of financing the purchase of a vehicle, including whether there may be a balloon payment and the amount of any balloon payment. The consent order also requires the respondents, in any advertisement to promote any extension of consumer credit, to cease and desist from failing to state all terms required by §§ 226.24(b) and 226.24(c) of Regulation Z. The consent order also requires the respondents, in any advertisement to aid, promote or assist any consumer lease, to cease and desist from failing to state all terms required by § 213.5(c) of Regulation M.

DATES: Complaint and Order issues August 29, 1995.[1]

FOR FURTHER INFORMATION CONTACT: Carole Reynolds, FTC/S–4429, Washington, DC 20580. (202) 326–3230.

SUPPLEMENTARY INFORMATION: On Friday, June 9, 1995, there was published in the Federal Register, 60 FR 30546, a proposed consent agreement with analysis In the Matter of Jerry's Ford Sales, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 15 U.S.C. 45, 1601, *et seq.;* 1667–1667e; 12 CFR 226)

Donald S. Clark,

Secretary.

[FR Doc. 96–8660 Filed 4–5–96; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3596]

Original Marketing, Inc., et al.; Prohibited Trade Practices; and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, the Florida-based corporation, two of its officers and an affiliated advertising agency from making performance or benefit claims for any weight-loss or weight-control product or program or acupressure device unless the claims are true and substantiated by competent and reliable scientific evidence. Also, the consent order prohibits the respondents from misrepresenting any endorsement or testimonial for any weight-loss or weight-control product or program or any acupressure device as representing the typical or ordinary experience of users. In addition, the respondents are required to pay refunds to purchasers of Acu-Stop 2000 who have previously returned it, or who return it within 90 days after the order is final, and the individual respondents are required to post a $300,000 performance bond, or to pay that amount into an escrow account, before marketing any weight-loss or weight-control product or program or any acupressure device.

DATES: Complaint and Order issued August 9, 1995.[1]

FOR FURTHER INFORMATION CONTACT: Richard Cleland, FTC/S–4002, Washington, DC 20580. (202) 326–3088.

SUPPLEMENTARY INFORMATION: On Tuesday, May 23, 1995, there was

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

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[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

published in the Federal Register, 60 FR 27309, a proposed consent agreement with analysis In the Matter of Original Marketing, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Donald S. Clark,

Secretary.

[FR Doc. 96–8661 Filed 4–5–96; 8:45 am]

BILLING CODE 6750–01–M

GOVERNMENT PRINTING OFFICE

The Federal Register Online Via GPO Access; Meeting and Demonstration

The United States Government Printing Office (GPO) will hold a meeting for Federal agencies and others interested in an overview and demonstration of the Government Printing Office's award-winning online service, *GPO Access*, provided under the Government Printing Office Electronic Information Access Enhancement Act of 1993 (Public Law 103–40).

The demonstration will be held at the United States Government Printing Office, Carl Hayden Room, 8th Floor, 732 North Capitol Street NW., Washington, DC, on Thursday, May 2, from 9 a.m. to 10:30 a.m. and 11 a.m. to 12:30 p.m. There is no charge to attend. GPO is accessible via (Metro) Red Line at Union Station.

The online Federal Register service offers access to the daily issues of the Federal Register by 6 a.m. on the day of publication at no charge to the user. All notices, rules and proposed rules, Presidential documents, executive orders, separate parts, and reader aids are included in the database. Documents are available as ASCII text files and in typeset form as Adobe Acrobat Portable Document Format (PDF) files. Graphics are included in the PDF files and are also available as separate files in the TIFF format. The online Federal Register is available via the Internet or as a dial-in service. Historical data is available from January 1994 forward.

Other databases currently available online through *GPO Access* include the *Government Manual; GILS Records; The Budget of the United States Government, Fiscal Year 1997; Congressional Record; Congressional Record Index*, including the *History of Bills; Congressional Bills; Public Laws; U.S. Code*; and *GAO Reports*; and a growing list of important Government documents available on the same day of publication.

Individuals interested in attending may reserve a space by contacting John R. Berger, Marketing Specialist, at the GPO's Office of Electronic Information Dissemination Services, by Internet e-mail at jberger@gpo.gov; by telephone: 202–512–1525; or by fax: 202–512–1262. Seating reservations will be accepted through Monday, April 29, 1996.

Michael F. DiMario,

Public Printer.

[FR Doc. 96–8581 Filed 4–5–96; 8:45 am]

BILLING CODE 1505–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summaries of proposed collection for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Payment Adjustment for Sole Community Hospitals; *Form No.:* HCFA–R–79; *Use:* Hospitals designated as ''Sole Community Hospitals'' that experience a five percent decrease in discharges in one cost reporting period, as compared to the previous period, due to unusual circumstances, beyond its control, may request an adjustment to its Medicare payment amount. *Frequency:* On occasion; *Affected Public:* Business or other for-profit, Not-for-profit institutions, and State, local or tribal government; *Number of Respondents:* 40; *Total Annual Responses:* 40; *Total Annual Hours Requested:* 160.

2. *Type of Information Collection Request:* Reinstatement, with change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Conditions of Participation for Portable X-ray Suppliers (42 CFR 405 Subpart N); *Form No.:* HCFA-R–43; *Use:* This information is needed to determine if portable X-ray suppliers are in compliance with published health and safety requirements. *Frequency:* Annually; *Affected Public:* Business or other-for-profit; *Number of Respondents:* 554; *Total Annual Responses:* 554; *Total Annual Hours Requested:* 1,385.

3. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Independent Rural Health Center/Freestanding Federally Qualified Health Center Cost Report; *Form No.:* HCFA–222; *Use:* The independent rural health clinic/freestanding federally qualified health center cost report is the cost report to be used by the mentioned clinics/centers to submit annual information to achieve a settlement of costs for health care services rendered to Medicare beneficiaries. *Frequency:* Annually; *Affected Public:* Business or other for-profit, Not-for-profit institutions, and State, local or tribal government; *Number of Respondents:* 3,000; *Total Annual Responses:* 3,000; *Total Annual Hours Requested:* 120,000.

To request copies of the proposed paperwork collections referenced above, call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Louis Blank, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: March 19, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources.

[FR Doc. 96–8532 Filed 4–5–96; 8:45 am]

BILLING CODE 4120–03–P

Agency for Health Care Policy and Research

Notice of Health Care Policy and Research Special Emphasis Panel Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2) announcement is made of the following special emphasis panel scheduled to meet during the month of May 1996:

Name: Health Care Policy and Research Special Emphasis Panel

Date and Time: May 3, 1996, 8:30 a.m.

Place: Doubletree Hotel, 1750 Rockville Pike, Conference Room TBA, Rockville, MD 20852; Open May 3, 8:30 a.m. to 9:00 a.m. Closed for remainder of meeting.

Purpose: This Panel is charged with conducting the initial review of grant applications proposing health services research training programs under the National Research Service Awards Program.

Agenda: The open session of the meeting on May 3, from 8:30 a.m. to 9:00 a.m., will be devoted to a business meeting covering administrative matters. During the closed session, the committee will be reviewing and discussing grant applications dealing with health services research issues. In accordance with the Federal Advisory Committee Act, 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6), it has been determined that this latter session will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members or other relevant information should contact Linda W. Blankenbaker, Agency for Health Care Policy and Research, Suite 400, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594–1438.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: March 26, 1996.

Clifton R. Gaus,

Administrator.

[FR Doc. 96–8600 Filed 4–5–96; 8:45 am]

BILLING CODE 4160–90–M

Centers for Disease Control and Prevention

CDC Advisory Committee on the Prevention of HIV Infection: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: CDC Advisory Committee on the Prevention of HIV Infection.

Times and Dates: 8:30 a.m.–5 p.m., May 7, 1996. 8:30 a.m.–3 p.m., May 8, 1996.

Place: Corporate Square Office Park, Corporate Square Boulevard, Building 11, Room 1413, Atlanta, Georgia 30329.

Status: Open to the public, limited only by the space available. The meeting room will accommodate approximately 100 people.

Purpose: This committee is charged with advising the Director, CDC, regarding objectives, strategies, and priorities for HIV prevention efforts including maintaining surveillance of HIV infection and AIDS, the epidemiologic and laboratory study of HIV and AIDS, information/education and risk reduction activities designed to prevent the spread of HIV infection, and other preventive measures that become available.

Matters To Be Discussed: The Committee discussions will center around recommendations on HIV prevention for injecting drug users, epidemiology of HIV/AIDS, prevention activities for youth, and other current HIV prevention issues. Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Connie Granoff, Committee Management Specialist, National Center for HIV, STD, and TB Prevention, 1600 Clifton Road, NE, M/S E–07, Atlanta, Georgia 30333, telephone 404/639–8029.

Dated: April 2, 1996.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–8593 Filed 4–5–96; 8:45 am]

BILLING CODE 4163–18–M

Administration for Children and Families

New and Pending Demonstration Project Proposals Submitted Pursuant to Section 1115(a) of the Social Security Act: March 1996

AGENCY: Administration for Children and Families, HHS.

ACTION: Notice.

SUMMARY: This notice lists new proposals for welfare reform and combined welfare reform/Medicaid demonstration projects submitted to the Department of Health and Human Services for the month of March, 1996. It includes both those proposals being considered under the standard waiver process and those being considered under the 30 day process. Federal approval for the proposals has been requested pursuant to section 1115 of the Social Security Act. This notice also lists proposals that were previously submitted and are still pending a decision and projects that have been approved since March 1, 1995. The Health Care Financing Administration is publishing a separate notice for Medicaid only demonstration projects.

COMMENTS: We will accept written comments on these proposals. We will, if feasible, acknowledge receipt of all comments, but we will not provide written responses to comments. We will, however, neither approve nor disapprove new proposals under the standard application process for at least 30 days after the date of this notice to allow time to receive and consider comments. Direct comments as indicated below.

ADDRESSES: For specific information or questions on the content of a project contact the State contact listed for that project.

Comments on a proposal or requests for copies of a proposal should be addressed to: Howard Rolston, Administration for Children and Families, 370 L'Enfant Promenade, S.W., Aerospace Building, 7th Floor West, Washington DC 20447. FAX: (202) 205–3598 PHONE: (202) 401–9220.

SUPPLEMENTARY INFORMATION:

I. Background

Under Section 1115 of the Social Security Act (the Act), the Secretary of Health and Human Services (HHS) may approve research and demonstration project proposals with a broad range of policy objectives.

In exercising her discretionary authority, the Secretary has developed a number of policies and procedures for reviewing proposals. On September 27, 1994, we published a notice in the Federal Register (59 FR 49249) that specified (1) the principles that we ordinarily will consider when approving or disapproving demonstration projects under the authority in section 1115(a) of the Act; (2) the procedures we expect States to use in involving the public in the development of proposed demonstration projects under section 1115; and (3) the procedures we ordinarily will follow in reviewing demonstration proposals. We are committed to a thorough and expeditious review of State requests to conduct such demonstrations.

On August 16, 1995, the Secretary published a notice in the Federal Register (60 FR 42574) exercising her discretion to request proposals testing welfare reform strategies in five areas. Since such projects can only incorporate provisions included in that announcement, they are not subject to

the Federal notice procedures. The Secretary proposed a 30 day approval process for those provisions. As previously noted, this notice lists all new or pending welfare reform demonstration proposals under section 1115. Where possible, we have identified the proposals being considered under the 30 day process. However, the Secretary reserves the right to exercise her discretion to consider any proposal under the 30 day process if it meets the criteria in the five specified areas and the State requests it or concurs.

II. Listing of New and Pending Proposals for the Month of March, 1996

As part of our procedures, we are publishing a monthly notice in the Federal Register of all new and pending proposals. This notice contains proposals for the month of March, 1996.

Project Title: California—Work Pays Demonstration Project (Amendment).

Description: Would amend Work Pays Demonstration Project by adding provisions to: reduce benefit levels by 10% (but retaining the need level); reduce benefits an additional 15% after 6 months on assistance for cases with an able-bodied adult; time-limit assistance to able-bodied adults to 24 months, and not increase benefits for children conceived while receiving AFDC.

Date Received: 3/14/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Glen Brooks, (916) 657–3291.

Project Title: California—Work Pays Demonstration Project (Amendment).

Description: Would amend the Work Pays Demonstration Project by adding provisions to not increasing AFDC benefits to families for additional children conceived while receiving AFDC.

Date Received: 11/9/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Bruce Wagstaff, (916) 657–2367.

Project Title: California—Assistance Payments Demonstration Project/ California Work Pays Demonstration Project (Amendment).

Description: Would amend the Assistance Payments Demonstration Project/California Work Pays Demonstration Project by adding provisions to California to allow two additional AFDC benefit reductions: (1) Reduce the Maximum Aid Payment (MAP) by 4.9 percent across-the-board statewide; and (2) divide California counties into two regions based on housing costs, and reduce both the Need Standard and the MAP in the region with the lower costs. In addition, the State is requesting blanket authority for future reductions in AFDC payment levels in conjunction with welfare reform state law changes.

Date Received: 3/13/96.

Type: AFDC/Medicaid.

Current Status: New.

Contact Person: Bruce Wagstaff, (916) 657–2367.

Project Title: California - Assistance Payments Demonstration Project/ California Work Pays Demonstration Project (Amendment).

Description: Would amend the Assistance Payments Demonstration Project/California Work Pays Demonstration Project by adding provisions to allow one additional provision: income of a senior parent living in the same household with a minor parent with a dependent child will not be deemed to the minor parent's child.

Date Received: 3/13/96.

Type: AFDC.

Current Status: New.

Contact Person: Bruce Wagstaff, (916) 657–2367.

Project Title: Florida—Family Responsibility Act.

Description: Statewide, would require dependent children and caretaker relatives under age 18 to remain in school; pay half the AFDC benefit increment for the first child conceived by an AFDC recipient and provide no cash benefits for a second or subsequent child; exclude from the AFDC budget child support payments for children subject to the family cap; require AFDC recipients not participating in JOBS or actively seeking employment to engage in 20 hours per week of community employment or work experience.

Date Received: 10/4/95.

Type: Combined AFDC/Medicaid.

Current Status: Pending.

Contact Person: Sallie P. Linton, (904) 921–5572.

Project Title: Georgia—Jobs First Project.

Description: In ten pilot counties, would replace AFDC payment with paid employment; extend transitional Medicaid to 24 months; eliminate 100 hour employment rule for eligibility determination in AFDC-UP cases.

Date Received: 7/5/94.

Type: AFDC.

Current Status: Pending (not previously published).

Contact Person: Nancy Meszaros, (404) 657–3608.

Project Title: Hawaii—Families Are Better Together.

Description: Statewide, would eliminate 100-hour, attachment to the work force, 30 day unemployment and principal wage earner criteria for AFDC-UP families.

Date Received: 5/22/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Patricia Murakami, (808) 586–5230.

Project Title: Illinois—Six Month Paternity Establishment Demonstration.

Description: In 20 counties, would require the establishment of paternity, unless good cause exists, within 6 months of application or redetermination as a condition of AFDC and Medicaid eligibility for both mother and child; would deny Medicaid to children age 7 and under, exclude children from filing rules, and exempt Department from making protective payments to eligible children, when custodial parent has not cooperated in establishing paternity; delegate the establishment of paternity in uncontested cases to caseworkers who perform assistance payment or social service functions under title IV-A or XX.

Date Received: 7/18/95.

Title: AFDC/Medicaid.

Current Status: Pending.

Contact Person: Karan D. Maxson, (217) 785–3300.

Project Title: Indiana—Impacting Families Welfare Reform Demonstration—Amendments.

Description: Statewide, proposes expansions and amendments to current demonstration to impose a lifetime 24-month limit on cash assistance and categorical Medicaid eligibility (12 months for resident alien); allow 1 month AFDC credit (to a maximum of 24 at any one time) for each 6 consecutive months full-time employment; count each month of AFDC receipt from another state within the previous 3 years as 1 month against the lifetime limit; restrict permissible ''specified relatives'' for AFDC children and minor parents; extend AFDC, Medicaid, and food stamp fraud disqualification penalties; establish 3 unexcused absences per year as the statewide definition of unacceptable school attendance; provide a voucher equal to 50% of assistance amount for family cap child for goods and services related to child care; divert AFDC grants to subsidize child care costs; establish an option for an employed AFDC recipient to receive guaranteed child care or an AFDC payment equal to the family's benefit before employment; require a child's mother to establish paternity as a condition of eligibility for the child and the caretaker; establish additional conditions of eligibility for AFDC; impose penalties for illegal drug

use; base CWEP hours on the combined value of AFDC and Medicaid assistance; make JOBS volunteers subject to the same sanctions as mandatory participants; continue eligibility for AFDC recipients until countable income reaches 100% of the federal poverty guidelines; expand voluntary quit definition and penalties; impose income limits on transitional Medicaid and child care and limit each to 12 months in a person's lifetime; with some exceptions, deny Medicaid under all coverage provisions to those determined ineligible as a result of AFDC welfare reform provisions; restrict Medicaid payments made to employees with employer's health care benefits to the lesser of the employee's insurance premium or the amount the state would otherwise pay; and require minor parents to live with a legally responsible adult and count the income and resources of non-parent adults.

Additional provisions: Food Stamp recipients could be required to participate CWEP and job search; increase AFDC and Food Stamp penalties for non-compliance with CWEP and job search; require cooperation with child support as condition of eligibility for Food Stamps.

Date Received: 12/14/95; Amendment received 2/6/96.

Type: Combined AFDC/Medicaid.

Current Status: Pending.

Contact Person: James H. Hmurovich, (317) 232–4704.

Project Title: Iowa—Family Investment Plan (Amendments).

Description: Statewide, would amend the current Family Investment Plan Demonstration, changing the current JOBS exemption from parents with children younger than 6 months old to younger than 3 months old; for applicants who received AFDC in another state at any time during the 12 calendar months prior to application in Iowa, calculating benefits for 6 months using the prior state's need standard if its benefit level is lower than Iowa's; requiring minor parents to live with an adult parent or legal guardian; requiring parents age 19 and younger to attend parenting classes; requiring minor parents to participate in high school completion activities; disregarding earned income of full time students age 19 and younger; adopting the Section 416 Optional AFDC Fraud Control Program; and offering information to parents regarding family planning and the financial implications of having additional children.

Date Received: 2/9/96.

Type: AFDC.

Current Status: Pending.

Contact Person: Ann Weibers, (515) 281–7714.

Project Title: Kansas—Actively Creating Tomorrow for Families Demonstration.

Description: Would, after 30 months of participation in JOBS, make adults ineligible for AFDC for 3 years; replace $30 and 1/3 income disregard with continuous 40% disregard; disregard lump sum income and income and resources of children in school; count income and resources of family members who receive SSI; exempt one vehicle without regard for equity value if used to produce income; allow only half AFDC benefit increase for births of a second child to families where the parent is not working and eliminate increase for the birth of any child if families already have at least two children; eliminate 100-hour rule and work history requirements for UP cases; expand AFDC eligibility to pregnant women in 1st and 2nd trimesters; extend Medicaid transitional benefits to 24 months; eliminate various JOBS requirements, including those related to target groups, participation rate of UP cases and the 20-hour work requirement limit for parents with children under 6; require school attendance; require minors in AFDC and NPA Food Stamps cases to live with a guardian; make work requirements and penalties in the AFDC and Food Stamp programs more uniform; and increase sanctions for not cooperating with child support enforcement activities.

Date Received: 7/26/94.

Type: Combined AFDC/Medicaid.

Current Status: Pending.

Contact Person: Faith Spencer, (913) 296–0775.

Project Title: Maine—Welfare to Work Program.

Description: Statewide, would require caretaker relatives to sign a family contract; require participation in parenting classes and health care services; provide one-time vendor payments in lieu of AFDC for the purpose of obtaining/retaining employment; provide voucher payments to both married and unmarried minor parents; limit JOBS exemptions; expand eligibility for Transitional Medicaid and Child Care and replace sliding-scale fees with flat-rate fees; reduce Transitional Medicaid reporting requirements; disregard entire value of one vehicle; and apply any federal savings to the JOBS program services. In selected sites, implement ASPIRE-Plus, a subsidized employment program, would cash out food stamps, divert AFDC benefits and pass through all child support collected to families who participate in ASPIRE-Plus.

Date Received: 9/20/95.

Type: AFDC/Medicaid.

Current Status: Pending.

Contact Person: Susan Dustin, (207) 287–3104.

Project Title: Minnesota Family Investment Program (MFIP) (Amendment).

Description: Would amend MFIP by adding Ramsey County as an MFIP site. MFIP provisions include: A consolidation of AFDC, Food Stamps, and the State's Family General Assistance program into one cash grant, with a single set of rules and procedures; eligibility based on net income only; an asset limit of $2,000, with an exemption for vehicles with a combined equity value of up to $4,500; elimination of the 100-hour and work history rules for two-parent families; a benefit equal to the maximum grant increased by 20 percent, minus net income (net income excludes 38 percent of gross earnings), but benefits may not exceed the maximum grant level, which equals the combined value of AFDC and Food Stamps; child care is paid directly to the child care provider, up to the county maximum rate; a 10 percent grant reduction for non-compliant parents; mandatory participation in MFIP employment and training services for non-exempt, long-term recipients. MFIP operates in seven counties and the amendment would add Ramsey County.

Date Received: 3/29/96.

Type: AFDC.

Current Status: Pending.

Contact Person: Chuck Johnson (612) 297–4727.

Project Title: New Hampshire—Earned Income Disregard Demonstration Project.

Description: AFDC applicants and recipients would have the first $200 plus 1/2 the remaining earned income disregarded.

Date Received: 9/20/93.

Type: AFDC.

Current Status: Pending.

Contact Person: Avis L. Crane, (603) 271–4255.

Project Title: New Hampshire—New Hampshire Employment Program and Family Assistance Program.

Description: Statewide, would replace AFDC with Employment Program administered by both Employment Security Agency and Family Assistance Program; require job search and other employment-related activities for first 26 weeks of receipt followed by work-related activities for 26 weeks; eliminate JOBS target group funding requirement and change JOBS reporting requirements; require recipients attending post-secondary or part-time

vocational training to participate in work-related activities; eliminate JOBS services priority for volunteers; establish limits for provision of transportation and other JOBS services based on activity and local conditions; eliminate remoteness as exemption from JOBS; require non-custodial parents to participate in JOBS; increase earned income disregard to 50%; eliminate AFDC-UP eligibility requirements; allow transitional case management for up to one year; raise resource limit to $2,000 and exclude one vehicle and life insurance policies; pass through child support directly to family; take SSI income into account in determining eligibility/payment; eliminate conciliation and apply JOBS sanction of 50% of AFDC benefits for three months followed by no payment for three months, allowing option to increase initial sanction up to 100%; exempt pregnant women from JOBS only during third trimester; for minor parents cases, include in assistance unit any parent or sibling living in the home; eliminate gross income test; disregard educational grants; allow emergency assistance for families with employment-related barriers; allow State to eliminate the certificate option for child care and development block grant funds and use of these funds for capital improvement; eliminate ceiling on At Risk Child Care funds; provide that FFP for AFDC not be reduced during life of demonstration; fund computer system modifications at 80% FFP; require pregnant recipients to cooperate with child support; require that AFDC apply for Medicaid as a unit and not individually; eliminate requirement of receipt of AFDC for 3 of last 6 months in order to receive transitional Medicaid; and allow State to require that some individuals be assigned to a managed care program; substitute outcome measures for JOBS participation rates; change participation requirements for parents with children under 6, UP recipients and minors; establish a medical deduction; increase the sanction for non-cooperation with child support; exempt individuals with significant employment barriers from JOBS; treat lump sum income and all real property, except a home, as a resource; and use 20% of gross earned income as a Medicaid disregard. Also contains various Food Stamp waivers.

Date Received: 9/18/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Marianne Broshek, (603) 271–4442.

Project Title: New Hampshire—New Hampshire Employment Program. Description: In three pilot sites, would require work after 6 months of AFDC receipt; eliminate the exemption from JOBS for women in the second trimester of pregnancy; eliminate the JOBS exemption for caretaker of a child under 3 but not less than 1 year of age; replace the earned income disregard of $90 and $30 and 1/3 with a 50% disregard which is not time-limited; raise the resource limit for recipients to $2,000; disregard full value of one vehicle per adult for applicants and recipients; apply a full family sanction voluntarily quitting a job or refusing to accept a job; apply a sanction of reducing the payment standard by 30% for one month for failure to comply with JOBS in the first instance, by 60% in the second instance for one month, and in the third instance apply a full-family sanction for three months or until compliance; and require non-custodial parents to participate in JOBS.

Date Received: 10/6/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Marianne Broshek, (603) 271–4442.

Project Title: Oklahoma—Welfare Self-Sufficiency Initiative.

Description: In four pilots conducted in five counties each, would 1) extend transitional child care to up to 24 months; 2) require that all children through age 18 be immunized and require that responsible adults with preschool age children participate in parent education or enroll the children in Head Start or other preschool program; 3) not increase AFDC benefits after birth of additional children, but provide voucher payment for the increment of cash benefits that would have been received until the child is two years old; and 4) pay lesser of AFDC benefit or previous state of residence or Oklahoma's for 12 months for new residents.

Date Received: 10/27/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Raymond Haddock, (405) 521–3076.

Project Title: Pennsylvania—School Attendance Improvement Program.

Description: In 7 sites, would require school attendance as condition of eligibility.

Date Received: 9/12/94.

Type: AFDC.

Current Status: Pending

Contact Person: Patricia H. O'Neal, (717) 787–4081.

Project Title: Pennsylvania—Savings for Education Program.

Description: Statewide, would exempt as resources college savings bonds and funds in savings accounts earmarked for vocational or secondary education and disregard interest income earned from such accounts.

Date Received: 12/29/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Patricia H. O'Neal, (717) 787–4081.

Project Title: South Carolina—Family Independence Program.

Description: Statewide, would, with exceptions, time limit AFDC benefits to families with able bodied adults to 24 months out of 120 months, not to exceed 60 months in a lifetime; eliminate increase in AFDC benefit resulting from birth of children 10 or more months after the family begins AFDC receipt, but provide benefits to such children in the form of vouchers for goods and services permitting child's mother to participate in education, training, and employment-related activities; eliminate deprivation requirements, principal earner provisions, work history requirements, and 100-hour rule for AFDC-UP; increase AFDC resource limit to $2,500 and disregard as resources one vehicle with a market value up to $10,000, the balance in an Individual Development Account (IDA) up to $10,000, and the cash value of life insurance; disregard from income up to $10,000 in lump sum payments deposited in an IDA within 30 days of receipt, earned income of children attending school, and interest and dividend income up to $400; require participation in a family skills training program; require certain AFDC recipients to submit to random drug tests and/or participate in alcohol or drug treatment; require children to attend school; increase amount of child support passed through to AFDC recipients; require more extensive information for child support enforcement purposes; modify JOBS exemptions and good cause criteria, and increase sanctions for non-compliance; make job search a condition of eligibility; allow non-custodial parents of AFDC children to participate in JOBS; pay transitional grant equaling 3 percent of the maximum family grant following employment; and provide transitional grant Medicaid and child care for 12 months from the date of employment for cases previously closed due to time limit.

Date Received: 6/12/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Linda Martin (804) 737–6010.

Project Title: Utah—Single-Parent Employment Demonstration (Amendments).

Description: Would amend the current Single Parent Employment Demonstration (SPED), requiring preschool children to be immunized and other children to attend school; considering as a single filing unit each family with a child in common, including all children in the household related to either parent; permitting parents removed from the grant due to non-cooperation or fraud to remain eligible for JOBS services, including support services; and allowing a ''best estimate'' of earnings in lieu of actual earnings so long as estimate is within $100 of actual earnings. These amendments would initially be limited to the Kearns office and later expanded to other SPED sites.

Date Received: 2/7/96.

Type: AFDC.

Current Status: Pending.

Contact Person: Bill Biggs, (801) 538–4337.

III. Listing of Approved Proposals Since March 1, 1995

Project Title: North Carolina—Cabarrus County Work Over Welfare Demonstration Project.

Contact Person: Kevin Fitzgerald, (919) 733–3055.

Project Title: Ohio—Ohio First.

Contact Person: Joel Rabb, (614) 466–3196.

Project Title: Oregon—Oregon Option.*

Contact Person: Jim Neely, (503) 945–5607.

* The provisions of two previously pending proposals, the Expansion of the Transitional Child Care Program and the Increased AFDC Motor Vehicle Limit, were consolidated into the approval of Oregon Option.

Project Title: Texas—Achieving Change for Texans.

Contact Person: Kent Gummerman, (512) 438–3743.

IV. Requests for Copies of a Proposal

Requests for copies of an AFDC or combined AFDC/Medicaid proposal should be directed to the Administration for Children and Families (ACF) at the address listed above. Questions concerning the content of a proposal should be directed to the State contact listed for the proposal.

(Catalog of Federal Domestic Assistance Program, No. 93562; Assistance Payments—Research)

Dated: April 1, 1996.

Karl Koerper,

Director, Division of Economic Independence, Office of Planning, Research and Evaluation.

[FR Doc. 96–8554 Filed 4–5–96; 8:45 am]

BILLING CODE 4184–01–P

Health Care Financing Administration

[BPO–136–N]

Medicare and Medicaid Programs; Quarterly Listing of Program Issuances and Coverage Decisions; Third Quarter 1995

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice lists HCFA manual instructions, substantive and interpretive regulations and other Federal Register notices, and statements of policy that were published during July, August, and September of 1995 that relate to the Medicare and Medicaid programs. It also identifies certain devices with investigational device exemption numbers approved by the Food and Drug Administration that may be potentially covered under Medicare.

Section 1871(c) of the Social Security Act requires that we publish a list of Medicare issuances in the Federal Register at least every 3 months. Although we are not mandated to do so by statute, for the sake of completeness of the listing, we are including all Medicaid issuances and Medicare and Medicaid substantive and interpretive regulations (proposed and final) published during this timeframe. We are also providing the content of revisions to the Medicare Coverage Issues Manual published during the period July 1 through September 30, 1995. On August 21, 1989, we published the content of the Manual (54 FR 34555) and indicated that we will publish quarterly any updates. Adding to this listing the complete text of the changes to the Medicare Coverage Issues Manual fulfills this requirement in a manner that facilitates identification of coverage and other changes in our manuals.

FOR FURTHER INFORMATION CONTACT:

Margaret Cotton, (410) 786–5255 (For Medicare instruction information).

Pat Prete, (410) 786–3246 (For Medicaid instruction information).

Sharon Hippler, (410) 786–4633 (For Food and Drug Administration-approved investigational device exemption information).

Nancy Ranels, (410) 786–8928 (For all other information).

SUPPLEMENTARY INFORMATION:

I. Program Issuances

The Health Care Financing Administration (HCFA) is responsible for administering the Medicare and Medicaid programs, which pay for health care and related services for 38 million Medicare beneficiaries and 36 million Medicaid recipients. Administration of these programs involves (1) providing information to Medicare beneficiaries and Medicaid recipients, health care providers, and the public, and (2) effective communications with regional offices, State governments, State Medicaid Agencies, State Survey Agencies, various providers of health care, fiscal intermediaries and carriers that process claims and pay bills, and others. To implement the various statutes on which the programs are based, we issue regulations under authority granted the Secretary under sections 1102, 1871, and 1902 and related provisions of the Social Security Act (the Act) and also issue various manuals, memoranda, and statements necessary to administer the programs efficiently.

Section 1871(c)(1) of the Act requires that we publish in the Federal Register at least every 3 months a list of all Medicare manual instructions, interpretive rules, statements of policy, and guidelines of general applicability not issued as regulations. We published our first notice June 9, 1988 (53 FR 21730). Although we are not mandated to do so by statute, for the sake of completeness of the listing of operational and policy statements, we are continuing our practice of including Medicare substantive and interpretive regulations (proposed and final) published during the 3-month timeframe. Since the publication of our quarterly listing on June 12, 1992 (57 FR 24797), we decided to add Medicaid issuances to our quarterly listings. Accordingly, we list in this notice Medicaid issuances and Medicaid substantive and interpretive regulations published during July 1 through September 1995.

II. Medicare Coverage Issues

We receive numerous inquiries from the general public about whether specific items or services are covered under Medicare. Providers, carriers, and intermediaries have copies of the Medicare Coverage Issues Manual, which identifies those medical items, services, technologies, or treatment procedures that can be paid for under Medicare.

On August 21, 1989, we published a notice in the Federal Register (54 FR 34555) that contained all the Medicare coverage decisions issued in that manual.

In that notice, we indicated that revisions to the Coverage Issues Manual will be published at least quarterly in the Federal Register. We also sometimes issue proposed or final national coverage decision changes in separate

Federal Register notices. Readers should find this an easy way to identify both issuance changes to all our manuals and the text of changes to the Coverage Issues Manual.

Revisions to the Coverage Issues Manual are not published on a regular basis but on an as-needed basis. We publish revisions as a result of technological changes, medical practice changes, responses to inquiries we receive seeking clarifications, or the resolution of coverage issues under Medicare. If no Coverage Issues Manual revisions were published during a particular quarter, our listing will reflect that fact.

Not all revisions to the Coverage Issues Manual contain major changes. As with any instruction, sometimes minor clarifications or revisions are made within the text. This notice contains, as Addendum IV, reprinted manual revisions as transmitted to manual holders. The new text is shown in italics. We have not reprinted the table of contents, since the table of contents serves primarily as a finding aid for the user of the manual and does not identify items as covered or not.

III. How to Use the Addenda

This notice is organized so that a reader may review the subjects of all manual issuances, memoranda, substantive and interpretive regulations, coverage decisions, or Food and Drug Administration-approved investigational device exemptions published during the timeframe to determine whether any are of particular interest. We expect it to be used in concert with previously published notices. Most notably, those unfamiliar with a description of our Medicare manuals may wish to review Table I of our first three notices (53 FR 21730, 53 FR 36891, and 53 FR 50577) and the notice published March 31, 1993 (58 FR 16837), and those desiring information on the Medicare Coverage Issues Manual may wish to review the August 21, 1989, publication (54 FR 34555).

To aid the reader, we have organized and divided this current listing into six addenda. Addendum I identifies updates that changed the Coverage Issues Manual. We published notices in the Federal Register that included the text of changes to the Coverage Issues Manual. These updates, when added to material from the manual published on August 21, 1989, constitute a complete manual as of September 30, 1995. Parties interested in obtaining a copy of the manual and revisions should follow the instructions in section IV of this notice.

Addendum II identifies previous Federal Register documents that contain a description of all previously published HCFA Medicare and Medicaid manuals and memoranda.

Addendum III of this notice lists, for each of our manuals or Program Memoranda, a HCFA transmittal number unique to that instruction and its subject matter. A transmittal may consist of a single instruction or many. Often it is necessary to use information in a transmittal in conjunction with information currently in the manuals.

Addendum IV sets forth the revisions to the Medicare Coverage Issues Manual that were published during the quarter covered by this notice. For the revisions, we give a brief synopsis of the revisions as they appear on the transmittal sheet, the manual section number, and the title of the section. We present a complete copy of the revised material, no matter how minor the revision, and identify the revisions by printing in italics the text that was changed. If the transmittal includes material unrelated to the revised section, for example, when the addition of revised material causes other sections to be repaginated, we do not reprint the unrelated material.

Addendum V lists all substantive and interpretive Medicare and Medicaid regulations and general notices published in the Federal Register during the quarter covered by this notice. For each item, we list the date published, the Federal Register citation, the title of the regulation, the parts of the Code of Federal Regulations (CFR) that have changed (if applicable), the agency file code number, the ending date of the comment period (if applicable), and the effective date (if applicable).

On September 19, 1995, we published a final rule (60 FR 48417) establishing in regulations that certain devices with an investigational device exemption approved by the Food and Drug Administration and certain services related to those devices may be covered under Medicare. That final rule states that we will announce in this quarterly notice all investigational device exemption categorizations, using the investigational device exemption numbers the Food and Drug Administration assigns. Addendum VI includes the initial list of all of the Food and Drug Administration-approved investigational device exemption numbers organized by the categories to which the device numbers are assigned (that is, Category A or Category B, and identified by the investigational device exemption number). Future notices will include the additions and deletions to this initial list of devices with a Food and Drug Administration-approved investigational device exemption.

IV. How to Obtain Listed Material

A. Manuals

An individual or organization interested in routinely receiving any manual and revisions to it may purchase a subscription to that manual. Those wishing to subscribe should contact either the Government Printing Office (GPO) or the National Technical Information Service (NTIS) at the following addresses:

Superintendent of Documents, Government Printing Office, ATTN: New Order, PO Box 371954, Pittsburgh, PA 15250–7954, Telephone (202) 512–1800, Fax number (202) 512–2250 (for credit card orders); or

National Technical Information Service, Department of Commerce, 5825 Port Royal Road, Springfield, VA 22161, Telephone (703) 487–4630.

In addition, individual manual transmittals and Program Memoranda listed in this notice can be purchased from NTIS. Interested parties should identify the transmittal(s) they want. GPO or NTIS can give complete details on how to obtain the publications they sell.

B. Regulations and Notices

Regulations and notices are published in the daily Federal Register. Interested individuals may purchase individual copies or subscribe to the Federal Register by contacting the GPO at the address given above. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

C. Rulings

We publish Rulings on an infrequent basis. Interested individuals can obtain copies from the nearest HCFA Regional Office or review them at the nearest regional depository library. We also sometimes publish Rulings in the Federal Register.

D. HCFA's Compact Disk—Read Only Memory (CD–ROM)

Our laws, regulations, and manuals are also available on CD–ROM, which may be purchased from GPO or NTIS on a subscription or single copy basis. The Superintendent of Documents list ID is HCLRM, and the stock number is 717–139–00000–3. The following material is on the CD–ROM disk:

- Titles XI, XVIII, and XIX of the Act.
- HCFA-related regulations.
- HCFA manuals and monthly revisions.

• HCFA program memoranda.

The titles of the Compilation of the Social Security Laws are current as of January 1, 1995. The remaining portions of CD–ROM are updated on a monthly basis.

Because of complaints about the unreadability of the Appendices (Interpretive Guidelines) in the State Operations Manual, as of March 1995, we deleted these appendices from CD–ROM. We intend to re-visit this issue in the near future, and with the aid of newer technology, we may again be able to include the appendices on CD–ROM.

Any cost report forms incorporated in the manuals are included on the CD-ROM disk as LOTUS files. LOTUS software is needed to view the reports once the files have been copied to a personal computer disk.

V. How to Review Listed Material

Transmittals or Program Memoranda can be reviewed at a local Federal Depository Library (FDL). Under the FDL program, government publications are sent to approximately 1400 designated libraries throughout the United States. Interested parties may examine the documents at any one of the FDLs. Some may have arrangements to transfer material to a local library not designated as an FDL. To locate the nearest FDL, contact any library.

In addition, individuals may contact regional depository libraries, which receive and retain at least one copy of most Federal government publications, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library.

Superintendent of Documents numbers for each HCFA publication are shown in Addendum III, along with the HCFA publication and transmittal numbers. To help FDLs locate the instruction, use the Superintendent of Documents number, plus the HCFA transmittal number. For example, to find the Carriers Manual, Part 3—Claims Process (HCFA-Pub. 14–3) transmittal entitled ''Electronic Data Interchange Enrollment Form,'' use the Superintendent of Documents No. HE 22.8/7 and the HCFA transmittal number 1519.

VI. General Information

It is possible that an interested party may have a specific information need and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing information contact persons to answer general questions concerning these items. Copies are not available through the contact persons. Copies can be purchased or reviewed as noted above.

Questions concerning Medicare items in Addenda III may be addressed to Margaret Cotton, Bureau of Program Operations, Issuances Staff, Health Care Financing Administration, S3–01–27, 7500 Security Blvd., Baltimore, MD 21244–1850, Telephone (410) 786–5255.

Questions concerning Medicaid items in Addenda III may be addressed to Pat Prete, Medicaid Bureau, Office of Medicaid Policy, Health Care Financing Administration, C4–25–02, 7500 Security Boulevard, Baltimore, MD 21244–1850, Telephone (410) 786–3246.

Questions concerning Food and Drug Administration- approved investigational device exemptions may be addressed to Sharon Hippler, Bureau of Policy Development, Office of Chronic Care and Insurance Policy, Health Care Financing Administration, C4–11–04, 7500 Security Blvd., Baltimore, MD 21244–1850, Telephone (410) 786–4633.

Questions concerning all other information may be addressed to Nancy Ranels, Bureau of Policy Development, Office of Regulations, Health Care Financing Administration, C5–09–05, 7500 Security Blvd., Baltimore, MD 21244–1850, Telephone (410) 786–8928.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance, Program No. 93.774, Medicare—Supplementary Medical Insurance Program, and Program No. 93.714, Medical Assistance Program)

Dated: March 29, 1996.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Addendum I

This addendum lists the publication dates of the most recent quarterly listing of program issuances and coverage decision updates to the Coverage Issues Manual. For a complete listing of the quarterly updates to the Coverage Issues Manual published during March 20, 1990 through November 14, 1994, please refer to the January 3, 1995, update (60 FR 134).

January 3, 1995 (60 FR 132)
April 6, 1995 (60 FR 17538)
July 26, 1995 (60 FR 38344)
November 15, 1995 (60 FR 57435)

Addendum II—Description of Manuals, Memoranda, and HCFA Rulings

An extensive descriptive listing of Medicare manuals and memoranda was published on June 9, 1988, at 53 FR 21730 and supplemented on September 22, 1988, at 53 FR 36891 and December 16, 1988, at 53 FR 50577. Also, a complete description of the Medicare Coverage Issues Manual was published on August 21, 1989, at 54 FR 34555. A brief description of the various Medicaid manuals and memoranda that we maintain was published on October 16, 1992, at 57 FR 47468.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS JULY THROUGH SEPTEMBER 1995

Trans. No.	Manual/subject/publication No.
	Intermediary Manual Part 3—Claims Process (HCFA-Pub. 13–3) (Superintendent of Documents No. HE 22.8/6–1)
1655	• Electronic Data Interchange Enrollment Form HCFA–486.
1656	• Medical Update and Patient Information.
1657	• Medicare Part A Standard Paper Remittance Advice.
1658	• Reporting Outpatient Surgery and Other Services.
1659	• Claims Processing Terminology. Handling Incomplete or Invalid Claims. Data Element Requirements Matrix. Addendum L, Data Element Requirements Matrix.
1660	• Provider Electronic Billing File and Record Formats. Alphabetic Listing of Data Elements. Patient Information Data Definitions and Codes. Forms HCFA–700/701, Outpatient Rehabilitative Services Forms. Electronic Formats for Medical Review Attachment Information.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS JULY THROUGH SEPTEMBER 1995—Continued

Trans. No.	Manual/subject/publication No.
	Electronic Media Claims Flat File Record for Outpatient Rehabilitation Services—Record Type 77. Flat File Requirements for Record Type 77, Outpatient Rehabilitation Services. Requirements by Record Type and Field (Data Element) for Outpatient Rehabilitative Services. Definition of Narrative Type Indicators. Validating Information and Returning Submissions Independent of Claim.
1661	• HCPCS for Hospital Outpatient Radiology Services and Other Diagnostic Procedures. Radiology HCPCS Codes Subject to the Payment Limit. Other Diagnostic Services HCPCS Codes Subject to the Payment Limit.
	Carriers Manual—Part 3, Claims Process (HCFA-Pub. 14–3) (Superintendent of Documents No. HE 22.8/7)
1519	• Electronic Data Interchange Enrollment Form.
1520	• Nurse Practitioner Services, Clinical Nurse Specialist Services.
1521	• Part B Provider Access to Limited Eligibility Data. Eligibility Data Available. Contractor Implementation. HCFA Standard Part B Eligibility Inquiry Flat File Specifications. HCFA Standard Part B Eligibility Response Flat File Specifications.
1522	• Nonparticipating Physicians to Provide Notices For Elective Surgery.
1523	• Services Received by Medicare Beneficiaries Outside the United States.
1524	• Drugs and Biologicals.
1525	• Local MR Policy. Internal MR Guidelines. The Carrier Advisory Committee. Data Analysis to Identify Aberrancies. Medical Review Prepayment Screens. Categories of MR Screens. HCFA Mandated and HCFA Optional MN Screens. Assessing an Overpayment When the CMR Was Based on a SVRS. The Carrier Medical Director and Carrier Coordination. Carrier Coordination With Peer Review Organization. Medicare FMR Status Report. Medical Review. Coordination With Carrier Medicare Fraud Unit. National Coverage Policy. Local MR Policy. Internal MR Guidelines. Utilization Guidelines and Parameters. The Carrier Advisory Committee. Data Analysis. Data Analysis to Identify Aberrancies. Aberrancies. Taking Corrective Actions on Identified Aberrancies. Conducting Evaluation of Effectiveness of Corrective Action. Standard Postpayment Data Reports. Evaluation of MR Prepayment Screens. MR Screen Parameters. HCFA Mandated and HCFA Optional MN Screens. Postpayment MR. Postpayment Review Personnel. CMR Corrective Actions. Assessing an Overpayment or Potential Overpayment When the CMR Was Based on a Limited Sample/Subsample. MN Denials. Carrier Coordination with Fiscal Intermediary.
1526	• Claims Processing Terminology. Handling Incomplete or Invalid Claims. Data Element Requirements Matrix. Conditional Data Element Requirements. Data Element Requirements Matrix.
	Program Memorandum, Intermediaries (HCFA-Pub. 60A) (Superintendent of Documents No. HE 22.8/7)
A–95–9	• Star Alert.
	Program Memorandum, Carriers (HCFA-Pub. 60B) (Superintendent of Documents No. HE 22.8/6–5)
B–95–5	• Implementation of Limitation on Information Provided by Suppliers on Certificates of Medical Necessity (§1834 of the Act, as amended by §131 of the Social Security Act Amendments of 1994).

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS JULY THROUGH SEPTEMBER 1995—Continued

Trans. No.	Manual/subject/publication No.
	Program Memorandum, Intermediaries/Carriers (HCFA-Pub. 60AB) (Superintendent of Documents No. HE 22.8/6–5)
AB–95–7	• Current Status of Medicare Program Memorandums and Letters Issued Before Calendar Year (CY) 1995.
AB–95–8	• New Interest Rate Payable on Clean Claims Not Paid Timely.
AB–95–9	• Changes in MSP Demand Process.
AB–95–10	• Changes in MSP Demand Process (This PM was reissued to correct a typographical error.)
	Program Memorandum, Medicaid State Agencies (HCFA-Pub. 17) (Superintendent of Documents No. HE 22.8/6–5)
95–5	• Current Status of Medicaid PMs and Action Transmittals Issued Before Calendar Year (CY) 1995.
95–6	• Application of the Nursing Home Enforcement Regulations to Life Safety Code Surveys.
	Hospital Manual (HCFA-Pub 10) (Superintendent of Documents No. HE 22.8/2)
683	• Reporting Outpatient Surgery and Other Services.
684	• HCPCS for Hospital Outpatient Radiology and Other Diagnostic Procedures. Radiology HCPCS Codes Subject to the Payment Limit. Other Diagnostic Services HCPCS Codes Subject to the Payment Limit.
	Home Health Agency Manual (HCFA-Pub. 11) (Superintendent of Documents No. HE 22.8/5)
276	• HCFA–486—Medical Update and Patient Information.
	Skilled Nursing Facility Manual (HCFA-Pub. 12) (Superintendent of Documents No. HE 22.8/3)
339	• Special Billing Instructions for Pneumococcal Pneumonia, Influenza Virus and Hepatitis B Vaccines.
	Health Maintenance Organization/Competitive Medical Plan Manual (HCFA-Pub. 75) (Superintendent of Documents No. HE 22/8/21:989)
15	• Risk Payment. Annual Reconciliation. Benefit Stabilization Fund Withholds/Withdrawals. Electronic Transfer of Funds. Plan Payment Report. Monthly Payment Letter. Adjustments to County Level. Conversion of County Per Capita Costs Into Rates Example of AAPCC Methodology. Definitions. Form of Additional Benefits. Report on Value of Additional and Supplemental Benefits.
	Coverage Issues Manual (HCFA-Pub. 6) (Superintendent of Documents No. HE 22.8/14)
78	• Assessing Patient's Suitability for Electrical Nerve Stimulation Therapy. Transcutaneous Electrical Nerve Stimulation for Acute Post-Operative Pain. Supplies Used in the Delivery of Transcutaneous Electrical Nerve Stimulation and Neuromuscular Electrical Stimulation. Electrical Nerve Stipulators.
79	• Transcendental Meditation.
	Regional Office Manual Standards and Certification (HCFA-Pub. 23–4) (Superintendent of Documents No. HE 22.8/8–3)
60	• Request for Survey of Sections 489.20 and 489.24 Essentials of Provider Agreement: Responsibilities of Medicare Participating Hospitals in Emergency Cases. Model Letter Acknowledging Complaint Alleging Noncompliance With 42 CFR 489.24 and/or the Related Requirements of 42 CFR 489.20: Investigation Not Warranted. Model Letter Acknowledging Complaint Alleging Noncompliance With 42 CFR 489.24 and/or the Related Requirements of 42 CFR 489.20: Investigation Warranted. Responsibilities of Medicare Participating Hospitals in Emergency Cases Investigation Report.
61	• Special Procedures for End Stage Renal Disease Facilities. Special Procedures for Laboratories. Program Background and Responsibilities. Validation and Complaint Surveys of CLIA-Exempt Laboratories. Adverse Actions. Appeals of Adverse Actions. Special Procedures for Accredited Laboratories. CLIA Fee Collection Procedures.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS JULY THROUGH SEPTEMBER 1995—Continued

Trans. No.	Manual/subject/publication No.
	Federal Surveys.
	Budget and Administration, State Operations Manual, Provider Certification (HCFA-Pub. 7) (Superintendent of Documents No. HE 22.8/12)
275	• Approval Process. Resident Assessment Instrument for Long Term Care Facilities.
276	• Requirements for Specialty Hospitals. Interpretive Guidelines—Psychiatric Hospitals. Medicare/Medicaid Psychiatric Hospital Survey Data (HCFA–724). Surveyor Worksheet for Psychiatric Hospital Review (HCFA–725). HCFA Death Record Review Data Sheet (HCFA–726). HCFA Nursing Complement Data (HCFA–727). HCFA Total Nursing Staff Data (HCFA–728). Data Collection Medical Staff Coverage (HCFA–729).
	Peer Review Organization Manual (HCFA-Pub. 19) (Superintendent of Documents No. HE 8/8–15)
52	• Commonly Used Acronyms. Background and Authority. Hospital Requirements. Hospital Penalties for Noncompliance. RO Responsibilities. State Agency Surveys. PRO Review Responsibilities. Physician Review Outline. 60–Day PRO Review: Opportunity for Discussion.
53	• Glossary.
	Provider Reimbursement Manual, Part 1 (HCFA-Pub. 15–1), (Superintendent of Documents No. HE 22.8/4)
385	• Reasonable Costs. Factors To Be Considered in Determining Reasonable Cost of Purchased Management and Administrative Support Services. Insurance Purchased From a Limited Purpose Insurance Company. Legal Fees and Other Related Costs.
	Provider Reimbursement Manual, Part II—Provider Cost Reporting Forms and Instructions—Chapter 28 (HCFA-Pub. 15–IIAB) (Superintendent of Documents No. HE 22.8/4)
7	• Electronic Reporting Specifications for Form-2552–92.
	Provider Reimbursement Manual, Part II—Provider Cost Reporting Forms and Instructions—Chapter 31 (HCFA-Pub. 15–IIAE) (Superintendent of Documents No. HE 22.8/4)
3	• This transmittal makes corrections to Chapter 31.
	Provider Reimbursement Manual, Part II—Provider Cost Reporting Forms and Instructions—Chapter 34—(HCFA-Pub. 15–IIAH) (Superintendent of Documents No. HE 22.8/4)
3	• Worksheet S–1—Independent Renal Dialysis Facility Statistical Data. Worksheet A—Reclassification and Adjustment of Trial Balance of Expenses. Worksheet A–2—Adjustment of Expenses.
	End Stage Renal Disease Network, Organizations Manual (HCFA-Pub. 81) (Superintendent of Documents No. 22.8.9/4)
4	• Introduction. Objectives. Network Role. Community Outreach Plan. Clearinghouse Activities. Patient Grievances. Origin of Patient Grievances. Scope of Grievances. Role of Network in Resolution of Patient Grievances. Determining Grievances for Network Involvement. Patient Awareness of Process. Use of Facility Grievance Process.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS JULY THROUGH SEPTEMBER 1995—Continued

Trans. No.	Manual/subject/publication No.
	Determination of Network Involvement. Life-threatening Situations. Patient Representative. Requirement of Grievance in Writing. Timing of Network Activity. Written Acknowledgment of Grievance. Conclusion of Investigation. Exception. Nature of Response and Potential Outcomes. Contents of Report to Patient. Use of ROs. Potential Outcomes of Patient Grievance Process. Improvement Plans. Content of Improvement Plans. Time period for Review, Acceptance/Rejection of Improvement Plans. Information that May be Disclosed. Identity of Patient. Facility Identity. Conflict of Interest. States in Each Region.
	State Medicaid Manual, Part 4—Services (HCFA-Pub. 45–4) (Superintendent of Documents No. 22.8/10)
68	• Nurse Practitioner Services.
	Medicare/Medicaid, Sanction—Reinstatement Report
95–8	• Report of Physicians/Practitioners, Providers and/or Other Health Care Suppliers Excluded/Reinstated—May 1995.
95–9	• Report of Physicians/Practitioners, Providers and/or Other Health Care Suppliers Excluded/Reinstated—June 1995.
95–10	• Report of Physicians/Practitioners, Providers and/or Other Health Care Suppliers Excluded/Reinstated—July 1995.

Addendum IV—Medicare Coverage Issues Manual

(For the reader's convenience, new material and changes to previously published material are in italics. If any part of a sentence in the manual instruction has changed, the entire line is shown in italics. The transmittal includes material unrelated to revised sections. In this addendum we do not reprint the unrelated material.) Transmittal No. 78; sections 35–46 (Cont.)—35–48; sections 45–16–45–25; sections 60–19—60–20; sections 65–7—65–9

CHANGED IMPLEMENTING INSTRUCTIONS—EFFECTIVE DATE: For Services Furnished On or After 08/07/95.

Section 35–46, Assessing Patient's Suitability for Electrical Nerve Stimulation Therapy, Section 45–19, Transcutaneous Electrical Nerve Stimulation (TENS) for Acute Post-Operative Pain, Section 45–25, Supplies Used in the Delivery of Transcutaneous Electrical Nerve Stimulation (TENS) and Neuromuscular Electrical Stimulation (NMES), and Section 65–8, Electrical Nerve Stimulators, are revised to reflect that TENS are no longer covered under the prosthetic device benefit. HCFA has determined that they meet the definition of the durable medical equipment benefit rather than the prosthetic device benefit.

NEW IMPLEMENTING INSTRUCTIONS—EFFECTIVE DATE: For Services Furnished On or After 08/07/95.

Section 60–20, Transcutaneous electrical Nerve Stimulators (TENS), indicates that TENS are covered under the durable medical equipment benefit. HCFA has determined that TENS meets the definition of the durable medical equipment benefit rather than the prosthetic device benefit. These coverage guidelines had appeared in § 65–8 when TENS were covered under the prosthetic device benefit.

DISCLAIMER

The revision date and transmittal number only apply to the redlined material. All other material was previously published in the manual and is only being reprinted.

35–46 ASSESSING PATIENT'S SUITABILITY FOR ELECTRICAL NERVE STIMULATION THERAPY

Electrical nerve stimulation is an accepted modality for assessing a patient's suitability for ongoing treatment with a transcutaneous or an implanted nerve stimulator. Accordingly, program payment may be made for the following techniques when used to determine the potential therapeutic usefulness of an electrical nerve stimulator:

A. *Transcutaneous Electrical Nerve Stimulation (TENS).*—This technique involves attachment of a transcutaneous nerve stimulator to the surface of the skin over the peripheral nerve to be stimulated. It is used by the patient on a trial basis and its effectiveness in modulating pain is monitored by the physician or physical therapist. Generally, the physician or physical therapist is able to determine whether the patient is likely to derive a significant therapeutic benefit from continuous use of a transcutaneous stimulator within a trial period of 1 month; in a few cases this determination may take longer to make. Document the medical necessity for such services which are furnished beyond the first month. (See § 45–25 for an explanation of coverage of medically necessary supplies for the effective use of TENS.)

If TENS significantly alleviates pain, it may be considered as primary treatment; if it produces no relief or greater discomfort than the original

pain, electrical nerve stimulation therapy is ruled out. However, where TENS produces incomplete relief, further evaluation with percutaneous electrical nerve stimulation may be considered to determine whether an implanted peripheral nerve stimulator would provide significant relief from pain. (See § 35–46B.)

Usually, the physician or physical therapist providing the services will furnish the equipment necessary for assessment. Where the physician or physical therapist advises the patient to rent the TENS from a supplier during the trial period rather than supplying it himself, program payment may be made for rental of the TENS as well as for the services of the physician or physical therapist who is evaluating its use. However, the combined program payment which is made for the physician's or physical therapist's services and the rental of the stimulator from a supplier should not exceed the amount which would be payable for the total service, including the stimulator, furnished by the physician or physical therapist alone.

B. *Percutaneous Electrical Nerve Stimulation (PENS).*—This diagnostic procedure which involves stimulation of peripheral nerves by a needle electrode inserted through the skin is performed only in a physician's office, clinic, or hospital outpatient department. Therefore, it is covered only when performed by a physician or incident to physician's service. If pain is effectively controlled by percutaneous stimulation, implantation of electrodes is warranted.

As in the case of TENS (described in subsection A), generally the physician should be able to determine whether the patient is likely to derive a significant therapeutic benefit from continuing use of an implanted nerve stimulator within a trial period of 1 month. In a few cases, this determination may take longer to make. The medical necessity for such diagnostic services which are furnished beyond the first month must be documented.

Note: Electrical nerve stimulators do not prevent pain but only alleviate pain as it occurs. A patient can be taught how to employ the stimulator, and once this is done, can use it safely and effectively without direct physician supervision. Consequently, it is inappropriate for a patient to visit his physician, physical therapist or an outpatient clinic on a continuing basis for treatment of pain with electrical nerve stimulation. Once it is determined that electrical nerve stimulation should be continued as therapy and the patient has been trained to use the stimulator, it is expected that a stimulator will be implanted or the patient will employ the TENS on a continual basis in his home. Electrical nerve stimulation treatments furnished by a physician in his office, by a physical therapist or outpatient clinic are excluded from coverage by section 1862(a)(1) of the law. (See secton 65–8 for an explanation of coverage of the therapeutic use of *implanted peripheral nerve stimulators under the prosthetic devices benefit. See § 60–20 for an explanation of coverage of the therapeutic use of TENS under the durable medical equipment benefit.*)

45–19 TRANSCUTANEOUS ELECTRICAL NERVE STIMULATION (TENS) FOR ACUTE POST-OPERATIVE PAIN

The use of transcutaneous electrical nerve stimulation (TENS) for the relief of acute post-operative pain is covered under Medicare. TENS may be covered whether used as an adjunct to the use of drugs, or as an alternative to drugs, in the treatment of acute pain resulting from surgery.

TENS devices, whether durable or disposable, may be used in furnishing this service. When used for the purpose of treating acute post-operative pain, TENS devices are considered supplies. As such they may be hospital supplies furnished inpatients covered under Part A, or supplies incident to a physician's service when furnished in connection with surgery done on an outpatient basis, and covered under Part B.

It is expected that TENS, when used for acute post-operative pain, will be necessary for relatively short periods of time, usually 30 days or less. In cases when TENS is used for longer periods, contractors should attempt to ascertain whether TENS is no longer being used for acute pain but rather for *chronic pain, in which case the TENS device may be covered as durable medical equipment as described in § 60–20.*

Cross-refer: HCFA Pub. 13–3, §§ 65–8, 3101.4, 3112.4, 3113; HCFA Pub. 14–3, §§ 65–8, 2050.1, 2100; HCFA Pub. 10, §§ 65–8, 210.4, 230, 235.

45–25 SUPPLIES USED IN THE DELIVERY OF TRANSCUTANEOUS ELECTRICAL NERVE STIMULATION (TENS) AND NEUROMUSCULAR ELECTRICAL STIMULATION (NMES)—(Effective for services rendered (i.e., items rented or purchased) on or after July 14, 1988.)

Transcutaneous Electrical Nerve Stimulation (TENS) and/or Neuromuscular Electrical Stimulation (NMES) can ordinarily be delivered to patients through the use of conventional electrodes, adhesive tapes and lead wires. There may be times, however, where it might be medically necessary for certain patients receiving TENS or NMES treatment to use, as an alternative to conventional electrodes, adhesive tapes and lead wires, a form-fitting conductive garment (i.e., a garment with conductive fibers which are separated from the patients' skin by layers of fabric).

A form-fitting conductive garment (and medically necessary related supplies) may be covered under the program *only* when:

1. It has received permission or approval for marketing by the Food and Drug Administration;

2. It has been prescribed by a physician for use in delivering covered TENS or NMES treatment; and

3. *One* of the medical indications outlined below is met:

- The patient cannot manage without the conductive garment because there is such a large area or so many sites to be stimulated *and* the stimulation would have to be delivered so frequently that it is not feasible to use conventional electrodes, adhesive tapes and lead wires;
- The patient cannot manage without the conductive garment for the treatment of chronic intractable pain because the areas or sites to be stimulated are inaccessible with the use of conventional electrodes, adhesive tapes and lead wires;
- The patient has a documented medical condition such as skin problems that preclude the application of conventional electrodes, adhesive tapes and lead wires;
- The patient requires electrical stimulation beneath a cast either to treat disuse atrophy, where the nerve supply to the muscle is intact, or to treat chronic intractable pain; or
- The patient has a medical need for rehabilitation strengthening (pursuant to a written plan of rehabilitation) following an injury where the nerve supply to the muscle is intact.

A conductive garment is not covered for use with a TENS device *during* the trial period specified in § 35–46 *unless*:

4. The patient has a documented skin problem prior to the start of the trial period; and

5. The carrier's medical consultants are satisfied that use of such an item is medically necessary for the patient.

(See conditions for coverage of the use of TENS in the diagnosis and treatment *of chronic intractable pain in §§ 35- 46 and 60–20 and the use of NMES in the treatment of disuse atrophy in § 35–77.)*

60–20 TRANSCUTANEOUS ELECTRICAL NERVE STIMULATORS (TENS)

TENS is a type of electrical nerve stimulator that is employed to treat chronic intractable pain. This

stimulator is attached to the surface of the patient's skin over the peripheral nerve to be stimulated. It may be applied in a variety of settings (in the patient's home, a physician's office, or in an outpatient clinic). Payment for TENS may be made under the durable medical equipment benefit. (See § 45–25 for an explanation of coverage of medically necessary supplies for the effective use of TENS and § 45–19 for an explanation of coverage of TENS for acute post-operative pain.)

65–8 ELECTRICAL NERVE STIMULATORS

Two general classifications of electrical nerve stimulators are employed to treat chronic intractable pain: peripheral nerve stimulators and central nervous system stimulators.

A. Implanted Peripheral Nerve Stimulators.—Payment may be made under the prosthetic device benefit for implanted peripheral nerve stimulators. Use of this stimulator involves implantation of electrodes around a selected peripheral nerve. The stimulating electrode is connected by an insulated lead to a receiver unit which is implanted under the skin at a depth not greater than ½ inch. Stimulation is induced by a generator connected to an antenna unit which is attached to the skin surface over the receiver unit. Implantation of electrodes requires surgery and usually necessitates an operating room.

Note: Peripheral nerve stimulators may also be employed to assess a patient's suitability for continued treatment with an electric nerve stimulator. As explained in § 35–46, such use of the stimulator is covered as part of the total diagnostic service furnished to the beneficiary rather than as a prosthesis.

B. *Central Nervous System Stimulators (Dorsal Column and Depth Brain Stimulators).*—The implantation of central nervous system stimulators may be covered as therapies for the relief of chronic intractable pain, subject to the following conditions:

1. *Types of Implantations.*—There are two types of implantations covered by this instruction:

a. *Dorsal Column (Spinal Cord) Neurostimulation.*—The surgical implantation of neurostimulator electrodes within the dura mater (endodural) or the percutaneous insertion of electrodes in the epidural space is covered.

b. *Depth Brain Neurostimulation.*—The stereotactic implantation of electrodes in the deep brain (e.g., thalamus and periaqueductal gray matter) is covered.

2. *Conditions for Coverage.*—No payment may be made for the implantation of dorsal column or depth brain stimulators or services and supplies related to such implantation, unless *all* of the conditions listed below have been met:

a. The implantation of the stimulator is used only as a late resort (if not a last resort) for patients with chronic intractable pain;

b. With respect to item a, other treatment modalities (pharmacological, surgical, physical, or psychological therapies) have been tried and did not prove satisfactory, or are judged to be unsuitable or contraindicated for the given patient;

c. Patients have undergone careful screening, evaluation and diagnosis by a multidisciplinary team prior to implantation. (Such screening must include psychological, as well as physical evaluation);

d. All the facilities, equipment, and professional and support personnel required for the proper diagnosis, treatment training, and followup of the patient (including that required to satisfy item c) must be available; and

e. Demonstration of pain relief with a temporarily implanted electrode precedes permanent implantation.

Contractors may find it helpful to work with PROs to obtain the information needed to apply these conditions to claims. See Intermediary Manual, § 3110.4 and §§ 35–20 and 35–27. Transmittal No. 79; sections 35–89–35–92 NEW IMPLEMENTING INSTRUCTIONS—EFFECTIVE DATE: For services performed on or after October 11, 1995.

Section 35–92, Transcendental Meditation.—This section has been added to reflect noncoverage of Transcendental meditation (TM) and the cost of training patients to practice TM when it is prescribed as a treatment of mild hypertension, as adjunctive therapy in the treatment of essential hypertension, or as the sole or adjunctive treatment of anxiety and other psychological stress-related disorders.

These instructions are to be implemented within your current operating budget.

DISCLAIMER: The revision date and transmittal number only apply to the redlined material. All other material was previously published in the manual and is only being reprinted.

35–92 TRANSCENDENTAL MEDITATION—NOT COVERED

Transcendental Meditation (TM) is a skill that is claimed to produce a state of rest and relaxation when practiced effectively. Typically, patients are taught TM techniques over the course of several sessions by persons trained in TM. The patient then uses the TM technique on his or her own to induce the relaxed state. Proponents of TM have urged that Medicare cover the training of patients to practice TM when it is medically prescribed as treatment for mild hypertension, as adjunctive therapy in the treatment of essential hypertension, or as the sole or adjunctive treatment of anxiety and other psychological stress-related disorders.

After review of this issue, we have concluded that the evidence concerning the medical efficacy of TM is incomplete at best and does not demonstrate effectiveness, and that a professional level of skill is not required for the training of patients to engage in TM.

Although many articles have been written about application of TM for patients with certain forms of hypertension and anxiety, there are no rigorous scientific studies that demonstrate the effectiveness of TM for use as an adjunct medical therapy for such conditions. Accordingly, neither TM nor the training of patients for its use are covered under the Medicare program.

ADDENDUM V.—REGULATION DOCUMENT PUBLISHED IN THE FEDERAL REGISTER

Publication date	FR vol. 60 page	CFR part	File code*	Regulation title	End of comment period	Effective date
07/05/95	34885–34888	417	OMC–022–F	Full Reporting by Health Maintenance Organizations (HMOs) and Competitive Medical Plans (CMPs) Paid on a Cost Basis.	.....	08/04/95.
07/10/95	35492–35498	414	BPD–494–F	Medicare Program; Payment for Durable Medical Equipment and Orthotic and Prosthetic Devices.	.....	08/09/95.

ADDENDUM V.—REGULATION DOCUMENT PUBLISHED IN THE FEDERAL REGISTER—Continued

Publication date	FR vol. 60 page	CFR part	File code *	Regulation title	End of comment period	Effective date
07/10/95	34598–35503	433	MB–39–F	Medicaid Program; Third Party Liability (TPL) Cost-Effectiveness Waivers.	.....	09/08/95.
07/10/95	35544–35548	405	BP0–121–P	Medicare Program; Telephone and Electronic Requests for Review of Part B Initial Claim Determinations.	09/08/95	07/10/95.
07/18/95	36733–36736	410 414	BPD–789–CN ...	Medicare Program; Refinements to Geographic Adjustment Factor Values, Revisions to Payment Policies, Adjustments to the Relative Value Units (RVUs) Under the Physician Fee Schedule for Calendar Year 1995, and the 5-Year Refinement of RVUs; Correction.	.....	01/01/95.
07/21/95	37590–37596	413	BPD–409–F	Medicare Program; Optional Payment System for Low Medicare Volume Skilled Nursing Facilities.	.....	08/21/95.
07/21/95	37657–37660	.....	HSQ–229–N	CLIA Program; Approval of the American Osteopathic Association as an Accrediting Organization.	.....	07/21/95 through 07/21/97.
07/21/95	37660–37662	.....	HSQ–228–N	CLIA Program; Approval of the American Association of Blood Banks.	.....	07/21/95 through 07/21/97.
07/26/95	38266–38272	424	BPD–709–FC ...	Medicare Program; Allowing Certifications and Recertification by Nurse Practitioners and Clinical Nurse Specialists for Certain Services.	09/25/95	08/25/95.
07/26/95	38400–38433	400 413 405 414 410 415 411 417 412 489	BPD–827–P	Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 1996.	09/25/95	
07/26/95	38344–38352	.....	BPO–131–N	Medicare and Medicaid Programs; Quarterly Listing of Program Issuances and Coverage Decisions—First Quarter 1995.	.....	
08/01/95	39122–39123	409 484	BPD–469–CN ...	Medicare Program; Medicare Coverage of Home Health Services, Medicare Conditions of Participation, and Home Health Aide Supervision; Correction.	.....	02/21/95.
08/02/95	39304–39306	412 485 413 489 424	BPD–825–CN ...	Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1996 Rates; Correction.	08/01/95	
08/09/95	40594–40597	.....	ORD–077–N	New and Pending Demonstration Project Proposals Submitted Pursuant to Section 1115(a) of the Social Security Act: May 1995.	.....	
08/14/95	41914–41982	411	BPD–674–FC ...	Medicare Program; Physician Financial Relationships With, and Referrals to, Health Care Entities That Furnish Clinical Laboratory Services; Financial Relationship Reporting Requirements.	10/13/95	09/13/95.
08/14/95	41893–41894	.....	OPL–006–N	Medicare Program; September 11, 1995 Meeting of the Practicing Physicians Advisory Council.	.....	
08/28/95	44503–44507	.....	HSQ–230–N	Medicare, Medicaid, and CLIA Programs; Clinical Laboratory Improvement Amendments of 1988 Exemption of Permit- Holding Laboratories in the State of New York.	.....	08/28/95 to 06/30/2001.
08/30/95	45085–45086	442 486 493	BPD–840–CN ...	Medicare and Medicaid Programs; Technical Amendatory Language Changes; Correction.	.....	02/08/95, 04/24/95, and 07/01/95.
08/31/95	45344–45372	400 411	BPD–482–FC ...	Medicare Program; Medicare Secondary Payer for Individuals Entitled to Medicare and Also Covered Under Group Health Plans.	10/30/95	10/02/95.
08/31/95	45372	.....	OMC–022–F	Full Reporting by Health Maintenance Organizations (HMOs) and Competitive Medical Plans (CMPs) Paid on a Cost Basis.	.....	08/04/95.
09/01/95	45673–45682	417	OMC–011–FC ..	Medicare Program; Contracts With Health Maintenance Organizations (HMOS) and Competitive Medical Plans (CMPs).	10/31/95	10/01/95.

ADDENDUM V.—REGULATION DOCUMENT PUBLISHED IN THE FEDERAL REGISTER—Continued

Publication date	FR vol. 60 page	CFR part	File code*	Regulation title	End of comment period	Effective date
09/01/95	45778–45946	412 485 413 489 424	BPD–825–FC ...	Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1996 Rates.	10/31/95	10/01/95; except § 412.46 which is effective 09/01/95.
09/06/95	46228–46234	417	OMC–014–FC ..	Medicare Program; Payments to HMOs and CMPs and Appeals; Technical Amendments.	10/06/95	10/01/95.
09/06/95	46288–46296	.....	BPO–133–PN ...	Medicare Program; Data, Standards, and Methodology Used to Establish Fiscal Year 1996 Budgets for Fiscal Intermediaries and Carriers.	11/06/95	
09/08/95	46838–46841	.....	MB–094–N	Medicaid Program; Limitations on Aggregate Payments to Disproportionate Share Hospitals: Federal Fiscal Year 1995.	09/30/95.	
09/13/95	47534–47543	493	HSQ–225–P	Public Health Service; CLIA Program; Categorization of Waived Tests.	11/13/95	
09/15/95	47982–47998	493	HSQ–222–P	CLIA Program; Categorization and Certification Requirements for a New Subcategory of Moderate Complexity Testing.	11/14/95	
09/18/95	48039–48044	405	BPD–766–F	Medicare Program; Standards for Quality of Water Used in Dialysis and Revised Guidelines on Reuse of Hemodialysis Filters for End-Stage Renal Disease (ESRD) Patients.	.....	10/18/95.
09/19/95	48417–48425	405 411	BPD–841–FC ...	Medicare Program; Criteria and Procedures for Extending Coverage to Certain Devices and Related Services.	11/20/95	11/01/95.
09/19/95	48442–48490	441 447	MB–046–P	Medicaid Program; Payment for Covered Outpatient Drugs Under Drug Rebate Agreements With Manufacturers.	11/20/95	
09/20/95	48749	400 411	BPD–482–FC ...	Medicare Program; Medicare Secondary Payer for Individuals Entitled to Medicare and Also Covered Under Group Health Plans; Correction.	.....	09/29/95.
09/26/95	49619–49622	.....	BPD–824–N	Medicare Program; Update of Ambulatory Surgical Center (ASC) Payment Rates Effective for Services On or After October 1, 1995.	.....	10/01/95.
09/28/95	50115–50120	431 488 440 489 442 498	HSQ–156–CN ..	Medicare and Medicaid Programs; Survey, Certification and Enforcement of Skilled Nursing Facilities and Nursing Facilities; Correction.	.....	07/01/95.
09/29/95	50439–50443	401 473 403 476 409 482 413 483 420 484 421 488 424 489 462 498 466	BPD–830–FC ...	Medicare Program; Authority Citations: Technical Amendments.	11/28/95	09/29/95.
09/29/95	50443–50446	400	OFH–018–F	Medicare and Medicaid Programs; Approved Information Collection Requirements.	.....	09/29/95.
09/29/95	50446–50448	485 486	BPD–836–FC ...	Medicare Program; Providers and Suppliers of Specialized Services: Technical Amendments.	11/28/95	09/29/95.

*GN—General Notice; PN—Proposed Notice; FN—Final Notice; P—Notice of Proposed Rulemaking (NPRM); F—Final Rule; FC—Final Rule with Comment Period; CN—Correction Notice; SN—Suspension Notice; WN—Withdrawal Notice; NR—Notice of HCFA Ruling.

Addendum VI—Categorization of Food and Drug Administration-Approved Investigational Device Exemptions

Under the Food, Drug, and Cosmetic Act (21 U.S.C. 360c), devices fall into one of three classes:

Class I—Devices for which the general controls of the Food, Drug, and Cosmetic Act, such as adherence to good manufacturing practice regulations, are sufficient to provide a reasonable assurance of safety and effectiveness.

Class II—Devices that, in addition to general controls, require special controls, such as performance standards or postmarket surveillance, to provide a reasonable assurance of safety and effectiveness.

Class III—Devices that cannot be classified into Class I or Class II because insufficient information exists to determine that either special or general controls would provide reasonable assurance of safety and effectiveness. Class III devices require premarket approval.

Under the new categorization process to assist HCFA, the Food and Drug Administration assigns each device with a Food and Drug Administration-approved investigational device exemption to one of two categories: Experimental/Investigational (Category A) Devices, or Non-Experimental/

Investigational (Category B) Devices. Under this categorization process, an experimental/investigational device (Category A) is an innovative device in Class III for which absolute risk of the device type has not been established (that is, initial questions of safety and effectiveness have not been resolved and the Food and Drug Administration is unsure whether the device type can be safe and effective). A non-experimental/investigational (Category B) device is a device believed to be in Class I or Class II, or a device believed to be in Class III for which the incremental risk is the primary risk in question (that is, underlying questions of safety and effectiveness of that device type have been resolved), or it is known that the device type can be safe and effective because, for example, other manufacturers have obtained Food and Drug Administration approval for that device type.

The criteria the Food and Drug Administration uses to categorize an investigational device under Category A include the following:

(1) Class III devices of a type for which no marketing application has been approved through the premarket approval (PMA) process for any indication for use. (For pre-amendments [1] Class III devices, refer to the criteria under Category B).

(2) Class III devices that would otherwise be in Category B but have undergone significant modification for a new indication for use.

The following information presents the device number, category (in this case, A), and criterion code for FDA approved IDE devices.

L002702 A 1, L014521 A 1, G840208 A 1, G870031 A 1, G870181 A 2, G880028 A 1, G880063 A 1, G880151 A 1, G880210 A 2, G890047 A 1, G890103 A 1, G890144 A 2, G890148 A 1, G890189 A 1, G890201 A 2, G890210 A 2, G900100 A 2, G900142 A 2, G900143 A 2, G900155 A 1, G900205 A 1, G900214 A 1, G900217 A 1, G900246 A 2, G900259 A 2, G910034 A 1, G910064 A 2, G910078 A 2, G910083 A 1, G910121 A 1, G910130 A 1, G910166 A 2, G910170 A 2, G910175 A 2, G910197 A 2, G910202 A 2, G920003 A 1, G920021 A 1, G920035 A 1, G920045 A 2, G920046 A 1, G920052 A 2, G920084 A 2, G920101 A 1, G920111 A 1, G920211 A 1, G930054 A 2, G930063 A 1, G930092 A 1, G930115 A 2, G930136 A 1, G930140 A 1, G930155 A 1, G930190 A 2, G930192 A 2, G940001 A 1, G940024 A 1, G940084 A 2, G940088 A 2, G940111 A 2, G940119 A 2, G940150 A 1, G940151 A 2, G940191 A 1, G940192 A 1, G950058 A 2, G950062 A 1, G950083 A 2, G950093 A 1, G950096 A 1

The criteria the Food and Drug Administration uses to categorize an investigational device under Category B include the following:

(1) Devices, regardless of the classification, under investigation to establish substantial equivalence to a predicate device, that is, to establish substantial equivalence to a previously/currently legally marketed device.

(2) Class III devices whose technological characteristics and indication for use are comparable to a PMA-approved device.

(3) Class III devices with technological advances compared to a PMA-approved device, that is, a device with technological changes that represent advances to a device that has already received PMA-approval (generational changes).

(4) Class III devices that are comparable to a PMA-approved device but are under investigation for a new indication for use. For purposes of studying the new indication, no significant modification to the device were required.

(5) Pre-amendments Class III devices that become the subject of an investigational device exemption after the Food and Drug Administration requires premarket approval, that is, no PMA application was submitted or the PMA application was denied.

(6) Nonsignificant risk device investigations for which the Food and Drug Administration required the submission of an investigational device exemption.

The following information presents the device number, category (in this case, B), and criterion code.

L010038 B 1, L010109 B 2, L010119 B 2, L010598 B 2, L010913 B 2, L011828 B 2, L013468 B 2, L013469 B 2, L016548 B 1, L017238 B 3, G780049 B 2, G780054 B 2, G790001 B 2, G790011 B 6, G790012 B 2, G790016 B 1, G790018 B 2, G790022 B 2, G790023 B 2, G790030 B 2, G790033 B 1, G800001 B 2, G800002 B 2, G800004 B 2, G800007 B 1, G800017 B 5, G800020 B 1, G800022 B 2, G800024 B 2, G800035 B 3, G800046 B 1, G800049 B 2, G800055 B 2, G800074 B 2, G800075 B 1, G800077 B 2, G800083 B 4, G800124 B 2, G800129 B 3, G800138 B 2, G800143 B 4, G810003 B 2, G810022 B 2, G810028 B 2, G810065 B 2, G810067 B 4, G810068 B 2, G810076 B 2, G810080 B 1, G810081 B 1, G810083 B 2, G810086 B 1, G810089 B 2, G810102 B 1, G810109 B 2, G810113 B 1, G810115 B 3, G810122 B 2, G810123 B 2, G810127 B 2, G810128 B 2, G810129 B 1, G810134 B 1, G810138 B 2, G810139 B 1, G810149 B 2, G810161 B 2, G810168 B 1, G810171 B 2, G810172 B 2, G810173 B 2, G810178 B 2, G810192 B 2, G810203 B 2, G810216 B 2, G810218 B 2, G820012 B 2, G820019 B 2, G820033 B 1, G820036 B 2, G820046 B 2, G820050 B 2, G820054 B 2, G820057 B 2, G820061 B 3, G820073 B 1, G820076 B 2, G820080 B 1, G820082 B 2, G820094 B 4, G820096 B 2, G820098 B 2, G820115 B 2, G820138 B 2, G820149 B 2, G820157 B 2, G820165 B 2, G820903 B 1, G820904 B 1, G830017 B 4, G830027 B 2, G830044 B 2, G830048 B 2, G830073 B 4, G830092 B 4, G830120 B 2, G830127 B 2, G830134 B 1, G830145 B 2, G830153 B 1, G830154 B 4, G830167 B 2, G830174 B 2, G830187 B 2, G830901 B 1, G830903 B 1, G830907 B 2, G840008 B 1, G840018 B 1, G840028 B 3, G840032 B 1, G840036 B 2, G840069 B 1, G840080 B 2, G840098 B 2, G840099 B 1, G840129 B 1, G840135 B 2, G840137 B 6, G840140 B 2, G840150 B 1, G840174 B 2, G840189 B 2, G840196 B 2, G840201 B 2, G850010 B 2, G850012 B 1, G850017 B 1, G850030 B 2, G850040 B 2, G850045 B 1, G850049 B 2, G850071 B 2, G850072 B 1, G850097 B 2, G850098 B 2, G850101 B 3, G850103 B 4, G850117 B 3, G850120 B 2, G850121 B 2, G850134 B 2, G850139 B 2, G850142 B 1, G850158 B 4, G850162 B 2, G850174 B 2, G850187 B 2, G850188 B 3, G850202 B 2, G850206 B 2, G850217 B 2, G850231 B 2, G850233 B 4, G850239 B 2, G860001 B 1, G860010 B 2, G860019 B 4, G860021 B 1, G860026 B 2, G860030 B 4, G860044 B 2, G860055 B 2, G860060 B 2, G860065 B 3, G860066 B 2, G860067 B 2, G860070 B 3, G860075 B 2, G860077 B 2, G860084 B 1, G860086 B 2, G860102 B 1, G860114 B 2, G860116 B 1, G860117 B 2, G860118 B 1, G860132 B 2, G860138 B 2, G860140 B 4, G860141 B 4, G860147 B 4, G860156 B 2, G860157 B 1, G860165 B 4, G860168 B 2, G860169 B 2, G860170 B 2, G860172 B 2, G860176 B 1, G860182 B 2, G860184 B 4, G860186 B 2, G860189 B 1, G860194 B 2, G860199 B 2, G860200 B 2, G860201 B 1, G860210 B 1, G860225 B 2, G860230 B 4, G870010 B 4, G870013 B 1,

[1] Pre-amendments devices are devices that were marketed before the enactment of the 1976 Medical Device Amendments to the Food, Drug, and Cosmetic Act; that is, in commercial distribution before May 28, 1976.

G870017 B 1, G870019 B 3, G870030 B 2, G870035 B 2, G870036 B 2, G870037 B 2, G870038 B 6, G870040 B 3, G870046 B 2, G870048 B 4, G870049 B 1, G870052 B 1, G870053 B 2, G870055 B 6, G870056 B 6, G870058 B 1, G870060 B 1, G870061 B 6, G870067 B 2, G870069 B 4, G870080 B 2, G870082 B 2, G870091 B 1, G870101 B 4, G870104 B 2, G870109 B 2, G870112 B 1, G870114 B 2, G870120 B 2, G870122 B 6, G870123 B 2, G870129 B 2, G870134 B 6, G870136 B 2, G870142 B 4, G870144 B 4, G870158 B 6, G870161 B 2, G870163 B 2, G870167 B 1, G870174 B 2, G870195 B 2, G870200 B 2, G870213 B 2, G870224 B 2, G880001 B 1, G880007 B 3, G880008 B 4, G880018 B 4, G880021 B 2, G880022 B 3, G880026 B 1, G880032 B 3, G880040 B 2, G880042 B 1, G880044 B 2, G880045 B 1, G880050 B 6, G880051 B 2, G880068 B 2, G880069 B 3, G880076 B 1, G880080 B 2, G880084 B 2, G880100 B 2, G880102 B 1, G880103 B 1, G880104 B 1, G880112 B 3, G880118 B 4, G880122 B 2, G880123 B 6, G880129 B 2, G880131 B 2, G880136 B 6, G880149 B 4, G880150 B 2, G880152 B 2, G880153 B 2, G880155 B 2, G880157 B 6, G880159 B 1, G880167 B 2, G880170 B 3, G880174 B 6, G880184 B 2, G880186 B 2, G880188 B 2, G880189 B 4, G880191 B 2, G880193 B 2, G880194 B 2, G880197 B 4, G880208 B 1, G880213 B 3, G880214 B 4, G880221 B 4, G880228 B 4, G880233 B 6, G880234 B 2, G880235 B 6, G880257 B 3, G880280 B 1, G880286 B 3, G880290 B 2, G880294 B 2, G880295 B 2, G880296 B 1, G880298 B 6, G880300 B 2, G880301 B 2, G890001 B 3, G890003 B 6, G890005 B 2, G890006 B 2, G890008 B 3, G890009 B 4, G890018 B 2, G890021 B 2, G890022 B 4, G890027 B 3, G890029 B 2, G890030 B 1, G890031 B 2, G890039 B 1, G890040 B 6, G890045 B 2, G890048 B 4, G890050 B 4, G890055 B 1, G890058 B 2, G890060 B 2, G890064 B 3, G890074 B 4, G890077 B 4, G890078 B 2, G890081 B 1, G890084 B 6, G890088 B 3, G890092 B 2, G890096 B 1, G890097 B 6, G890099 B 2, G890101 B 4, G890104 B 6, G890108 B 4, G890110 B 2, G890112 B 2, G890122 B 2, G890124 B 2, G890130 B 2, G890137 B 4, G890138 B 3, G890140 B 2, G890149 B 2, G890151 B 2, G890152 B 2, G890158 B 6, G890161 B 4, G890165 B 1, G890169 B 3, G890173 B 3, G890177 B 3, G890179 B 2, G890180 B 4, G890181 B 2, G890183 B 2, G890185 B 4, G890190 B 2, G890191 B 1, G890196 B 3, G890197 B 2, G890198 B 6, G890200 B 2, G890208 B 2, G890209 B 1, G890211 B 1, G890215 B 4, G890216 B 2, G890222 B 2, G890227 B 1, G890231 B 2, G890232 B 1, G890234 B 3, G890235 B 3, G890236 B 4, G890239 B 2, G890245 B 2, G890248 B 1, G890249 B 2, G890250 B 2, G900005 B 1, G900006 B 2, G900007 B 2, G900008 B 4, G900010 B 2, G900017 B 2, G900019 B 4, G900020 B 2, G900022 B 2, G900027 B 4, G900028 B 2, G900030 B 1, G900040 B 2, G900041 B 2, G900044 B 2, G900045 B 1, G900049 B 2, G900050 B 2, G900053 B 1, G900055 B 2, G900058 B 2, G900059 B 2, G900060 B 2, G900062 B 2, G900075 B 2, G900077 B 1, G900078 B 4, G900081 B 1, G900085 B 1, G900090 B 6, G900092 B 1, G900093 B 6, G900098 B 2, G900099 B 4, G900101 B 2, G900102 B 4, G900104 B 6, G900107 B 4, G900108 B 4, G900109 B 2, 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Note: Some investigational devices may exhibit unique characteristics or raise safety concerns that make additional consideration necessary. For these devices, HCFA and the Food and Drug Administration will agree on the additional criteria to be used. The Food and Drug Administration will use these criteria to assign the device(s) to a category. As experience is gained in the categorization process, this addendum may be modified.

[FR Doc. 96–8623 Filed 4–5–96; 8:45 am]

BILLING CODE 4120–03–P

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

Name of SEP: National Institute on Aging Special Emphasis Panel.

Date: April 15–16, 1996.

Time: 7:00 p.m. on April 15 to adjournment on April 16, 1996.

Place: Radisson Plaza Hotel Lexington, 369 West Vine Street, Lexington, Kentucky 40507–1636.

Contact Person: Dr. Maria Mannarino, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Purpose/Agenda: To evaluate and review (grant applications, cooperative agreement applications, or contract proposals).

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of SEP: National Institute on Aging Special Emphasis Panel.

Date: April 23, 1996.

Time: 1:30 p.m. EDT to adjournment.

Place: Teleconference Call Gateway Building, Room 2C212.

Contact Person: Dr. Paul Lenz, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Purpose/Agenda: To evaluate and review (grant applications, cooperative agreement applications, or contract proposals).

Name of SEP: National Institute on Aging Special Emphasis Panel.

Date: April 30—May 1, 1996.

Time: 7:00 p.m. on April 30 to adjournment on May 1, 1996.

Place: Holiday Inn—Georgetown, 2101 Wisconsin Ave., NW, Washington, D.C. 20007.

Contact Person: Dr. Maria Mannarino, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Purpose/Agenda: To evaluate and review (grant applications, cooperative agreement applications, or contract proposals).

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health)

Dated: April 1, 1996.

Margery Grubb,

Committee Management Specialist, NIH.

[FR Doc. 96–8567 Filed 4–5–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Dental Research; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Dental Research Special Emphasis Panel (SEP) meetings:

Name of SEP: National Institute of Dental Research Special Emphasis Panel-Review of Oral Cancer Centers 96–13 (2nd).

Dates: May 13–14, 1996.

Time: 8:00 am.

Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Dr. Yong Shin, Scientific Review Administrator, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To evaluate and review grant applications and/or contract proposals.

Name of SEP: National Institute of Dental Research Special Emphasis Panel-Review of Training Grants 96–21.

Dates: May 15, 1996.

Time: 11:00 am.

Place: Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20892 (teleconference).

Contact Person: Dr. George Hausch, Chief, Grants Review Section, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To evaluate and review grant applications and/or contract proposals.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research)

Dated: March 29, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–8569 Filed 4–5–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Institute of Mental Health Special Emphasis Panel.

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: April 23, 1996.

Time: 2 p.m.

Place: Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Lawrence E. Chaitkin, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4843.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: March 29, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–8570 Filed 4–5–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Notice of Meeting of the National Deafness and Other Communication Disorders Advisory Council and its Planning Subcommittee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Deafness and Other Communication Disorders Advisory Council and its Planning Subcommittee on May 15–17, 1996, at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland. The meeting of the full Council will be held in Conference Room 6, Building 31C, and the meeting of the subcommittee will be in Conference Room 7, Building 31C.

The meeting of the Planning Subcommittee will be open to the public on May 15 from 2 pm until 3 pm for the discussion of policy issues. The meeting of the full Council will be open to the public on May 16 from 8:30 am until recess for a report from the Institute Director and discussion of extramural policies and procedures at the National Institutes of Health and the National Institute on Deafness and Other Communication Disorders and on May 17 from 8:30 am until approximately 9:30 am for a report on extramural programs of the Division of Human Communication. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and Section 10(d) of Public Law 92–463, the meeting of the Planning Subcommittee on May 15 will be closed to the public from 3 pm to adjournment. The meeting of the full Council will be closed to the public on May 17 from approximately 9:30 a.m. until adjournment.

The meetings will include the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Council and Subcommittee meeting may be obtained from Dr. Earleen F. Elkins, Executive Secretary, National Deafness and Other Communication Disorders Advisory Council, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, Executive Plaza South, Room 400C, 6120 Executive Blvd., MSC7180, Bethesda, Maryland 20892, 301–496–8693. A summary of the meeting and rosters of the members may also be obtained from her office. For individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations, please contact Dr. Elkins at least two weeks prior to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–8571 Filed 4–5–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: April 2, 1996.

Time: 3:30 p.m.

Place: Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Sheri L. Schwartzback, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4843.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: March 29, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–8572 Filed 4–5–96; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Biological and Physiological Sciences.

Date: April 17, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 6152, Telephone Conference.

Contact Person: Dr. Jerry Roberts, Scientific Review Administrator, 6701 Rockledge Drive, Room 6152, Bethesda, Maryland 20892, (301) 435–1037.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Biological and Physiological Sciences.

Date: April 25, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 6154, Telephone Conference.

Contact Person: Dr. David Remondini, Scientific Review Administrator, 6701 Rockledge Drive, Room 6154, Bethesda, Maryland 20892, (301) 435–1038.

Name of SEP: Clinical Sciences.

Date: April 25, 1996.

Time: 10:30 a.m.

Place: NIH, Rockledge 2, Room 4138, Telephone Conference.

Contact Person: Dr. Anthony Chung, Scientific Review Administrator, 6701 Rockledge Drive, Room 4138, Bethesda, Maryland 20892, (301) 435–1213.

Name of SEP: Clinical Sciences.

Date: April 30, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4100, Telephone Conference.

Contact Person: Dr. Jeanne Ketley, Scientific Review Administrator, 6701 Rockledge Drive, Room 4100, Bethesda, Maryland 20892, (301) 435–1788.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such at patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 1. 1996.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 96–8566 Filed 4–5–96; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Clinical Sciences.

Date: April 3, 1996.

Time: 10:30 a.m.

Place: NIH, Rockledge 2, Room 4112, Telephone Conference.

Contact Person: Dr. Gopal Sharma, Scientific Review Administrator, 6701 Rockledge Drive, Room 4221, Bethesda, Maryland 20892, (301) 435–1783.

Name of SEP: Biological and Physiological Sciences.

Date: April 12, 1996.

Time: 8:00 a.m.

Place: Holiday Inn, Chevy Chase, MD.

Contact Person: Dr. Ramesh Nayak, Scientific Review Administrator, 6701 Rockledge Drive, Room 5146, Bethesda, Maryland 20892, (301) 435–1026.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 1, 1996.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 96–8568 Filed 4–5–96; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Golden-Cheeked Warbler, etc., Travis County et al., TX; Incidental Take Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Receipt of Application for Incidental Take Permit for surveying the species listed below for Travis County and surrounding counties in central Texas.

APPLICANT: K. Melody Lytle, Austin, Texas.

SUMMARY: K. Melody Lytle has applied to the Fish and Wildlife Service for an incidental take permit pursuant to Section 10(A)1(a) of the Endangered Species Act, for the purpose of scientific research and enhancement of propogation and survival of the species as prescribed by Service recovery documents. The applicant has been assigned permit number PRT–812212. The requested permit, which is for a period of 2 years, would authorize the incidental take of the following endangered species:

1. Golden-cheeked warbler (*Dendroica chrysoparia*).
2. Houston toad (*Bufo houstonensis*).
3. Black-capped vireo (*Vireo atricapillus*).
4. Tooth cave pseudoscorpion (*Tartarocreagris texana*).
5. Tooth cave spider (*Neoleptoneta myopica*).
6. Tooth cave ground beetle (*Rhadine persepnone*).
7. Kretschmarr cave mold beetle (*Texamaurops reddelli*).
8. Bee creek cave harvestman (*Texella reddelli*).
9. Bone cave harvestman (*Texella revesi*).

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Assistant Regional

Director, Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. The request must be received by the Assistant Regional Director within 30 days of the date of this publication. Please refer to permit number PRT–812212 when submitting comments.

Documents and other information submitted with this application are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the above office within 30 days of the date of publication of this notice.

Nancy M. Kaufman,

Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 96–8612 Filed 4–5–96; 8:45 am]

BILLING CODE 4510–55–M

Availability of an Environmental Assessment/Habitat Conservation Plan and Receipt of Application for Incidental Take Permit for Construction of One Single Family Residence on 201 Lowell Lane, Lot 65, Block B, Rob Roy on the Lake, Section 2, Austin, Travis County, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Robert A. Baker (Applicant) has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act). The Applicant has been assigned permit numbers PRT–809217. The requested permit, which is for a period of 10 years, would authorize the incidental take of the endangered golden-cheeked warbler (*Dendroica chrysoparia*). The proposed take would occur as a result of the construction of one single family residence at 201 Lowell Lane, Lot 65, Block B, Rob Roy on the Lake, Section 2, Austin, Travis County, Texas.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take applications. A determination of jeopardy to the species or a finding of No Significant Impact (FONSI) will not be made before 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received on or before May 8, 1996.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Joseph E. Johnston or Mary Orms, Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0063). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) U.S. fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application(s) and EA/HCPs should be submitted to the Field Supervisor Ecological Field Office, Austin, Texas (see **ADDRESS** above). Please refer to permit number PRT–809217 when submitting comments.

FOR FURTHER INFORMATION CONTACT:

Joseph E. Johnston or Mary Orms at the above Austin Ecological Service Field Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the golden-cheeked warbler. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

APPLICANT: Robert A. Baker plans to construct a single family residence on 201 Lowell Lane, Lot 65, Block B, Rob Roy on the Lake, Section 2, Austin, Travis County, Texas. This action will eliminate less than one-half acre of land and indirectly impact less than one-half additional acres of golden-cheeked warbler habitat per residence. The applicant proposes to compensate for this incidental take of golden-cheeked warbler habitat by placing $1,500 into the City of Austin Balcones Canyonlands Conservation Fund to acquire/manage lands for the conservation of the golden-cheeked warbler.

Alternatives to this action were rejected because selling or not developing the subject property with federally listed species present was not economically feasible.

Nancy M. Kaufman,

Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 96–8613 Filed 4–5–96; 8:45 am]

BILLING CODE 4510–55–M

Availability of an Environmental Assessment/Habitat Conservation Plan and Receipt of Application for Incidental Take Permit for Construction of One Single Family Residence on Lots 9 and 10, Block C, Lake Georgetown Estates, Located at 1720 and 1730 County Road 262, Georgetown, Williamson County, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Robert C. Paris (Applicant) has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act). The Applicant has been assigned permit numbers PRT–809218. The requested permit,which is for a period of 10 years. would authorize the incidental take of the endangered golden-cheeked warbler (*Dendroica chrysoparia*). The proposed take would occur as a result of the construction of one single family residence on Lots 9 and 10, Block C, Lake Georgetown Estates, located at 1720 and 1730 County Road 262, Georgetown, Williamson County, Texas.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take applications. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made before 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received on or before May 8, 1996.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Joseph E. Johnston or Mary Orms, Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0063). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application(s) and EA/HCPs should be submitted to the Field Supervisor, Ecological Field Office, Austin, Texas (see **ADDRESSES** above).

Please refer to permit number PRT–809218 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Joseph E. Johnston or Mary Orms at the above Austin Ecological Service Field Office.

SUPPLEMENTARY INFORMATION: Secton 9 of the Act prohibits the ''taking'' of endangered species such as the golden-cheeked warbler. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

APPLICANT: Robert C. Paris plans to construct a single family residence on Lots 9 and 10, Block C, Lake Georgetown Estates, located at 1720 and 1730 County Road 262, Georgetown, Williamson County, Texas. This action will eliminate less than one-half acre of land and indirectly impact less than one-half additional acres of golden-cheeked warbler habitat. The applicant proposes to compensate for this incidental take of golden-cheeked warbler habitat by placing $1,500 into the city of Austin Balcones Canyonlands Conservation Fund to acquire/manage lands for the conservation of the golden-cheeked warbler.

Alternatives to this action were rejected because selling or not developing the subject property with federally listed species present was not economically feasible.

Nancy M. Kaufman,

Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 96–8614 Filed 4–5–96; 8:45 am]

BILLING CODE 4510–55–M

Aquatic Nuisance Species Task Force Meeting

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Aquatic Nuisance Species (ANS) Task Force. A number of subjects will be discussed during the meeting including: Ruffe control program, ANS legislative update, ballast water technology project, Michigan ANS Plan, ANS Digest, Chicago Ship and Sanitary Canal, round goby, exotic weeds, and upcoming events.

DATES: The ANS Task Force will meet from 9:00 a.m. to 3:30 p.m. on Thursday, April 25, 1996.

ADDRESSES: The ANS Task Force meeting will be held at the U.S. Fish and Wildlife Building, Room 200AB, 4401 N. Fairfax Drive, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Jay Troxel, ANS Task Force Coordinator, U.S. Fish and Wildlife Service, at (703) 358–1718.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Aquatic Nuisance Species Task Force established under the authority of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (P.L. 101–646, 104 Stat. 4761, 16 U.S.C. 4701 *et seq.*, November 29, 1990). Minutes of the meetings will be maintained by the Coordinator, Aquatic Nuisance Species Task Force, Room 840, 4401 North Fairfax Drive, Arlington, VA 22203 and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: April 1, 1996.

Gary Edwards,

Assistant Director, Fisheries, Co-Chair, Aquatic Nuisance Species Task Force.

[FR Doc. 96–8463 Filed 4–5–96; 8:45 am]

BILLING CODE 4310–55–M

Aquatic Nuisance Species Task Force Brown Tree Snake Control Committee Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Brown Tree Snake Control Committee, a Committee of the Aquatic Nuisance Species Task Force. The Committee will meet to review the final draft Brown Tree Snake Control Plan and approve a final version. The Committee also will discuss potential implementation strategies for the plan, the interrelationship of the Brown Tree Snake Control Committee and the multi-agency members of the Memorandum of Agreement regarding brown tree snake control efforts, and the future of the Brown Tree Snake Control Committee.

DATES: The Brown Tree Snake Control Committee will meet from 8:30 a.m. to 4:30 p.m. on Tuesday, April 30, 1996, and 8:30 a.m. to 12:00 p.m. on Wednesday, May 1, 1996.

ADDRESSES: The meeting will be held at the Ilikai Hotel, 1777 Ala Moana Boulevard, in Honolulu, Hawaii. Minutes will be maintained by Robert P. Smith, Chair, Brown Tree Snake Control Committee, U.S. Fish and Wildlife Service, Pacific Islands Ecoregion, 300 Ala Moana Boulevard, Room 3108, Box 50088, Honolulu, Hawaii 96850. The minutes will be available for public inspection during regular business hours, Monday through Friday, within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Robert P. Smith, Chair, Brown Tree Snake Control Committee, at (808) 541–2749 or Jay Troxel, Coordinator, Aquatic Nuisance Species Task Force, at (703) 358–1718.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Brown Tree Snake Control Committee, a committee of the Aquatic Nuisance Species Task Force established under the authority of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (P.L. 101–646, 104 Stat. 4761, 16 U.S.C. 4701 *et seq.*, November 29, 1990).

A native of Indonesia, New Guinea, the Solomon Islands, and Australia, the brown tree snake (*Boiga irregularis*) has caused or been a factor in the extirpation of most of Guam's native terrestrial vertebrates, including fruit bats, lizards, and some of the island's forest birds. In addition, brown tree snakes in Guam have caused more than a thousand power outages, damaged agricultural interests by preying on poultry, killed many pets, and envenomated numerous children.

Several governmental agencies and private entities have been working to prevent similar ecological disasters on other Pacific islands, since the threat of the brown tree snake's dispersal to other islands and continents is significant. The brown tree snake is a major threat to the biodiversity of the Pacific region and other areas at risk. High densities of snakes occur in many urban areas on Guam where cargo is loaded for transport by air and sea to other Pacific islands, and dispersal has been documented by snakes discovered on islands in Hawaii and the Commonwealth of the Northern Mariana Islands, and even in the continental United States.

In recognition of this threat, the United States Congress included a section in the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 that authorizes a cooperative program to control the brown tree snake outside of its historic range. Representatives of the Departments of Agriculture, Commerce, Defense, and the Interior; the Commonwealth of the Northern Mariana Islands; the Territory of Guam; and the State of Hawaii formed the Brown Tree Snake Control Committee in May 1993 to develop an

integrated pest management approach that would:

- Reduce existing brown tree snake populations on Guam;
- Prevent the spread of brown tree snakes to other Pacific islands and mainland areas;
- Eradicate or contain new populations as soon as detected;
- Protect endangered species and other wildlife from brown tree snake predation;
- Assist organizations and individuals on Guam to manage and control brown tree snake infestations, and especially to reduce disruptions of electrical supplies and human-snake encounters resulting in emotional trauma and bites;
- Develop adequate information on the brown tree snake's biology, dispersal dynamics, and control to support Federal, State, Territorial, and Commonwealth needs; and
- Develop more effective and environmentally sound control strategies and methods.

To meet these objectives, the Brown Tree Snake Control Committee developed a draft plan reviewing the biology of the brown tree snake, its population development and status on various Pacific islands, its current and potential impacts on the environment and the economy, and past and present brown tree snake control activities. The draft plan also outlined specific tasks that need to be accomplished and funding needed for operational and research activities. The draft plan was released for public review and comment in April 1995, and comments received have been incorporated into a final draft plan, to be reviewed and approved during the upcoming Brown Tree Snake Control Committee meeting.

Dated: April 1, 1996.

Gary Edwards,

Assistant Director—Fisheries, Co-Chair, Aquatic Nuisance Species Task Force.

[FR Doc. 96–8464 Filed 4–5–96; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[WO–330–1020–00–24 1A]

Extension of Currently Approved Information Collection, OMB Approval Number 1004–0047

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request extension of approval to collect information from individuals who conduct, or wish to conduct, grazing on lands managed by BLM. Information collected relates to individuals' qualifications and base properties, as well as to changes in land ownership. BLM uses the information to allocate grazing use, determine qualifications of applicants, issue permits, authorize transfers, and document files.

DATES: Comments on the proposed information collection must be received by June 7, 1996 to be considered.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW., Room 401 LS, Washington, DC 20240

Comments may be sent via Internet to: !WO140@attmail.com. Please include ''Attn: 1004–0047'' and your name and return address in your Internet message.

Comments may be hand delivered to the Bureau of Land Management Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (8:45 a.m. to 5:15 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: George Ramey, Jr., (202) 452–7747.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the Federal Register concerning a collection of information contained in current published rules to solicit comments on (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The Taylor Grazing Act (TGA) of 1934 (43 U.S.C. 315, 315 *et seq.*), the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1701 *et seq.*), and the Public Rangelands Improvement Act (PRIA) of 1978 (43 U.S.C. 1901 *et seq.*) provide authority for BLM to administer the livestock grazing program consistent with land-use plans, multiple-use objectives, sustained yield, environmental values, economic considerations, and other factors. Authorizing livestock use on the public lands is an important and integral part of program administration. Administrative procedures include maintaining accurate and complete information on the qualifications of permittees and lessees and ownership and location of all land used in conjunction with the public lands. BLM's regulations at 43 CFR 4110.1 and .2 require notification to BLM of changes in ownership, qualifications of applicants, and base properties. These regulations were adopted in 1978 (45 FR 29067, July 5, 1978) and last modified in 1995 60 FR 9894, February 22, 1995).

BLM uses two forms to collect information necessary to manage the grazing program, the Grazing Application—Preference Summary (Form 4130–1a) and the Grazing Application—Supplemental Information (Form 4130–1b). In addition to name and address, Form 4130–1a requests applicants for grazing permits and leases to specifically locate tracts of land, acres of each owned or lease property, and the amount of grazing, expressed in animal unit months (AUM), associated with each tract. The form also enables a previous owner to identify the new owner or leaseholder, the amount of land and AUMs being transferred, and concurrence by the lienholder in the transaction.

Form 4130–1b enables new applicants to certify as to their qualification for a grazing permit or lease, indicate ownership or control of all livestock to be grazed, identify owner of leased properties, identify preferences existing in other jurisdictions, and name an individual who is authorized to represent the applicant.

The information obtained from the permittees and lessees is used by BLM to allocate grazing use, adjudicate conflicting requests for grazing use, determine legal qualifications of applicants, resolve conflicts, issue permits, authorize transfers, and document files. This information is also used to verify that a legal transaction is taking place and whether all or part of the allotment is involved. Without this information, the BLM would not be able to assure proper administration of the use of the public lands as required by law and would result in unauthorized use, improper billings, unqualified users, and nonpayment of fees due the Federal Government.

The information collected is required by law and is only available from the applicants. The forms were designed to request only basic information required to administer the permitting process.

Ownership papers provide specific information concerning what parts of a property will be covered by a grazing permit or lease. This information is known by, or readily available to, the applicant, but is not available to BLM. Since grazing on the unreserved public lands is administered only by the BLM, this information collection does not duplicate any other.

The application is only completed once during the period of ownership. Since each applicant or transferee must establish eligibility for a permit or lease, the information is collected each time a change takes place. Based on its experience managing grazing on public lands, BLM estimates that an average of 3,400 forms are completed each year. Because of the wide variation in size of livestock operations, some of the responses may take as little as ten minutes to complete while others may take up to 30 minutes. BLM estimates the average time to complete one of the forms is 15 minutes. The average annual burden is 850 hours.

Any interested member of the public may request and obtain, without charge, copies of Form 4130–1a and 4130–1b by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.** All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: April 3, 1996.

Patrick W. Boyd,

Acting Chief, Regulatory Management Team.

[FR Doc. 96–8615 Filed 4–5–96; 8:45 am]

BILLING CODE 4310–84–P

[WO–310–1310–01–24 1A]

Reinstatement of Previously Approved Information Collection; OMB Approval Number 1004–0136

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request reinstatement of approval for the collection of information from oil and gas operators who submit an Application for Permit to Drill, Deepen, or Plug Back (Form 3160–3). BLM uses the data submitted to review technical and environmental factors in the process of approving proposed oil and gas drilling operations.

DATES: Comments on the proposed information collection must be received by June 7, 1996, to be considered.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW., Room 401 LS, Washington, DC 20240.

Comments may be sent via Internet to: !WO140@attmail.com. Please include ''Attn: 1004–0136'' and your name and return address in your Internet message.

Comments may be hand delivered to the Bureau of Land Management Administrative Record, Room 401 L Street NW., Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Barbara Gamble, Compliance Team, Fluids Group, (202) 452–0340.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the Federal Register concerning a collection of information contained in published current rules to solicit comments on (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The Mineral Leasing Act of 1920 (30 U.S.C. 181 *et seq.*), as amended; the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351–359), as amended; the various Indian leasing acts; the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*), as amended, and other environmental laws govern onshore oil and gas operations. BLM's implementing regulations are located at 43 CFR Part 3160. These regulations took their current form in 1982 (47 FR 47765, Oct. 27, 1982) and have been amended many times, most recently in February (61 FR 4752, Feb. 6, 1996).

BLM's regulations at 43 CFR Part 3160 require an oil and gas well operator to submit an Application for Permit to Drill, Deepen, or Plug Back (Form 3160–3) for each well 30 days before any drilling operations or surface disturbances are commenced. On the form, respondents are requested to provide information describing the proposed activities, including the type of well and work anticipated, the operator's identity and address, surface and bottom-hole location of the proposed action, and various kinds of technical data depending on the type of activity proposed.

BLM uses the information on Form 3160–3 to review technical and environmental factors germane to each well, reservoir management, engineering and environmental compliance, and to ensure that drilling is conducted in compliance with existing spacing orders. BLM uses technical data about the drilling for both permit approval and subsequent on-the-ground review and inspection after actual drilling begins. BLM gathers information on prospective production of resources so that all potential impacts can be evaluated during the approval process.

Without the above information, there would be no assurance that drilling and associated activities, when and if authorized, are technically and environmentally feasible and ensure proper conservation of the resources. The information submitted provides a basis for BLM to evaluate the proposed well's feasibility and, in turn, determine whether the application should be disapproved or approved and, if approved, whether any special conditions of approval should be made part of the permit.

BLM also requires operators to prepare certain items, such as drilling plans, diagrams and maps, as well as contingency plans. Operators generally submit these items as attachments to Form 3160–3 in accordance with 43 CFR 3162.3–1. BLM has included the burden hours for such attachments in OMB approval number 1004–0134 which covers all non-form requirements of 43 CFR Part 3160.

Based on its experience administering the onshore oil and gas program, BLM estimates that approximately 4,000 forms are filed annually and that it takes an average of 30 minutes for a respondent to supply the requested information. The frequency of response is variable depending on operating circumstances. Respondents are operators of oil and gas wells. The estimated total annual burden is 2,000 hours.

Any interested member of the public may request and obtain, without charge, a copy of Form 3160–3 by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become part of the public record.

Dated: April 2, 1996.

Annetta L. Cheek,

Chief, Regulatory Management Team.

[FR Doc. 96–8616 Filed 4–5–96; 8:45 am]

BILLING CODE 4310–84–P

[WO–310–1310–01–24 1A]

Reinstatement of Previously Approved Information Collection; OMB Approval Number 1004–0137

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request reinstatement of approval for the collection of information from oil and gas well operators concerning operations that were performed on each well, using the Well Completion or Recompletion Report and Log (Form 3160–4). BLM uses the information to ensure recording of an accurate, up-to-date, and detailed description of well completion or recompletion operations and compliance with approved plans for conservation of the resource and protection of the environment.

DATES: Comments on the proposed information collection must be received by June 7, 1996, to be considered.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW, Room 401 LS, Washington, DC 20240.

Comments may be sent via Internet to: !WO140@attmail.com. Please include ''Attn: 1004–0137'' and your name and return address in your Internet message.

Comments may be hand delivered to the Bureau of Land Management Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Barbara Gamble, Compliance Team, Fluids Group, (202) 452–0340.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the Federal Register concerning a collection of information contained in published current rules to solicit comments on (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The Mineral Leasing Act of 1920 (30 U.S.C. 181 *et seq.*), as amended; the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351–359), as amended; the various Indian leasing acts; the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.)), as amended, and other environmental laws govern onshore oil and gas operations. BLM's implementing regulations are located at 43 CFR Part 3160. These regulations took their current form in 1982 (47 FR 47765, Oct. 27, 1982) and have been amended many times, most recently in February (61 FR 4752, Feb. 6, 1996).

BLM's regulations at 43 CFR 3162.4–1(b) require an oil and gas well operator to submit the Well Completion or Recompletion Report and Log (Form 3160–4) within 30 days after well completion. The information reported by the operator includes type of work, surface and subsurface location, start and completion dates, producing interval, casing, date of first production, and initial well potential. The operator certifies the accuracy and completeness of the information by signature and date.

BLM uses the information for royalty considerations and inspection and reservoir management purposes. Technical data provide means to evaluate the appropriateness of specific drilling and completion techniques. The data enables BLM to monitor the engineering aspects of production and the legal requirements of lease obligation to develop the resource.

In its entirety, the data submitted is used for agency technical evaluation of operations performed on a well and initial well performance. The form documents that operations were carried out in accordance with the terms and provisions of the lease and in technically and environmentally safe manners.

Based on its experience administering the onshore oil and gas program, BLM estimates that approximately 2,200 forms are filed annually and that it takes an average of one hour for a respondent to supply the requested information. The information collected is already maintained by the respondents for their own recordkeeping purposes and must only be entered on the form. The frequency of response is variable depending on the type of activity conducted at oil and gas wells and operating circumstances, but averages two responses per respondent per year. Respondents are operators of oil and gas wells. The estimated total annual burden is 2,200 hours.

Any interested member of the public may request and obtain, without charge, a copy of Form 3160–4 by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become part of the public record.

Dated: April 2, 1996.

Annetta L. Cheek,

Chief, Regulatory Management Team.

[FR Doc. 96–8617 Filed 4–5–96; 8:45 am]

BILLING CODE 4310–84–P

[NM–910–06–1020–00]

Call for Nominations on New Mexico Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to solicit public nominations for a limited number of seats on the New Mexico Bureau of Land Management (BLM) Resource Advisory Councils currently assisting BLM in New Mexico. The Council was established in 1995 by the Secretary of the Interior to provide advice to BLM on management of the public lands. Nominations should be received 45 days from the publication date of this notice. In making appointments to Resource Advisory Council, the Secretary will also consider nominations made by the Governor of the State of New Mexico.

The Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to establish advisory councils to provide advice on land use planning and issues related to management of lands administered by BLM. Section 309 of FLPMA directs the Secretary to select 10 to 15 member citizen-based advisory councils that are

established and authorized consistent with the requirements of the Federal Advisory Committee Act (FACA). In order to reflect a fair balance of viewpoints, the membership of Resource Advisory Council must be representative of the various interests concerned with the management of the public lands.

These include three categories:

Category One—

- Holders of federal grazing permits, representatives of energy and mining development, transportation or rights of way, timber industry, off-road vehicle use or developed recreation;

Category Two—

- Representatives of environmental and resource conservation organizations, dispersed recreation interests, archeological and historic interests, or wild horse and burro groups;

Category Three—

- Representatives of State, county and local elected government, employees of State agencies responsible for the management of natural resources, land, or water, Native American tribes, academicians involved in natural sciences, or the public at large.

The New Mexico Resource Advisory Council has two openings in Category One, no openings in Category Two, and three openings in Category Three.

Individuals may nominate themselves or others. Nominees must be residents of the State or States in which the council has jurisdiction. Nominees will be evaluated based on their education, training and experience with the issues and knowledge of the geographical area of the Council. Nominees should have demonstrated a commitment to collaborative resource decision making. All nominations must be accompanied by letters of reference from represented interests or organizations, a completed background information nomination form, as well as any other information that speaks to the nominee's qualifications.

The nomination period will also be announced through press releases issued by the BLM in New Mexico. Nominations for New Mexico Resource Advisory Councils should be sent to the BLM Office listed below: Bureau of Land Management, New Mexico State Office, External Affairs (NM 91200), P.O. Box 27115, Santa Fe, NM 87505–0115.

DATES: All nominations should be received by the BLM Office on or before May 23, 1996.

FOR FURTHER INFORMATION CONTACT: Kitty Mulkey or Tanna Chattin, Bureau of Land Management, 1474 Rodeo Road, Santa Fe, NM 87502–0115, telephone 505–438–7514.

Dated: April 2, 1996.
Richard A. Whitley,
Acting State Director.
[FR Doc. 96–8650 Filed 4–5–96; 8:45 am]
BILLING CODE 4310–FB–M

[AZ-015–96–1430–01; AZA–29525]

Notice of Realty Action; Recreation and Public Purposes Act Classification; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following public lands located within the town of Colorado City, Mohave County, Arizona, have been examined and found suitable for classification for lease or conveyance to the town of Colorado City under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended (43 U.S.C. 869 et seq.)

Gila and Salt River Meridian, Arizona

T. 40 N., R. 6 W.,
Sec. 32, E½SE¼SW¼NE¼SW¼, W½SW¼SE¼NE¼SW¼.

Containing 2.5 acres.

The town of Colorado City proposes to use the lands for a cultural/educational center to be constructed over and interpret an existing complex Virgin Anasazi pueblo. The lands are not needed for Federal purposes. Lease or conveyance is consistent with the Arizona Strip District Resource Management Plan, dated January 1992, and would be in the public interest. The lease/patent, when issued, will be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. All valid existing rights documented on the official public land records at the time of lease/patent issuance.

Upon publication of this notice in the Federal Register, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws and mineral leasing laws, except for lease or conveyance under the Recreation and Public Purposes Act, as amended. Segregation shall terminate upon publication in the Federal Register of an opening order or upon issuance of a patent, whichever occurs first.

CLASSIFICATION COMMENTS: Interested parties may submit comments involving the suitability of the land for a cultural/educational center. 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 cultural/educational center.

DATES: For the period from April 8, 1996, to May 20, 1996, interested persons may submit comments regarding the proposed lease/conveyance or classification of the lands to the District Manager, Bureau of Land Management, Arizona Strip District, 390 N. 3050 E., St. George, UT 84790. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Laurie Ford, Vermillion Resource Area Realty Specialist, 345 E. Riverside Drive, St. George, UT 84790; phone (801)628–4491, ext. 271.
Roger G. Taylor,
Arizona Strip District Manager.
[FR Doc. 96–8528 Filed 4–5–96; 8:45 am]
BILLING CODE 4310–32–P

[NV–030–5700–77;N–59805]

Notice of Realty Action: Airport Lease; Washoe County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Airport Lease.

SUMMARY: On April 21, 1995, the Spanish Springs Pilots Association filed an application for an airport lease pursuant to the Act of May 24, 1928 (49 U.S.C. 211–214), as amended, for 34.95 acres of public land located in Spanish Springs Valley, Washoe County. On February 20, 1970 a previous airport lease (N–3812) was issued for

approximately 191 acres which also encompassed the proposed lease area as well as surrounding land. The land had been continuously leased for airport purposes until April 5, 1995, when the lease was relinquished. Following relinquishment of that lease, the Spanish Springs Pilots Association filed an application within the previously leased area, incorporating the existing runway, taxiway, and aircraft tie-down and hangar areas. The segregative effect of the previous lease application remains on the land under consideration in the new airport lease proposal and segregates the subject land from all forms of appropriation. The proposed lease area is described as follows:

Mt. Diablo Meridian

T. 21 N., R. 20 E.,
Sec. 22, E½E½lot 6, lot 11,
E½E½SE¼NW¼, E½E½NE¼SW¼.

FOR FURTHER INFORMATION CONTACT: Chuck Pope, Bureau of Land Management, Carson City District Office, 1535 Hot Springs Road, Ste. 300, Carson City, Nevada 89706, (702) 885–6000.

DATES: Until May 23, 1996, interested parties may submit comments to James M. Phillips, Area Manager, Lahontan Resource Area, Bureau of Land Management, Carson City District Office.

Dated this 26th day of March, 1996

James M. Phillips,

Area Manager, Lahontan Resource Area.

[FR Doc. 96–8580 Filed 4–5–96; 8:45 am]

BILLING CODE 4310–03–P

[OR–125–06–6332–00; GP6–0099]

Proposed Establishment of Supplementary Rules on Public Lands; Coos Bay District, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed establishment of supplementary rules for the Loon Lake Recreation Area.

SUMMARY: The Coos Bay District is proposing to establish new supplementary rules to set new camping limits and set standards of conduct for persons using public lands at the Loon Lake Recreation Area and describing the penalties that may be imposed for failure to obey the regulations. The rules apply only to the Loon Lake Recreation Area in Douglas County. These rules are designed to augment and further define the existing Code of Federal Regulations, and to ensure safe, orderly, enjoyable and environmentally sound visitation by the public, free from unwarranted disturbance. Portions of these rules supersede other supplementary rules published in June, 1994 pertaining to the Loon Lake Recreation Area.

Camping Limits

Maximum length of stay in the campground is 10 days, after which the occupant must vacate the campground for a minimum of 4 days. Occupants may return for an additional stay of 10 days after the minimum 4-day vacancy. Maximum stay is 20 days in any 30 day period.

Campsites must be occupied by either a vehicle, erected tent, motor home or trailer at time of purchase. Sites not occupied in this manner will be subject to subsequent rental.

Prohibited Acts

1. Vehicles

a. Parking on the access roadway within the campground.

b. Parking on any portion of a campsite other than the asphalt parking pad provided.

c. Parking vehicles and trailers registered for overnight camping in lots designated for day-use parking only.

d. Parking vehicles and trailers in designated day-use lots overnight or after 10:00 p.m.

e. Operating a vehicle in excess of the posted speed limit.

f. Parking in a ''No Parking'' zone.

2. Day-Use

a. Bringing pets leashed or unleased into the designated day-use area. Excepted are seeing eye, hearing ear and law enforcement canines.

b. Jumping or diving off, or mooring a boat to, the designated fishing dock.

c. Bringing any glass beverage container into the designated day-use area.

3. Alcohol

Consumption, possession, or furnishing of any alcoholic beverage in violation of Oregon State law.

4. Furnished facilities

Use of shower facilities without payment of either campground or day-use fee.

5. Disorderly Conduct

a. Engage in fighting, threatening or violent behavior.

b. Language, gesture, display or act that is obscene, physically threatening, menacing, or likely to inflict injury or incite a breach of the peace.

c. Operate generators, play amplified music or create any other loud or excessive noise between the hours of 10:00 p.m. and 7:00 a.m..

6. Other Acts

a. Tether pets to trees or other vegetation.

b. Affix anything by means of a nail, spike, staple, screw or other utensil, or imbedding of any blade, into a tree or any other vegetation.

c. Transport into or burn within the area, any self-furnished firewood over 3 feet in length.

EFFECTIVE DATE: These supplementary rules will become effective May 15, 1996 to allow for analysis of public comments.

COMMENT PERIOD: The BLM requests comments from the public concerning the establishment of the above supplementary rules for the Loon Lake Recreation Area. The comment period will be open for 30 days from the date of publication of this notice. Comments received or postmarked after this comment period may not be considered. Comments may be sent to the address below:

FOR FURTHER INFORMATION CONTACT: Ronald Andersen, Bureau of Land Management, Umpqua Resource Area, 1300 Airport Lane, North Bend, Oregon 97459, Telephone: (541) 756–0100.

SUPPLEMENTARY INFORMATION: Proposed camping limits and other supplementary rules are being established to accommodate increasing public demand for use of the Loon Lake facility, ensure a more enjoyable and safer stay, and provide for more orderly use and management of the area. Authority for the establishment of these rules is contained in 43CFR, Chapter II, subpart 8360.0–3 and 8365.1–6. Persons violating or failing to comply with these provisions may be subject to the penalties provided in 43 CFR 8360.0–7 and 43 CFR 9262.1, which include a fine not to exceed $1,000.00 and/or imprisonment not to exceed 12 months.

Dated: March 28, 1996.

Daryl Albiston,

Acting District Manager.

[FR Doc. 96–8408 Filed 4–5–96; 8:45 am]

BILLING CODE 4310–33–P

[ID–933–1430–01; IDI–31741]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Air Force proposes to withdraw 11,583.34

acres under Alternative Site No. 1 or 9,673.34 acres under Alternative Site No. 2 of public land for protection of the Mountain Home Air Force Base Enhanced Training in Idaho (ETI) site. This notice closes the lands for up to two years from surface entry, mining, and mineral leasing.

DATES: Comments and requests for a public meeting must be received by July 8, 1996.

ADDRESSES: Comments and meeting requests should be sent to the Idaho State Director, BLM, 3380 Americana Terrance, Boise, Idaho 83706–2500.

FOR FURTHER INFORMATION CONTACT: Howard Hedrick (208–384–3197) or David Brunner (208–384–3056), BLM Idaho State Office.

SUPPLEMENTARY INFORMATION: On March 29, 1996, the Department of the Air Force filed an application to withdraw the following described public lands from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1988)) and the mineral leasing laws, subject to valid existing rights:

Boise Meridian

(Alternative Site No. 1)—Proposal: Clover Butte Drop Zone

T. 12 S., R. 8 E.,
Sec. 10, SE¼SE¼;
Sec. 11, S½S½;
Sec. 12, S½S½;
Sec. 13;
Sec. 14;
Sec. 15, E½E½;
Sec. 22, E½E½;
Secs. 23 to 26 inclusive;
Sec. 27, E½E½
Sec. 34, E½E½;
Sec. 35.
T. 12 S., R. 9 E.,
Sec. 7, lot 4, SE¼SW¼ and S½SE¼;
Sec. 8, S½S½;
Secs. 17 to 20 inclusive;
Secs. 29 to 32 inclusive.

(No Drop Zone)

T. 11 S., R. 4 E.,
Sec. 23, S½SW¼ NW¼SE¼.
T. 9 S., R. 6 E.,
T. 13 S., R. 4 E.,
Sec. 4, N½NE¼NW¼SW¼

Emitters

T. 8 S., R. 9 E.,
Sec. 34, SE¼SE¼NW¼SE¼.
T. 9 S., R. 6 E.,
Sec. 15, NW¼NW¼SW¼SW¼.
T. 11 S., R. 4 E.,
Sec. 23, NE¼NE¼NE¼SW¼.
T. 11 S., R. 5 E.,
Sec. 17, SE¼SE¼NE¼NE¼.
T. 12 S., R. 3 E.,
Sec. 26, NE¼NE¼NW¼NE¼.
T. 12 S., R. 10 E.,
Sec. 30, SW¼SW¼SW¼SW¼ within lot 4.
T. 13 S., R. 9 E.,
Sec. 10, NE¼NE¼NW¼NW¼.

The areas described aggregate 11,583.34 acres in Owyhee County.

(Alternative Site No. 2)—Proposal: Grasmere Drop Zone

T. 11 S., R. 4 E.,
Secs. 25 to 27 inclusive;
Sec. 34, N½,SE¼ and E½SW¼;
Sec. 35.
T. 11 S., R. 5 E.,
Sec. 30, lots 1 to 4 inclusive;
Sec. 31, lots 1 to 4 inclusive.
T. 12 S., R. 4 E.,
Secs. 1 to 4 inclusive;
Sec. 9;
Sec. 10, NW¼, S½, W½NE¼ and SE¼NE¼
Sec. 11, S½, N½NE¼, SE¼NE¼ and NE¼NW¼;
Sec. 12;
Sec. 13, N½NW¼, N½SW¼NW¼, N½SE¼NW¼, NW¼NE¼, and N½SW¼NE¼;
Sec. 14, N½NW¼, N½SW¼NW¼, N½SE¼NW¼, N½NE¼, N½SW¼NE¼ and N½SE¼NE¼;
Sec. 15, N½NW¼, N½SW¼NW¼, N½SE¼NW¼, N½NE¼, N½SW¼NE¼ and N½SE¼NE¼.

(No Drop Zone)

T. 12 S., R. 9 E.,
Sec. 20, S½SW¼SW¼SW¼.
T. 9 S., R. 6 E.,
Sec. 21.
T. 13 S., R. 4 E.,
Sec. 4, N½NE¼NW¼SW¼.

(Emitters)

T. 8 S., R. 9 E.,
Sec. 34, SE¼SE¼NW¼SE¼.
T. 9 S., R. 6 E.,
Sec. 15, NW¼NW¼SW¼SW¼.
T. 11 S., R. 4 E.,
Sec. 23, NE¼NE¼NE¼SW¼.
T. 11 S., R. 5 E.,
Sec. 17, SE¼SE¼NE¼NE¼.
T. 12 S., R. 3 E.,
Sec. 26, NE¼NE¼NW¼NE¼.
T. 12 S., R. 10 E.,
Sec. 30, SW¼SW¼SW¼SW¼ within lot 4.
T. 13 S., R. 9 E.,
Sec. 10, NE¼NE¼NW¼SE¼.

The areas described aggregate 9,673.34 acres in Owyhee County.

The purpose of the proposed withdrawal is to protect the Mountain Home Air Force Base Enhanced Training in Idaho site.

This withdrawal will be authorized under the Act of February 28, 1958, 43 U.S.C. 155–158 and requires legislative action by Congress.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Idaho State Director at the address shown above.

Notice is hereby given that a public meeting in connection with the proposed withdrawal will be held at a later date. A notice of the time and place will be published in the Federal Register and three newspapers in the general vicinity of the lands to be withdrawn at least 30 days before the scheduled date of the meeting.

This application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of two years from the date of publication of this notice in the Federal Register, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary land uses that will be permitted during this segregative period are rights-of-way, leases, permits, licenses or discretionary land use authorizations that do not significantly disturb the surface of the land or impair values of the resources, but will be coordinated with the Installation Commander, Mountain Home Air Force Base, Idaho.

The temporary segregation of the lands in connection with this withdrawal application shall not affect administration over the lands, and the segregation shall not have the effect of authorizing any use of the lands by the Department of the Air Force.

Dated: April 2, 1996.

J. David Brunner,

Deputy State Director for Resource Services Division.

[FR Doc. 96–8610 Filed 4–5–96; 8:45 am]

BILLING CODE 4310–GG–M

National Park Service

Draft General Management Plan, Manhattan Sites, New York; Notice of Availability and Public Comment Period

Pursuant to Council on Environmental Quality regulations and National Park Service policy, the National Park Service (NPS) announces the release of the Draft Manhattan Sites General Management Plan/ Environmental Impact Statement, New York.

In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service has prepared and announces that release of the Draft Manhattan Sites Draft General Management Plan and Environmental Impact Statement, New York. An environmental impact statement is required to assess the impacts of the proposed action. The

National Park Service is the responsible federal agency.

The Draft General Management Plan/ Environmental Impact Statement will be on public review from April 15, 1996 to June 14, 1996. The document will be on a sixty-day comment period. Copies of the plan will be distributed to cooperating agencies, interest groups, interested individuals and institutions, and local libraries. The plan will also be available at the administrative offices at Castle Clinton, Federal Hall and General Grant National Memorials, and Saint Paul's Church and Theodore Roosevelt Birthplace National Historic Sties, New York.

The document proposes and analyses alternatives for the future management and use for 5 of the 6 units within the Manhattan Sites which includes Castle Clinton National Monument, Federal Hall and General Grant National Memorials, and Saint Paul's Church and Theodore Roosevelt Birthplace National Historic Sites, New York and Westchester Counties, New York. The plan presents the alternatives for each site individually, addresses planning issues, and it includes resource preservation and provisions for visitor services. Once approved, the final plan will guide the management of the sites for fifteen to twenty years. A separate General Management Plan/ Environmental Impact Statement was previously completed for the remaining unit, Hamilton Grange, in January 1995.

The National Park Service will conduct public meeting(s) during the sixty-day period and will advertise the meeting(s) in local media outlets. The purpose of these meetings is to discuss the draft plan and its environmental impact statement. Verbal and written comments on the plan/EIS will be accepted until June 14, 1996.

FOR FURTHER INFORMATION CONTACT: Superintendent, Joseph T. Avery, Manhattan Sites, 26 Wall Street, New York, NY 10005 Telephone (212) 825–6990

Dated: April 2, 1996.

Joseph T. Avery,

Superintendent.

[FR Doc. 96–8637 Filed 4–5–96; 8:45 am]

BILLING CODE 4310–70–P

Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission Notice of Meeting Cancellation

Notice is hereby given in accordance with the Federal Advisory Committee Act that the meeting of the Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission previously scheduled for Wednesday, April 17, 1996 in San Francisco will be cancelled.

The Advisory Commission was established by Public Law 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties. Members of the Commission are as follows:

Mr. Richard Bartke, Chairman
Ms. Naomi T. Gray
Mr. Michael Alexander
Ms. Lennie Roberts
Ms. Sonia Bolaños
Mr. Redmond Kernan
Mr. Merritt Robinson
Mr. John J. Spring
Mr. Joseph Williams
Ms. Amy Meyer, Vice Chair
Dr. Howard Cogswell
Mr. Jerry Friedman
Ms. Yvonne Lee
Mr. Trent Orr
Ms. Jacqueline Young
Mr. R. H. Sciaroni
Dr. Edgar Wayburn
Mr. Mel Lane

Dated: April 2, 1996.

Brian O'Neill,

General Superintendent, Golden Gate National Recreation Area.

[FR Doc. 96–8635 Filed 4–5–96; 8:45 am]

BILLING CODE 4310–70–P

Bureau of Reclamation

Bay-Delta Advisory Council Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bay-Delta Advisory Council (BDAC) will meet to discuss several issues including: a summary of issues and concerns from the Scoping meetings; refinement of the CALFED Bay-Delta Program Draft Alterantivesd to address the problems of the Bay-Delta system; financial strategy for implementation of the long-term solutions; and discussion of key issues. This meeting is open to the public. Interested persons may make oral statements to the BDAC or may file written statements for consideration. The BDAC has also been invited to tour The Nature Conservancy Consumnes River Preserve to observe habitat restoration activities.

DATES: The Bay-Delta Advisory Council meeting will be held from 9:30 am to 4:00 pm on Thursday, April 25, 1996. The tour of the Cosumnes River Preserve will be held from 1:00 pm to 5:00 pm on Wednesday, April 24, 1996.

ADDRESSES: The Bay-Delta Advisory Council will meet at the Sacramento Convention Center, 1400 J Street, Room 204, Sacramento, CA. The Cosumnes River Preserve is located near Galt, California (916) 684–2816).

CONTACT PERSON FOR MORE INFORMATION: Sharon Gross, CALFED Bay-Delta Program, at (916) 657–2666. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653–6952 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The CALFED Bay-Delta Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long term solutions for the problems affecting the Bay-Delta System has been chartered under the Federal Advisory Committee Act (FACA) as the Bay-Delta Advisory Council (BDAC) to advise CALFED on

the program mission, problems to be addressed, and objectives for the CALFED Bay-Delta Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff.

Minutes of the meeting will be maintained by the CALFED Bay-Delta Program, Suite 1155, 1416 Ninth Street, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: April 1, 1996.

Roger Patterson,

Regional Director, Mid-Pacific Region.

[FR Doc. 96–8626 Filed 4–5–96; 8:45 am]

BILLING CODE 4310–94–P–M

DEPARTMENT OF JUSTICE

Criminal Division

The International Criminal Investigative Training Assistance Program; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; The International Criminal Investigative Training Assistance Program (ICITAP) Qualification Statement.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' from the date listed at the top of this page in the Federal Register.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument, or additional information, please contact Robert Miller, 202–653–9122, International Criminal Investigative Training Assistance Program, Criminal Division, U.S. Department of Justice, 1255 22nd St., NW., Suite 700, Washington, DC 20037. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time should also be directed to Robert Miller, 202–653–9122, Administrative Service Officer, International Criminal Investigative Training Assistance Program, Criminal Division, U.S. Department of Justice, 1255 22nd Street, NW., Suite 700, Washington DC 20037.

Overview of this information collection:

(1) Type of Information Collection: New Collection.

(2) Title of the Form/Collection: ICITAP Qualification Statement.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form: None. International Criminal Investigative Training Assistance Program, Criminal Division, United States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as, a brief abstract: Primary: Individuals. Others. None. The information collected is used as a dual capacity as a consultant application as well as a device for data entry.

(5) An estimate of the total annual number of respondents and the amount of time estimated for an average respondent to respond: Six hundred responses at one hour or sixty minutes per response.

(6) An estimate of the total public burden (in hours) associated with the collection: Six hundred annual burden hours at $10 per hour for a total burden cost of $6,000.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Public Comment on this information collection is strongly encouraged.

Dated: April 3, 1996.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 96–8677 Filed 4–5–96; 8:45 am]

BILLING CODE 4410–14–M

Immigration and Naturalization Service; Agency Information Collection Activities: Extension of Existing Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Notice of Naturalization Oath Ceremony.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' from the date listed at the top of this page in the Federal Register.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–616–7600, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the seven questions contained on the form, or questions regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

Overview of this information collection:

(1) Type of Information Collection: *Extension of a currently approved collection.*

(2) Title of the Form/Collection: Notice of Naturalization Oath Ceremony.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form N–445. Office of Examinations, Adjudications, Immigration and Naturalization Service.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or Households. The information furnished on this form refers to events that may have occurred since the applicant's initial interview and prior to the administration of the oath of allegiance. Several months may elapse between these dates and the information that is provided assists the officer to make and render an appropriate decision on the application.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 650,000 responses at 5 minutes (.083) per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 53,950 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: April 3, 1996.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 96–8678 Filed 4–5–96; 8:45 am]

BILLING CODE 4410–10–M

Office of Justice Programs; Bureau of Justice Statistics; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; 1996 Directory Survey of Law Enforcement Agencies.

Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the Federal Register and allowed 60 days for public comment.

The purpose of this notice is to allow an additional 30 days for public comments from the date listed at the top of this page in the Federal Register. This process is conducted in accordance with 5 Code of Federal Regulation, § 1320.10. Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs, Attention: Department of Justice Desk officer, Washington, DC, 20530. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC, 20530. Additionally, comments may be submitted to DOJ via facsimile to 202–514–1534.

Written comments and suggestions from the public and affected agencies should address one or more of the following points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) Type of Information Collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) The title of the form/collection: 1996 Directory Survey of Law Enforcement Agencies.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form number: CJ–38. Sponsored by the Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) Who will be asked or required to respond, as well as a brief abstract: Primary: State, Local or Tribal Government. Others: None. This information collection is a census of law enforcement agencies that provides statistics on the number of sworn officers and nonsworn employees for State police departments, local police departments, sheriffs' departments, and special police agencies. This data will provide a means of assessing law enforcement employment trends nationwide when compared with previous data collected in 1986 and 1992.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 17,500 respondents at 0.25 hours, or 15 minutes.

(6) An estimate of the total public burden (in hours) associated with the collection: 4,375 total burden hours for this information collection.

Public comment on this information collection is strongly encouraged.

Dated: April 3, 1996.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 96–8679 Filed 4–5–96; 8:45 am]

BILLING CODE 4410–18–M

Notice of Lodging of Consent Order Pursuant to the Clean Air Act

Notice is hereby given that a proposed Consent Decree in *United States* v. *Fort Howard Corporation,* Civil Action No. 96–C–350, has been lodged with the United States District Court for the Eastern District of Wisconsin on March 27, 1996.

The Consent Decree resolves the claim alleged against defendant, For Howard Corporation (''Fort Howard''), under the Clean Air Act (''the Act''), 42 U.S.C. 7401 *et seq.* The proposed Consent Decree provides that Fort Howard shall not operate Boiler 8 at its facility located at 1919 South Broadway, Green Bay, Brown County, Wisconsin, above a heat input rate of 235 million British Thermal Units [''MMBTU''] per hour, and shall permanently and physically derate Boiler 8 such that it shall not be capable of operating at a heat input rate greater than 250 MMBTU. The proposed consent Decree also provides for the payment by Fort Howard of a civil penalty of $350,000 for its alleged failure to comply with the Act and with New Source Performance Standards for Sulfur Dioxide for Fossil-Fuel-Fired Steam Generators, 40 C.F.R. Part 60, Subpart D.

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, U.S. Department of Justice, P.O. Box 7611, Washington, D.C. 20044, and should refer to *United States* v. *Fort Howard Corporation*, D.J. Ref. 90–5–2–1–1893.

The proposed Consent Decree may be examined at the office of the United States Attorney for the Eastern District of Wisconsin, 517 E. Wisconsin Ave., Milwaukee, Wisconsin 53202, at the Office of Regional Counsel, United States Environmental Protection Agency, Region V, 200 West Adams Street, Chicago, Illinois 60606, 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 also be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please enclose a check in the amount of $5.00 (25 cents per page reproduction costs) payable to the ''Consent Decree Library.''

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–8557 Filed 4–5–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 as Amended

In accordance with Department of Justice policy, 28 CFR 50.7, notice is hereby given that a proposed partial consent decree in *United States* v. *International Paper Company, et al.*, Civil No. 94–4681 (BDP), was lodged on March 25, 1996 with the United States District Court for the Southern District of New York. The decree resolves claims of the United States against defendants Ford Motor Company, Georgia-Pacific Corporation, International Business Machines Corporation, Reichhold Chemical Company, Inc., Union Carbide Corporation, and the Town of Warwick in the above-referenced action under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'') for contamination at the Warwick Superfund Site in the Town of Warwick, Orange County, New York (the ''Site''). In the proposed consent decree, the defendants agree to pay the United States $1,400,000 in settlement of the United States' claims for past response costs incurred by the Environmental Protection Agency at the Site through November 7, 1994.

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. *International Paper Company, et al.*, DOJ Ref. Number 90–11–3–812.

The proposed consent decree may be examined at the Office of the United States Attorney, 100 Church Street, New York, NY, 10007; the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, NY 10278; and the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 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, NW 4th Floor, Washington, DC. 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $6.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief Environmental Enforcement Section Environment and Natural Resources Division.

[FR Doc. 96–8556 Filed 4–5–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental Policy, 28 CFR § 50.7, notice is hereby given that a Consent Decree in *United States* v. *USA Waste Services, Inc.*, Civil No. 96–C–1613 (N.D. Ill.), was lodged with the United States District Court for the Northern District of Illinois on March 26, 1996.

The Consent Decree concerns alleged violations of section 301(a) of the Clean Water Act, 33 U.S.C. 1311(a), resulting from the defendant's discharge of fill material into wetlands without a permit from the U.S. Army Corps of Engineers. USA Waste Services, Inc. unlawfully discharged fill material into wetlands in connection with its operation and expansion of the ARF Landfill in Lake County, Illinois, just north of Chicago. Under the Consent Decree, the defendant would perform restoration/mitigation and would pay a civil penalty.

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 Linda A. Wawzenski, Assistant U.S. Attorney, Northern District of Illinois, 219 South Dearborn St., 5th Floor, Chicago, Illinois 60604, and should refer to *United States* v. *USA Waste Services, Inc.*, Civil No. 96–C–1613 (N.D. Ill.).

The Consent Decree may be examined at the Clerk's Office, United States District Court for the Northern District of Illinois, 219 South Dearborn St., Chicago, Illinois 60604.

Letitia J. Grishaw,

Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 96–8558 Filed 4–5–96; 8:45 am]

BILLING CODE 4410–01–M

[AAG/A Order No. 118–96]

Privacy Act of 1974; Modified System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), the Immigration and Naturalization Service (INS), Department of Justice, proposes to modify the following system of records—previously published November 7, 1995, (60 FR 56165):

The Immigration and Naturalization Service (INS)

Alien File (A-File) and Central Index System (CIS), Justice/INS–001A

To comply with a provision of a settlement agreement reached in *Amwest Insurance Company* v. *Reno*, Civil No. 93 3256 JSL (Shx), filed in the Central District of California, INS proposes to modify routine use disclosure provision P. Routine use ''P'' permits the disclosure of information to an obligor who has posted an immigration bond. However, this disclosure provision currently permits disclosure after the individual has failed to appear at a deportation hearing (or similar proceeding). It is now being modified to permit disclosure in time to assist the obligor in locating the individual prior to the hearing. Disclosure under the modified routine use may reduce the chance that the bond will be breached for failure to deliver the alien.

Title 5 U.S.C. 552a(e) (4) and (11) provide that the public be given a 30-day period in which to comment on proposed new routine use disclosures. The Office of Management and Budget (OMB), which has oversight responsibilities under the Act, requires a 40-day period in which to conclude its review of the proposal.

Therefore, please submit any comments by May 8, 1996. The public, OMB, and the Congress are invited to send written comments to Patricia E. Neely, Program Analyst, Information

Management and Security Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (Room 850, WCTR Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress on the proposed modification.

Dated: March 26, 1996.

Stephen R. Colgate,

Assistant Attorney General for Administration.

JUSTICE/INS–001A

SYSTEM NAME:

The Immigration and Naturalization Service (INS) Alien File (A-File) and Central Index System (CIS).

SYSTEM LOCATION:

Headquarters, Regional, District, and other INS file control offices in the United States and foreign countries as detailed in JUSTICE/INS–999. Remote access terminals will also be located in other components of the Department of Justice and in the Department of State on a limited basis.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A. Individuals covered by provisions of the Immigration and Nationality Act of the United States.

B. Individuals who are under investigation, were investigated in the past, or who are suspected of violating the criminal or civil provisions of treaties, statutes, Executive Orders, and Presidential proclamations administered by INS, and witnesses and informants having knowledge of such violations.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. The computerized indexing system contains personal identification data such as A-File number, name, date and place of birth, date and port of entry, as well as the location of each official hardcopy paper file known as the ''A-file.'' Microfilm records contain naturalization certificates and any supporting documentation prior to April 1, 1956; however, after that date, this type of information is maintained in the ''A-File'' which is described in B below.

B. The hard copy A-file (prior to 1940 were called Citizenship File (C-File)) contains all the individual's official record material such as naturalization certificates; various forms, applications and petitions for benefits under the immigration and nationality laws; reports of investigations; statements; reports; correspondence; and memorandums on each individual for whom INS has created a record under the Immigration and Nationality Act.

AUTHORITY FOR MAINTENANCE OF RECORDS:

Sections 103 and 290 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 8 U.S.C. 1360), and the regulations pursuant thereto.

PURPOSE:

The system is used primarily by INS and other Department of Justice employees to administer and enforce the immigration and nationality laws, and related statutes, including the processing of applications for benefits under these laws, detecting violations of these laws, and the referral of such violations for prosecution.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Relevant information contained in this system of records may be disclosed as follows:

A. To clerks and judges of courts exercising naturalization jurisdiction for the purpose of filing petitions for naturalization and to enable such courts to determine eligiblity for naturalization or grounds for revocation of naturalization.

B. To the Department of State in the processing of petitions or applications for benefits under the Immigration and Nationality Act, and all other immigration and nationality laws, including treaties and reciprocal agreements.

C. To other Federal, State, and local government law enforcement and regulatory agencies and foreign governments, including the Department of Defense and all components thereof, the Department of State, the Department of the Treasury, the Central Intelligence Agency, the Selective Service System, the United States Coast Guard, the United Nations, and INTERPOL, and individuals and organizations during the course of investigation in the processing of a matter or during a proceeding with the purview of the immigration and nationality laws to elicit information required by INS to carry out its functions and statutory mandates.

D. To a Federal, State, local or foreign government agency or organization, or international organization, lawfully engaged in collecting law enforcement intelligence information, whether civil or criminal, and/or charged with investigating, prosecuting, enforcing or implementing civil and/or criminal laws, related rules, regulations or orders, to enable these entities to carry out their law enforcement responsibilities, including the collection of law enforcement intelligence.

E. A record, or any facts derived therefrom, may be disseminated in a proceeding before a court or adjudicative body before which INS is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by INS to be arguably relevant to the litigation: (i.) INS, or any subdivision thereof, or (ii.) any employee of INS in his or her official capacity, or (iii.) any employee of INS in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (iv.) the United States, where INS determines that the litigation is likely to affect it or any of its subdivisions.

F. To a Federal, State, local or foreign government agency in response to its request, in connection with the hiring or retention by such agency of an employee, the issuance of a security clearance, the reporting of an investigation of such an employee, the letting of a contract, or the issuance of a license, grant, loan or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

G. To a Federal, State, local or foreign government agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision of INS concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit.

H. To the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in the Circular.

I. To other Federal agencies for the purpose of conducting national intelligence and security investigations.

J. To an applicant, petitioner or respondent or to his or her attorney or representative as defined in 8 CFR 1.1(j) in connection with any proceeding before INS.

K. To a Federal, State, or local government agency to assist such agencies in collecting the repayment of loans, or fraudulently or erroneously secured benefits, grants, or other debts owed to them or to the United States government, and/or to obtain information that may assist INS in collecting debts owed to the United States Government; to a foreign

government to assist such government in collecting the repayment of loans, or fraudulently or erroneously secured benefits, grants, or other debts owed to it provided that the foreign government in question: (1) provides sufficient documentation to establish the validity of the stated purpose of its request, and (2) provides similar information to the United States upon request.

L. To student volunteers whose services are accepted pursuant to 5 U.S.C. 3111 or to students enrolled in a college work study program pursuant to 42 U.S.C. 2751 et seq.

M. To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of a personal privacy.

N. To a Member of Congress or staff acting on the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

O. To the General Services Administration and the National Archives and Records Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

P. To an obligor, any information which may aid the obligor in locating an individual *for purposes of appearing* at a deportation hearing, exclusion or other similar proceeding, and for whom the obligor had posted an immigration bond in an effort to secure such appearance by such individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Most A-file and C-file records are paper documents and are stored in file folders. Some microfilm and other records are stored in manually operated machines, file drawers, and filing cabinets. Those index records which can be accessed electronically are stored in a data base on magnetic disk and tape.

RETRIEVABILITY:

These records are indexed and retrieved by A-file or C-file number, name, and/or date of birth.

SAFEGUARDS:

INS offices are located in buildings under security guard, and access to premises is by official identification. All records are stored in spaces which are locked during non-duty office hours. Many records are stored in cabinets or machines which are also locked during non-duty office hours. Access to automated records is controlled by passwords and name identifications.

RETENTION AND DISPOSAL:

A-file records are retained for 75 years from the closing date or date of last action and then destroyed. C-file records are to be destroyed 100 years from March 31, 1956. Automated index records are retained only as long as they serve a useful purpose and then they are deleted from the system disk and/or tape.

SYSTEM MANAGER(S) AND ADDRESS:

The Servicewide system manager is the *Assistant Commissioner, Office of Records, Office of Examinations,* Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536.

NOTIFICATION PROCEDURE:

Address inquiries to the system manager identified above, the nearest INS office, or the INS office maintaining desired records, if known, by using the list of principal offices of the Immigration and Naturalization Service Appendix: JUSTICE/INS–999, published in the Federal Register.

RECORD ACCESS PROCEDURE:

Make all requests for access in writing to the Freedom of Information Act/Privacy Act (FOIA/PA) officer at one of the addresses identified above. Clearly mark the envelope and letter ''Privacy Act Request.'' Provide the A-file number and/or the full name, date and place of birth, and notarized signature of the individual who is the subject of the record, and any other information which may assist in identifying and locating the record, and a return address. For convenience, INS Form G-639, FOIA/PA Request, may be obtained from the nearest INS office and used to submit a request for access.

CONTESTING RECORDS PROCEDURES:

Direct all requests to contest or amend information to the FOIA/PA Officer at one of the addresses identified above. State clearly and concisely the information being contested, the reason for contesting it, and the proposed amendment thereof. Clearly mark the envelope ''Privacy Act Request.'' The record must be identified in the same manner as described for making a request for access.

RECORD SOURCE CATEGORIES:

Basic information contained in INS records is supplied by individuals on Department of State and INS applications and forms. Other information comes from inquiries and/or complaints from members of the general public and members of congress; referrals of inquiries and/or complaints directed to the White House or Attorney General; INS reports to investigations, sworn statements, correspondence and memorandums; official reports, memorandums, and written referrals from other entities, including Federal, State, and local governments, various courts and regulatory agencies, foreign government agencies and international organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4); (d); (e) (1), (2), and (3); (e)(4) (G) and (H); (e) (5) and (8); and (g) of the Privacy Act. These exemptions apply to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552 (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the Federal Register and codified as additions to Title 28, Code of Federal Regulations (28 CFR 16.99).

[FR Doc. 96–8559 Filed 4–5–96; 8:45 am]

BILLING CODE 4410–10–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Bethlehem Steel Corporation and U.S. Steel Group, a Unit of USX Corporation

Notice is hereby given that, on November 2, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Bethlehem Steel Corporation and U.S. Steel Group, a unit of USX Corporation, has filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in the planned activity of the venture. The notification was filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the general areas of additional planned activity by the venture are research and development activities relating to: (1) conducting a ''Joint Hot Side Conference'' to identify potential areas for implementing new technological developments and/or technology exchanges in basic iron and steelmaking operations, and (2) identification,

development, and/or transfer of environmental technology for use or application in basic iron and/or steelmaking operations.

On July 15, 1994, the venture filed its original notification pursuant to Section 6(a) of the Act. The Department published a notice in the Federal Register pursuant to Section 6(b) of the Act on August 31, 1994 (59 FR 45009). The venture filed its last notification with the Department on November 8, 1994. The Department published a notice in the Federal Register pursuant to Section 6(b) of the Act on February 16, 1995 (60 FR 9051).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–8565 Filed 4–5–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Petroleum Environmental Research Forum Project 94–03 ''Reclamation of Salt Impacted Soils''

Notice is hereby given that, on August 28, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Exxon Production Research Company has filed a written notification 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 notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to the venture are Exxon Production Research Company, Houston, TX; Shell Oil Company, Houston, TX; Texaco Group, Inc., Bellaire, TX; Phillips Petroleum Company, Belliare, TX; and Mobil Research and Development Company, Dallas, TX. The nature and objective of the venture is to study remediation of salt impacted soils by amendment addition. The venture will involve three phases: (1) A laboratory screening study to identify the most effective factors/amendments, (2) laboratory experiments to study treatment levels needed for reclamation and the interactions between factors, and (3) a field study to test treatments on soil containing produced water. The venture became effective on June 28, 1995 and is scheduled to be completed by June 30, 1996. Information regarding participation in the venture may be obtained by contacting Exxon Production Research Company, P.O. Box 2189, Houston, TX 77252–2189.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–8562 Filed 4–5–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Healthcare Information Technology Enabling Community Care (HITECC)

Notice is hereby given that, on November 27, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Healthcare Information Technology Enabling Community Care (''HITECC'') has filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the Joint Venture and (2) the nature and objectives of the Joint 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 operating under the Healthcare Open Systems & Trials (''HOST'') Consortium are: South Carolina Research Authority (''SCRA''), North Charleston, SC; General Electric Company, Schetady, NY; Charleston Area Medical Center, Inc., Charleston, WV; University of Maryland at Baltimore, Baltimore, MD; Advance Radiology, Towson, MD; Shared Medical Systems Corporation, Malvern, PA; Technology 2020, Oak Ridge, TN; University of Florida, Gainesville, FL; Connecticut Healthcare Research and Education Foundation, Inc., Wallingford, CT; and BellSouth Telecommunications, Atlanta, GA. The general area of planned activity is to develop and demonstrate the information mechanisms needed to turn fragmented, paper-based healthcare data into a community-wide computerized information resource that provides secure and simple access to integrated multi-media information across local and wide-are networks. Membership in HITECC remains open, and HITECC intends to file additional written notification disclosing all changes in membership, if any occur.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–8561 Filed 4–5–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; National Center for Manufacturing Sciences, Inc. (NCMS)

Notice is hereby given that, on February 16, 1996, 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 National Center for Manufacturing Sciences, Inc. (''NCMS'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following companies were recently accepted as active members of NCMS: AccuData, Inc., Jackson, MI; Caterpillar Inc., Peoria, IL; Deformation Control Technology, Inc., Cleveland, OH; Eaton Corporation, Cleveland, OH; ICON Industrial Controls Corporation, Shreveport, LA; IMPACT Engineering, Inc., Jackson, MI; J.P. Industrial, Inc., South Lyon, MI; Laserform, Inc., Auburn Hills, MI; Performance Controls, Inc., Horsham, PA; PolyCycle Corporation, Towson, MD; and Viatec, Inc., Hastings, MI. In addition, the following companies were recently accepted as affiliate members of NCMS: The University of Texas at Austin, Manufacturing Systems Center, Austin, TX; and High Performance Manufacturing Consortium, Kitchener, Ontario, CANADA. The following companies have resigned from active membership in NCMS: Advanced Quality Systems, Inc., Loves Park, IL; Arrindell Associates, Orange, CA; BDM Technologies, Inc., McLean, VA; Berkeley Process Control, Inc., Richmond, CA; Campbell Grinder Company, Muskegon, MI; G.K.S. Inspection Services, Inc., Sterling Heights, MI; Great Lakes Industry, Inc., Jackson, MI; Omni-Circuits, Inc., Glenview, IL; Paradigm Shift International, Oakland, CA; Quest Integrated, Inc., Kent, WA; Sarcos, Inc., Salt Lake City, UT; and Thesis Group, Inc., Dallas, TX. The following organization has resigned from affiliate membership in NCMS: Environmental Research Institute of Michigan, Ann Arbor, MI.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NCMS intends to file additional written

notification disclosing all changes in membership.

On February 20, 1987, NCMS 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 March 17, 1987 (52 FR 8375).

The last notification was filed with the Department on November 20, 1995. This notice has not yet been published in the Federal Register.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–8563 Filed 4–5–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; National Center for Manufacturing Sciences, Inc. (NCMS)

Notice is hereby given that, on November 20, 1995, 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 National Center for Manufacturing Sciences, Inc. (''NCMS'') has filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following companies were recently accepted as active members of NCMS: Antaeus Group, Inc., Rockville, MD; Chrome Applications Inc., Oakton, VA; Emerson & Cuming, Inc., Woburn, MA; Gensyn Corporation, Rochester, NY; Hansford Manufacturing Corporation, Rochester, NY; Johnson Manufacturing Company, Inc., Princeton, IA; PolyMore Circuit Technologies, L.P., Maryville, TN. In addition, the following companies were recently accepted as affiliate members of NCMS: ESD, The Engineering Society, Detroit, MI and MERRA, Ann Arbor, MI. The following companies have resigned from active membership in NCMS: Kohol Systems, Inc., Dayton, OH; Research Technologies, Edmonds, WA; and Plainfield Stamping-Illinois, Inc., Plainfield, IL. The following organization has resigned from affiliate membership in NCMS: University of Washington Center for Process Analytical Chemistry, Seattle, WA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NCMS intends to file additional written notification disclosing all changes in membership.

On February 20, 1987, NCMS 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 March 17, 1987 (52 FR 8375).

The last notification was filed with the Department on August 18, 1995. The Department published a notice in the Federal Register pursuant to Section 6(b) of the Act on December 6, 1995 (60 FR 62478).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–8564 Filed 4–5–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Spray Drift Task Force

Notice is hereby given that, on November 16, 1995, 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 Spray Drift Task Force has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, McLaughlin Gormley King Company has become a member.

No other changes have been made in either the membership, corporate name, or planned activities of the venture.

On May 15, 1990, the Spray Drift Task Force filed its original notification pursuant to Section 6(a) of the Act. The Department published a notice in the Federal Register pursuant to Section 6(b) of the Act on July 5, 1990 (55 FR 27701). The last notification was filed with the Department on July 17, 1995. The Department published a notice in the Federal Register pursuant to Section 6(b) of the Act on February 15, 1996 (61 FR 6038).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–8560 Filed 4–5–96; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 23, 1996, Roxane Laboratories, Inc., 1809 Wilson Road, P.O. Box 16532, Columbus, Ohio 43216–6532, made application to the Drug Enforcement Administration to be registered as an importer of cocaine (9041) a basic class of controlled substance listed in Schedule II.

The firm plans to import cocaine to make topical solutions under its manufacturer registration for distribution to the firm's customers.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 8, 1996.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: April 1, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–8529 Filed 4–5–96; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 22, 1996, Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

	Schedule
Drug:	
Coca Leaves (9040)	II
Cocaine (9041)	II
Benzoylecgonine (9180)	II

The firm plans to import the listed controlled substances to manufacture bulk controlled substances.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: April 1, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–8530 Filed 4–5–96; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substance; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 22, 1996, Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

	Schedule
Drug:	
Cocaine (9041)	II
Benzoylecgonine (9180)	II

The firm plans to manufacture the listed controlled substances in bulk for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 7, 1996.

Dated: April 1, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–8531 Filed 4–5–96; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Maritime Advisory Committee for Occupational Safety and Health: Appointment of Members

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Notice of appointment of members to the Maritime Advisory Committee for Occupational Safety and Health (MACOSH).

SUMMARY: The Secretary of Labor has established an advisory committee to advise the Assistant Secretary for the Occupational Safety and Health Administration (OSHA) on issues relating to the delivery of occupational safety and health programs, policies, and standards in the maritime industries of the United States. The committee will provide a collective expertise not otherwise available to the Secretary to address the complex and sensitive issues involved. Committee members have been appointed from government agencies, the shipbuilding industries and longshoring, labor and professional associations.

ADDRESSES: Any written comments in response to this notice should be sent to the following address: OSHA, Office of Maritime Standards, Room N–3621, 200 Constitution Avenue, NW., Washington, DC 20210. Phone (202) 219–7234, fax (202) 219–7477.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Liberatore, Office of Maritime Standards, OSHA, (202) 219–7234.

SUPPLEMENTARY INFORMATION: MACOSH is intended to address the concerns of the entire maritime community, focusing on the shipyard and marine cargo (longshoring) handling industries. This committee will continue the efforts of the previously chartered Maritime Advisory Committee for Occupational Safety and Health. MACOSH is consistent with the President's initiative to make the U.S. shipyard industry competitive in the worldwide community. Furthermore, MACOSH will be able to focus on the resolution of controversial issues, particularly those with international implications,

that impact the longshoring and shipyard communities. The specific objectives of this committee are to make recommendations on issues related to: (1) Reducing injuries and illnesses in the maritime industries, (2) expanding OSHA's outreach and training programs through the use of innovative partnerships, and (3) expediting the development and promulgation of OSHA standards.

Committee Members

MACOSH is composed of approximately 16 members who have been selected to represent the divergent interests of the maritime community. The makeup of the membership complies with Section 7(b) of the OSH Act which requires the following: at least one member who is a designee of the Secretary of Health and Human Services; at least one designee of a state safety and health agency; and equal numbers of representatives of employees and employers, respectively. Other members have been selected based on their knowledge and experience and include representatives from professional and other governmental organizations with specific maritime responsibilities. MACOSH is a comprehensive representation of the maritime community.

Appointees to the Committee include representatives from labor, industry, public interests and government agencies. The appointees represent groups interested in or affected by the outcome of rulemaking. The current members are:

Labor Representatives

Charles Brasford—Director of Occupational Safety and Health, International Association of Machinists and Aerospace Workers
Al Cernados—Executive Vice President, International Longshoremen's Association
Chico McGill—Chairman, Safety and Health Committee, Local 733, International Brotherhood of Electrical Workers, Ingalls Shipyard
Richard Olsen—Coastal Committee, International Longshoremen's and Warehousemen's Union

Industry Representatives

Katherine Chumley—Chair, Environmental Safety and Health Committee, Shipbuilders Council of America, Atlantic Marine
John Faulk—Safety and Health Director, Ryan Walsh Stevedoring
Chet Mathews—Safety and Health Director, Bath Iron Works
Frank Scanlan—General Counsel and Secretary, National Maritime Safety Association

Government and Professional Organizations

Lieutenant Julie Gahn—Hazardous Materials Division, U.S. Coast Guard
Alexander Landsburg—Systems Safety and Human Factors Division, Maritime Administration
Mark O'Brien—American Association of Port Administrators
Elsie Munsel—Safety and Environmental Programs, U.S. Navy
Larry Reed—Assistant Director for Policy, National Institute for Occupational Safety and Health
Pete Schmidt—Specialty Compliance Programs, State of Washington
James Thornton—American Industrial Hygiene Association
Guy Colonna—Chief Chemical and Marine Engineer, National Fire Protection Association

Signed at Washington, DC this 2nd day of April 1995.

Joseph A. Dear,

Assistant Secretary of Labor.

[FR Doc. 96–8651 Filed 4–5–96; 8:45 am]

BILLING CODE 4510–26–M

Maritime Advisory Committee for Occupational Safety and Health: Notice of Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Maritime Advisory Committee for Occupational Safety and Health (MACOSH); notice of meeting.

SUMMARY: Notice is hereby given that the Maritime Advisory Committee for Occupational Safety and Health, established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor on matters relating to occupational safety and health programs, policies, and standards in the maritime industries of the United States will meet May 2 and 3, 1996 in Room C–5515, Seminar Room No. 1–A, of the Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C.

ADDRESSES: Any written comments in response to this notice should be sent to the following address: OSHA, Office of Maritime Standards, Room N–3621, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Phone (202) 219–7234, fax (202) 219–7477.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Liberatore, Office of Maritime Standards, OSHA, (202) 219–7234.

SUPPLEMENTARY INFORMATION: The meeting of the Marine Advisory Committee on Occupational Safety and Health will be held May 2 from 9:00 a.m. to approximately 5:00 p.m., and May 3 from 9:00 a.m. to approximately 1:00 p.m., in Room C–5515, Seminar Room 1–A, of the Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. At this meeting the newly appointed member will be introduced and then the Committee will re-establish committee goals, plan for future meeting, discuss OSHA's compliance programs, outreach and training initiatives, and standards setting process, and hear about the current agenda and direction of OSHA.

All interested persons are invited to attend the public meetings of MACOSH, at the time and place indicated above. Seating will be available to the public on a first-come, first-serve basis. Individuals with disabilities wishing to attend should contact Theda Kenney at 202–219–8016, no later than April 22, 1996, to obtain appropriate accommodations. Written data, views or comments for consideration by the Committee may be submitted, preferably with four copies, to Larry Liberatore at the address provided above. Any such submissions received prior to the meeting will be provided to the members of the committee and will be included in the record of the meeting. Members of the general public may request an opportunity to make oral presentations at the meeting. Oral presentations will be limited to statements of fact and views, and shall not include any questioning of the committee members or other participants unless these questions have been specifically approved by the chairperson. Anyone wishing to make an oral presentation should notify Larry Liberatore before the meeting. The request should state the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation. Persons who request the opportunity to address the Advisory Committee may be allowed to speak, as time permits, at the discretion of the Chair of the Advisory Committee.

Signed at Washington, D.C. this 2nd day of April 1996.

Joseph A. Dear,

Assistant Secretary of Labor.

[FR Doc. 96–8652 Filed 4–5–96; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 USC 3303a(a).

DATES: Request for copies must be received in writing on or before May 23, 1996. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, College Park, MD 20740. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of State, Bureau of Public Affairs (N1–59–95–24). Routine and facilitative records of the Office of Press Relations.

2. Department of State, Bureau of Public Affairs (N1–59–95–26). Routine, facilitative, and duplicative records of the Office of Public and Intergovernmental Liaison.

3. Department of the Treasury, Internal Revenue Service (N1–58–94–4). Revisions and additions to RCS 206, Service Centers.

4. Panama Canal Commission (N1–185–96–1). Meteorological and hydrographic records.

5. United States Information Agency, Office of Private Cooperation (N1–306–96–1). Duplicative records of field offices.

6. United States Information Agency (N1–59–96–4). Duplicative field office records of the Department of State Private Enterprise Cooperation Staff which were transferred to the custody of USIA.

Dated: March 28, 1996.

James W. Moore,

Assistant Archivist for Records Administration.

[FR Doc. 96–8622 Filed 4–5–96; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting

Notice of Previously Held Emergency Meeting

DATE AND TIME: 1:05 p.m., Thursday, April 4, 1996.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, Virginia 22314–3428.

STATUS: Closed.

MATTER CONSIDERED:

1. Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).

The Board voted unanimously that Agency business required that a meeting be held with less than the usual seven days advance notice, that it be closed to the public, and that earlier announcement of this was not possible.

The Board voted unanimously to close the meeting under the exemptions stated above. Acting General Counsel James Engel certified that the meeting could be closed under those exemptions.

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 96–8840 Filed 4–4–96; 4:00 pm]

BILLING CODE 7535–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Cognitive, Psychological & Language Sciences; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following three meetings.

Name: Advisory Panel for Cognitive, Psychological and Language Sciences (#1758).

Date & Time: May 1–3, 1996; 8:00 a.m.–5:00 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 390, Arlington, VA 22230.

Contact Person: Dr. Joseph L. Young, Program Director for Human Cognition and Perception, National Science Foundation, 4201 Wilson Boulevard, Suite 995, Arlington, VA 22230. Telephone: (703) 306–1732.

Agenda: To review and evaluate human cognition and perception proposals as part of the selection process for awards.

Type of Meeting: Part-open: May 2, 1996, 10:00 a.m.–12:00 p.m.; Closed session: May 1, 8:00 a.m.–5:00 p.m.; May 2, 1996, 8:00 a.m.–10:00 a.m., 1:00 p.m.–5:00 p.m.; May 3, 1996, 8:00 a.m.–5:00 p.m.

Date & Time: April 24–26, 1996; 9:00 a.m.–5:00 p.m.

Place; National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 320, Arlington, VA 22230.

Contact Person: Dr. Steven J. Breckler, Program Director for Social Psychology, National Science Foundation; 4201 Wilson

Boulevard, Suite 995, Arlington, VA 22230. Telephone: (703) 306–1731.

Agenda: To review and evaluate social psychology proposals as part of the selection process for awards.

Type of Meeting: Part-open: April 25, 1996, 1:00 p.m.–2:00 p.m.; Closed session: April 24, 1996, 9:00 a.m.–5:00 p.m.; April 25, 1996, 9:00 a.m.–12:00 p.m.; April 26, 1996, 9:00 a.m.–5:00 p.m.

Date & Time: April 22–24, 1996, 9:00 a.m.–6:00 p.m. (PST)

Place: University of California-Berkeley, Dwinelle Hall, Room 3401, Berkeley, California 94720.

Contact Person: Dr. Paul G. Chapin, Program Director for Linguistics, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1731.

Agenda: To review and evaluate linguistics proposals as part of the selection process for awards.

Type of Meeting: Part-open: April 24, 1996, 9:00 a.m.–12:00 p.m. (PST); Closed session: April 22–23, 1996, 9:00 a.m.–6:00 p.m. (PST); April 24, 1996, 1:00 p.m.–6:00 p.m. (PST).

Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the National Science Foundation for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (5) of the Government in the Sunshine Act.

Dated: April 3, 1996.

M. Rebecca Winkler,

Commitee Management Officer.

[FR Doc.96–8632 Filed 4–5–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Economics, Decision and Management Sciences; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Economics, Decision and Management Sciences (#1759).

Date and Time: April 23–24, 1996.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 970, Arlington, VA 22230.

Contact Person: Dr. Robin Cantor, Program Director for DRMS, Division of Social Behavioral and Economic Research, National Science Foundation, Room 995, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1757.

Agenda: To review and evaluate DRMS proposals as part of the selection process for awards.

Date and Time: April 11–12, 1996.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Rooms 365 and 380, Arlington, VA 22230.

Contact Person: Dr. Daniel H. Newlon, Program Director for Economics, Division of Social, Behavioral and Economic Research, National Science Foundation, Room 995, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1753.

Agenda: To review and evaluate Economics proposals as part of the se4lection process for awards.

Type of Meeting: Closed.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Reason for Late: Working around Continuing Resolution.

Dated: April 3, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–8634 Filed 4–5–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Social and Political Sciences; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following five meetings.

Name: Advisory Panel for Social and Political Sciences #1761

Date & Time: April 29–30, 1996; 9:00 a.m.–5:00 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 360, Arlington, VA 22230.

Contact Person: Dr. Frank Scioli and Dr. John McIver, Program Directors for Political Science, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1760.

Agenda: To review and evaluate the Political Science proposals as part of the selection process for awards.

Date & Time: April 11–12, 1996; 9:00 a.m.–5:00 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 970, Arlington, VA 22230.

Contact Person: Dr. C. Neal Tate, Program Director for Law and Social Science, National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1760.

Agenda: To review and evaluate the Law and Social Science proposals as part of the selection process for awards.

Date & Time: May 22–23, 1996; 9:00 a.m.–5:00 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 360, Arlington, VA 22230.

Contact Person: Dr. William S. Bainbridge and Dr. Patricia White, Program Directors for Sociology, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1760.

Agenda: To review and evaluate the Sociology proposals as part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Reason for Late: Working around Continuing Resolution.

Dated: April 3, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–8633 Filed 4–5–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 030–10859, 030–06198; License Nos. 37–14600–01, 37–09135–01; EA 96–009]

Applied Health Physics, Inc., Bethel Park, PA; Confirmatory Order (Effective Immediately)

I

Applied Health Physics, Inc. (Licensee) is the holder of NRC License Nos. 37–14600–01 and 37–09135–01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30. The licensee's facility is located on the Licensee's site in Bethel Park, Pennsylvania. License No. 37–14600–01 currently authorizes the receipt, possession, and storage of pre-packaged wastes. License No. 37–09135–01 currently authorizes leak tests services, analysis of samples, calibrations of instruments, and fixed gauge services. Overall, the Licensee provides services to customers in a variety of areas such as radioactive waste brokerage, surveys, leak tests and analysis, calibration of

instrumentation, sample analysis, training, and consultation. License No. 37–14600–01 initially was issued on September 4, 1975, and is due to expire on January 30, 1997. License No. 37–09135–01 was initially issued on February 19, 1963, and is due to expire on October 31, 2000.

II

On May 19, 1994, representatives from NRC Region I spoke with Licensee representatives concerning the need for financial assurance. The NRC representatives discussed options with Licensee representatives with respect to meeting the financial assurance requirements. The result of the conversation was that the Licensee decided to reduce the radioactive material possession limits on License No. 37–14600–01 such that financial assurance would not be required.

In a letter dated May 24, 1994, the Licensee requested a license amendment to lower possession limits, add specifically listed radionuclides for its waste broker License No. 37–14600–01, and limit possession to sealed sources only for its calibration service License No. 37–09135–01. The NRC approved these amendments on June 28, 1994.

On March 9, 1995, the Licensee voluntarily filed for bankruptcy under Chapter 11 of the U.S. Bankruptcy Code in the U.S. Bankruptcy Court for the Western District of Pennsylvania. On March 20 and 22, 1995, respectively, the NRC Office of the Controller filed for proofs of claim for 1994 license and Freedom of Information Act fees owed by the Licensee to the NRC. (On November 14 and 15, 1995, respectively, the NRC filed an additional proof of claim for 1995 license fees owed and amended the proof of claim previously filed for the 1994 fees.)

During a routine safety inspection conducted on April 18–19, 1995, the NRC identified seven violations as described in the Notice of Violation (Notice) dated May 22, 1995. One of the seven violations cited the Licensee for holding radioactive waste for more than 180 days, contrary to the requirements of Condition 14 of License No. 37–14600–01.

On May 26, 1995, four days after the issuance of the Notice, the Licensee took possession of two drums of radioactive waste. One drum contained approximately 23 microcuries of unsealed americium-241, which is not authorized on its waste broker license. The authorization for unsealed americium-241 was deleted from License No. 37–14600–01 in accordance with the Licensee's May 24, 1994 request.

In a letter dated June 26, 1995, the Licensee responded to the Notice and indicated that the Licensee's president would provide the management commitment and oversight needed to maintain compliance with conditions of both licenses. This response indicated that procedures would be developed to provide for immediate review of received material to determine acceptability for storage at the Licensee's facility.

On October 25, 1995, the date that the Licensee was to file a Chapter 11 disclosure statement and plan, the Chapter 11 case was converted to a Chapter 7 case. The conversion occurred due to the Licensee's inability to file the disclosure statement and plan by the October 25, 1995 deadline.

Due to the NRC's concern about the financial status of the Licensee and the possibility of abandoned radioactive material at the Bethel Park, Pennsylvania, facility, the NRC issued a Confirmatory Action Letter (CAL) to the Licensee on November 8, 1995, confirming the Licensee's commitment to:

(1) Cease acquiring any additional radioactive waste from customers;

(2) provide an up-to-date inventory of the radioactive material in its possession at the Bethel Park facility to the NRC by November 9, 1995;

(3) provide a schedule of any shipments of radioactive waste planned for 1995; and

(4) provide a copy of the Licensee's plans over the next six months with regard to the bankruptcy proceedings.

The Licensee responded in a letter dated November 9, 1995, that included a current inventory of radioactive waste held at the Licensee's Bethel Park, Pennsylvania, facility, a schedule of shipments planned for 1995, a commitment not to accept any additional waste, and a commitment to inform the NRC, upon notification from the Licensee's attorney, of the Licensee's financial status.

The NRC conducted an inspection at the site on November 15, 1995, and reviewed the storage and security of licensed material, inventory, and storage of radioactive waste. As a result of this inspection, NRC found three apparent violations, as follows:

(1) failure to limit possession of byproduct material (unsealed Am-241) to those isotopes listed on the license, as required by 10 CFR 30.3;

(2) failure to limit possession of special nuclear material (Pu-239) to those authorized by the service license, as required by 10 CFR 70.19; and

(3) failure to limit possession of licensed material waste to a period not to exceed 180 days (May 26, 1995 acquisition of 2 drums), as required by License Condition No. 14 of License No. 37–14600–01, a repeat violation.

The Licensee met with the NRC staff during a predecisional enforcement conference at the NRC Region I office on January 30, 1996, to review the circumstances that led to these violations. During the enforcement conference, the Licensee proposed corrective actions that included: (1) Establishing a separate bank account for payment of costs incurred due to waste disposal; (2) setting a disposal date of 100 days from the date of receipt of waste to assure that the waste is disposed prior to 180 days; (3) checking the Licensee's license prior to obtaining waste in order to assure compliance; and (4) hiring an Assistant to the President who will streamline procedures, maintain control of day-to-day business activities, and ensure that the RSO has the necessary resources to maintain compliance.

The NRC requested the Licensee to submit, by February 15, 1996, a more detailed, thorough plan describing the Licensee's plans for achieving compliance with all license requirements. A plan was received from the Licensee on February 15, 1996, but additional information was requested by the NRC staff.

III

By a letter dated February 19, 1996, and facsimiles dated February 23 and March 15, 21, and 25, 1996, the Licensee agreed that: (1) With the exception of the radioactive waste in containers W–1995–010, and W–1995–050 through W–1995–062, the Licensee will achieve compliance with Condition 14 of License No. 37–14600–01 by April 30, 1996; (2) with respect to the radioactive waste in containers W–1995–010, W–1995–050 through W–1995–062, S–1995–002, and S–1995–007 through S–1995–010, the Licensee will achieve compliance with Condition 14 of License No. 37–14600–01 by December 31, 1996; and (3) the Licensee will establish a separate bank account for radioactive waste disposal and use the account exclusively for the deposit of payments made by the Licensee's customers for the disposal of NRC-licensed radioactive waste materials.

I find that the Licensee's commitments as set forth in its letter of February 19, 1996 and facsimiles dated February 23 and March 15, 21, and 25, 1996, are acceptable and necessary and conclude that with these commitments the public health and safety are

reasonably assured. In view of the foregoing, I have determined that the public health and safety require that the Licensee's commitments in its February 19, 1996 letter and February 23 and March 15, 21, and 25, 1996 facsimiles be confirmed by this Order. The Licensee has agreed to this action in a telephone call on March 28, 1996, between James H. Joyner, Technical Assistant to Director, Division of Nuclear Materials Safety, U.S.N.R.C., Region I, and Daniel Haber, Assistant to the President, Applied Health Physics. Pursuant to 10 CFR 2.202, I also have determined, based on the Licensee's consent and on the significance of the violations described above, that the public health and safety require this Order to be immediately effective.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 30, it is hereby ordered, effective immediately, that:

A. Authorization for the receipt of pre-packaged radioactive waste at the Bethel Park facility be suspended.

B. Radioactive waste be disposed of as specified in the Licensee's disposal schedule dated February 19, 1996, as amended by the Licensee's facsimiles dated February 23 and March 15, 21, and 25, 1996. With the exception of the radioactive waste in containers W–1995–010, and W–1995–050 through W–1995–062, S–1995–002, and S–1995–007 through S–1995–010, compliance with Condition 14 of License No. 37–14600–01 must be achieved by April 30, 1996.

C. Radioactive waste in containers W–1995–010, and W–1995–050 through W–1995–062, S–1995–002, and S–1995–007 through S–1995–010, be disposed of by December 31, 1996.

D. An escrow account be established in accordance with this Order within 30 days of the date of this Order to provide financial assurance for waste handling and disposal of the Licensee's waste. For the purposes of this paragraph, an escrow account is an account where money is put into the custody of a third party for delivery to a grantee only after the fulfillment of specified conditions. The escrow agent shall be provided a copy of this Order.

E. The NRC be informed of the name, address, and location of the escrow agent within 72 hours of the Licensee's opening of the escrow account. Such escrow account information as well as any other information required by this Order shall be submitted to the Director, Division of Nuclear Materials Safety, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406.

F. All revenues coming from customers for waste brokerage required to pay for the direct costs of transportation, permits, disposal, and a 10% contingency fee will be delivered into the escrow account established under Paragraph D above within 5 business days and will remain in this escrow account until one of the following three conditions has been satisfied:

1. the Licensee formally notifies the NRC, by telephone and facsimile, of the planned withdrawal of funds for the purpose of waste handling or disposal at least 5 business days prior to withdrawal of funds and the NRC has not provided within this time period an objection to the dispersal of the funds; or

2. the escrow agent has been notified by the NRC, in writing, that the Licensee has defaulted on its obligation to carry out waste handling and disposal for the Bethel Park, Pennsylvania, facility; or

3. the escrow account has been terminated by joint notice, in writing, from the Licensee and NRC.

Upon the escrow agent receiving written notification from the NRC of the Licensee's default, the escrow agent shall make payments from the escrow account as the NRC shall direct, in writing, to provide for payment of the costs of the required waste handling and disposal activities covered by this agreement.

G. The NRC be provided with monthly bank account statements pertaining to the escrow account.

If personal privacy or proprietary information is included in any submittal required by this Order, the Licensee shall provide a bracketed copy that identifies the information that should be protected and a redacted copy that deletes such information. If the Licensee requests withholding of such material, the Licensee *must* specifically identify the portions that it seeks to have withheld and provide in detail the bases for its claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information).

The Regional Administrator, Region I, may relax or rescind, in writing, any of the above conditions upon a showing by the Licensee of good cause.

V

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, D.C. 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, D.C. 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406, and to the Licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), any person other than the Licensee adversely affected by this Order may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An Answer or a Request For Hearing Shall Not Stay the Immediate Effectiveness of This Order.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 29th day of March 1996.

James Lieberman,

Director, Office of Enforcement.

[FR Doc. 96–8598 Filed 4–5–96; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Patricia Paige, (202) 606–0830.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213 on March 14, 1996 (60 FR 10601). Individual authorities established or revoked under Schedules A and B and established under Schedule C between February 1, 1996, and February 29, 1996, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 will also be published.

Schedule A

No schedule A authorities were established in February 1996.

The following Schedule A authority was revoked:

Department of Justice

Immigration and Naturalization Service. Not to exceed 350 positions, at grades GS–15 and below, engaged in planning for and implementing the processing of claims for resident status which may be submitted by aliens alreqady in the United States as authorized by immigration control and reform legislation. Effective February 23, 1996.

Schedule B

No Schedule B authorities were established or revoked February 1996.

Schedule C

The following Schedule C authorities were established in February 1996.

Department of Agriculture

Confidential Assistant to the Administrator, Farmers Home Administration. Effective February 21, 1996.

Deputy Under Secretary for Rural Economic and Community Development to the Under Secretary, Rural Economic and Community Development. Effective February 23, 1996.

Confidential Assistant to the Director of Legislative Affairs and Public Information Staff, Rural Economic and Community Development. Effective February 27, 1996.

Department of Commerce

Special Assistant to the Under Secretary for International Trade. Effective February 13, 1996.

Confidential Assistant to the Deputy Assitant Secretary for Administration. Effective February 13, 1996.

Senior Policy Advisor to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning. Effective February 20, 1996.

Congressional Liaison Specialist to the Director, Office of Congressional Affairs. Effective February 23, 1996.

Department of Defense

International Counterdrug Specialist to the Deputy Assistant Secretary of Defense (Drug Enforcement Policy and Support). Effective February 6, 1996.

Program Analyst to the Deputy Assistant Secretary of Defense, Humanitarian and Refugee Affairs. Effective February 23, 1996.

Department of Education

Special Assistant to the Chief of Staff, Office of the Deputy Secretary. Effective February 13, 1996.

Department of Energy

Special Assistant to the Director, Office of Civilian Radioactive Waste Management. Effective February 6, 1996.

Staff Assistant to the Assistant Secretary for Environment, Safety and Health. Effective February 16, 1996.

Special Assistant to the Deputy Secretary. Effective February 16, 1996.

Staff Assistant to the Deputy Secretary. Effective February 16, 1996.

Special Assistant to the Assistant Secretary for Environment, Safety and Health. Effective February 26, 1996.

Department of Health and Human Services

Attorney Advisor (Special Assistant) to the General Counsel. Effective February 6, 1996.

Congressional Liaison Specialist to the Deputy Assistant Secretary for Legislation (Congressional Liaison). Effective February 8, 1996.

Special Assistant to the Deputy Assistant Secretary for Legislation (Health). Effective February 13, 1996.

Director, Office of Professional Relations to the Associate Administrator for External Affairs, Health Care Financing Administration. Effective February 13, 1996.

Deputy Director, Office of Professional Relations to the Director, Office of Professional Relations, Health Care Financing Administration. Effective February 13, 1996.

Special Assistant to the Director of Communications, Communications Services Division. Effective February 13, 1996.

Department of Housing and Urban Development

Special Assistant to the Chief of Staff. Effective February 8, 1996.

Deputy Assistant Secretary for Congressional Relations to the Assistant Secretary for Congressional and Intergovernmental Relations. Effective February 22, 1996.

Department of Justice

Special Assistant to the Special Representatives to the United States Attorney, Southern District of California. Effective February 8, 1996.

Special Assistant to the Commissioner. Effective February 22, 1996.

Department of Labor

Speech Writer to the Assistant Secretary for Policy. Effective February 6, 1996.

Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective February 8, 1996.

Special Assistant to the Assistant Secretary for Policy. Effective February 8, 1996.

Special Assistant to the Assistant Secretary for Administration Management. Effective February 16, 1996.

Department of the Navy (DOD)

Staff Assistant to the Assistant Secretary of Navy (Research, Development and Acquisition). Effective February 27, 1996.

Department of State

Member, Policy Planning Staff to the Director. Effective February 6, 1996.

Department of Transportation

Scheduling Assistant to the Special Assistant for Scheduling and Advance. Effective February 2, 1996.

Department of the Treasury

Confidential Staff Assistant to the Deputy Secretary of the Treasury. Effective February 12, 1996.

Federal Labor Relations Authority

Director of External Affairs/Special Projects to the Chair. Effective February 16, 1996.

Federal Maritime Commission

Confidential Assistant to the Chairman. Effective February 16, 1996.

Federal Mine Safety and Health Review Commission

Attorney-Advisor to the Commissioner. Effective February 12, 1996.

Securities and Exchange Commission

Confidential Assistant to the Commissioner. Effective February 5, 1996.

Secretary to the General Counsel. Effective February 16, 1996.

United States Information Agency

Confidential Assistant to the Director, Voice of America, International Broadcasting Bureau. Effective February 13, 1996.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954—1958 Comp., P. 218.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–8576 Filed 4–5–96; 8:45 am]

BILLING CODE 6325–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Availability for Work.

(2) *Form(s) submitted:* UI–38, UI–38s, ID–8k.

(3) *OMB Number:* 3220–0164.

(4) *Expiration date of current OMB clearance:* May 31, 1996.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households, Non-profit institutions.

(7) *Estimated annual number of respondents:* 10,600.

(8) *Total annual responses:* 10,600.

(9) *Total annual reporting hours:* 1,521.

(10) *Collection description:* Under Section 1(k) of the Railroad Unemployment Insurance Act, unemployment benefits are not payable for any day in which the claimant is not available for work. The collection obtains information needed by the RRB to determine whether a claimant is willing and ready to work.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 96–8527 Filed 4–5–96; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 24

SEC File No. 270–129

OMB Control No. 3235–0126

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is publishing the following summary of collection for public comment.

Rule 24 (17 C.F.R. 250.24) under the Public Utility Holding Company Act of 1935, as amended (15 U.S.C. 79 *et seq.*), requires the filing with the Commission of certain information indicating that an authorized transaction has been carried out in accordance with the terms and conditions of the Commission order relating thereto. The rule imposes a burden of about 358 hours annually on approximately 253 respondents.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW. Washington, DC 20549.

Dated: March 25, 1996.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–8547 Filed 4–5–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21863; 812–9502]

SEI Institutional Managed Trust, et al.; Notice of Application

April 1, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: SEI Institutional Managed Trust, SEI International Trust, SEI Tax Exempt Trust, SEI Daily Income Trust, SEI Liquid Asset Trust, SEI Index Funds, Insurance Investment Products Trust, and each open-end management investment company advised by, or in the future advised by, SEI Financial Management Corporation (''SEI Management'') (collectively, the ''Funds''), SEI Management, and SEI Financial Services Company (''SEI Financial'').

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) of the Act from the provisions of section 159(a) and rule 18f–2, and from certain disclosure requirements set forth in item 22 of Schedule 14A under the Securities Exchange Act of 1934 (the ''Exchange Act''); items 2, 5(b)(iii), and 16(a)(iii) of Form N–1A; item 3 of Form N–14; item 48 of Form N–SAR; and sections 6–07(2)(a), (b), and (c) of Regulation S–X.

SUMMARY OF APPLICATION: Applicants seek a conditional order permitting SEI Management, as investment adviser to

the Funds, to enter into sub-advisory contracts without receiving prior shareholder approval, and permitting the Funds to disclose only aggregate sub-advisory fees for each fund in their prospectuses and other reports.

FILING DATES: The application was filed on February 28, 1995, and amended and restated on September 21, 1995 and February 23, 1996. Applicants have agreed to file an amendment, the substance of which is incorporated herein, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 26, 1996, 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 concerned. 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. Applicants, 680 East Swedesford Road, Wayne, PA 19087–1658.

FOR FURTHER INFORMATION CONTACT: David M. Goldenberg, Senior Counsel, at (202) 942–4525, or Alison E. Baur, Branch Chief, at (202) 942–0646 (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 at the SEC's Public Reference Branch.

Applicant's Representations

1. Each Fund is a registered, no-load, open-end management investment company registered with the Commission under the Act. Each Fund has one or more investment portfolios (''Portfolios'') with different investment objectives and policies. Additional Portfolios may be added in the future.

2. Each Portfolio is authorized to issue multiple classes of shares that are subject to different expenses. As a result, each Portfolio may issue a class of shares that is subject to a front-end or contingent deferred sales load, or to a redemption fee or other charge for redeeming Portfolio shares. In addition, each Portfolio may pay fees in accordance with rule 12b–1 under the Act. Each Portfolio's shares are offered and sold to retail and institutional shareholders.

3. SEI Financial is a registered broker-dealer. SEI Financial serves as the distributor for the Funds and a number of other registered investment companies.

4. SEI Management is a registered investment adviser and a registered transfer agent. SEI Management serves as administrator, transfer agent, dividend disbursing agent and shareholder servicing agent for the Funds. SEI Management evaluates the performance of each Fund's investment adviser and provides the Fund's Board of Trustees (the ''Board'') with analyses and reports concerning the Fund's performance. SEI Management also serves as investment adviser to certain Portfolios of SEI Institutional Managed Trust (''SIMT'') and SEI International Trust (''SIT''). Other Portfolios of SIMT and SIT, and Portfolios of other existing and future Funds, may engage SEI Management as their investment adviser in the future.

5. Under the ''manager of managers'' approach developed by SEI Management and its affiliates, SEI Management, as investment adviser to a Portfolio, will recommend and, if the Board approves the recommendation, monitor for the Portfolio one or more sub-advisers (''Managers'') that use a range of investment styles. Each Manager will be responsible for continuously reviewing, supervising, and administering the portion of the Portfolio's assets under its management.

6. Under the manager of managers approach, SEI Management, pursuant to its investment advisory agreement with each Portfolio (''Advisory Agreement''), will provide each Portfolio with proprietary investment adviser selection, monitoring, and asset allocation services. SEI Management also will enter into separate agreements with one or more Managers (''Management Agreements'') to exercise discretion over the assets of a Portfolio, or a portion of the assets of a Portfolio. The Trustees of each Fund, including persons each of whom is not an ''interested person'' of the Fund as defined in section 2(a)(19) of the Act (''Independent Trustees''), will approve each Management Agreement in the manner required by the Act and the rules thereunder.

7. Under each Advisory Agreement, SEI Management will perform due diligence on prospective Managers; communicate performance targets and evaluations to Managers; supervise compliance with the Portfolio's investment objectives and policies; and recommend to the Board whether Management Agreements should be renewed, modified or terminated. SEI Management, as it deems appropriate, also will recommend to the Board the addition of new Managers.

8. In return for providing its proprietary investment adviser selection, monitoring and asset allocation services, SEI Management may receive a fee from the Portfolio based on the size of the Portfolio's assets. SEI Management then will pay the Managers out of this fee. In the future, certain Portfolios may compensate the Managers directly, rather than through SEI Management. Regardless of the manner in which Managers are paid, their fees will be disclosed as part of the Aggregate Fee Disclosure described below.

9. Applicants request an exemption from section 15(a) and rule 18f–2 to permit the Funds to enter into Management Agreements with Managers, other than Managers that are affiliated persons (as defined in section 2(a)(3) of the Act) of the Funds or SEI Management or SEI Financial, other than by reason of serving as a Manager to one or more of the Funds, (''Affiliated Managers''), without such agreements being approved by the shareholders of the applicable Portfolios. In lieu of the shareholder voting requirement, applicants will provide shareholders with an information statement that includes all the information concerning a new Manager or Management Agreement that would be included in a proxy statement.

10. Applicants also request an exemption from the various provisions that may require applicants to disclose the fees paid by SEI Management to individual Managers. Applicants propose to disclose (both as a dollar amount and as a percentage of a Portfolio's net assets) in the Funds' registration statements and other public documents only the aggregate amount of fees paid by SEI Management to all of the Managers of a Portfolio (''Aggregate Fee Disclosure''). Aggregate Fee Disclosure with respect to a Portfolio means: (a) The total advisory fee that SEI Management charges the Portfolio; (b) the aggregate fees that SEI Management pays to all Managers managing the assets of the Portfolio; and (c) the net advisory fee retained by SEI Management for its services provided to the Portfolio after SEI Management pay search of the Portfolio's Managers. If a Fund employs an Affiliated Manager, the Fund will provide separate disclosure of any fees paid to such Affiliated Manager.

Applicants' Legal Analysis

1. Section 15(a) of the Act makes it unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by a majority of the investment company's outstanding voting securities. Rule 18f–2 provides that each series or class of stock in a series company affected by a matter must approve such matter if the Act requires shareholder approval.

2. Applicants believe that relief from Section 15(a) and rule 18f–2 should be granted because the Portfolios will be operated in a manner so different from that of conventional investment companies that the normal mechanism for approving advisory contracts would not be relevant to shareholders. Applicants contend that by investing in a Portfolio, shareholders, in effect, will hire SEI Management to manage the Portfolio's assets by using its proprietary investment adviser selection and monitoring process. Applicants argue that shareholders will expect that SEI Management, under the authority and supervision of the Board, will take responsibility for overseeing Managers and recommending their hiring, termination and replacement.

3. Applicants contend that the requested relief also will benefit shareholders. Applicants argue that the requested relief will reduce expenses because a Portfolio will not have to prepare and solicit proxies each and every time a Management Agreement is entered into or modified. Applicants believe that in addition to lowering expenses, the requested relief will enable a Portfolio to operate more efficiently by authorizing SEI Management to hire, terminate and replace Managers more quickly, subject to Board approval. Applicants also contend that the requested relief will remove from shareholders the very responsibility that they are paying SEI Management to assume: the selection, termination and compensation of Managers.

4. Section 15(a)(1) provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract which ''precisely describes all compensation to be paid thereunder.''

5. Form N–1A is the registration statement used by mutual funds to register under the Act and to register their securities under the Securities Act of 1933. Items 2, 5(b)(iii) and 16(a)(iii) of Form N–1A require the Funds to disclose in their prospectuses the investment adviser's compensation and the method of computing the advisory fee.

6. Item 3 of Form N–14, the registration form for business combinations involving mutual funds, requires the inclusion of a ''table showing the current fees for the registrant and the company being acquired and pro forma fees, if different, for the registrant after giving effect to the transaction using the format prescribed'' in item 2 of Form N–1A.

7. Item 22(a)(3)(iv) of Schedule 14A under the Exchange Act requires a proxy statement for a shareholder meeting at which a new fee will be established or an existing fee increased to include a table of the current and pro forma fees using the format prescribed in item 2 of Form N–1A. Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9), taken together, require that a proxy statement for a shareholder meeting at which an advisory contract is to be voted upon shall include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fee,'' the ''terms of the contract to be acted upon,'' and, if a change in fees is proposed, the existing and proposed rate schedule for advisory fees paid to the advisers.

8. Item 48 of Form N–SAR provides that the Funds must disclose the rate schedule for advisory fees paid to their adviser, including the Managers.

9. Sections 6–07(2) (a), (b) and (c) of Regulation S–X require that the Funds' financial statements contain information concerning fees paid to the Managers.

10. Applicants submit that it is consistent with the policy of the Act and the protection of investors to exempt applicants from the requirement to disclose the fees paid to individual Managers because SEI Management will operate the Portfolios in a manner so different from that of conventional investment companies that disclosure of fees that SEI Management pays the Managers would not serve any meaningful purpose. Additionally, applicants argue that the relief from this disclosure requirement is likely to reduce expenses to the extent that SEI Management is able to negotiate lower advisory fees with Managers as a result of not having to publicly disclose the fees paid to each Manager.

11. Section 6(c) authorizes the Commission to exempt persons or transactions from the provisions of the Act to the extent that such exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants assert that the section 6(c) standards for exemption have been met.

Applicants' Conditions

Applicants agree that the following conditions may be imposed in any order of the Commission granting the requested relief:

1. Before a Portfolio may rely on the order requested by applicants, the operation of the Portfolio in the manner described in the application will be approved by a majority of each Portfolio's outstanding voting securities, as defined in the Act, or, in the case of a new Portfolio whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the sole shareholder before offering shares of the Portfolio to the public.

2. The prospectus for each Portfolio will disclose the existence, substance, and effect of the order. In addition, each Portfolio will hold itself out to the public as employing the ''manager of managers'' approach described in the application. The prospectus and any sales materials or other shareholder communications relating to a Portfolio (collectively, ''Marketing Communications'') will prominently disclose that SEI Management has ultimate responsibility for the investment performance of the portfolio due to its responsibility to oversee Managers and recommend their hiring, termination, and replacement.

3. Within 60 days of the hiring of any new Manager or the implementation of any proposed material change in a Management Agreement, SEI Management will furnish shareholders all information about the new Manager or Management Agreement that would be included in a proxy statement, except as modified by the order with respect to the disclosure of fees paid to the Managers. Such information will include disclosure of the Aggregate Fees and any change in such disclosure caused by the addition of a New Manager or any proposed material change in a Portfolio's Management Agreement. To meet this obligation, SEI Management will provide shareholders with an information statement meeting the requirements of Regulation 14C and Schedule 14C under the Exchange Act. The information statement also will meet the requirements of Item 22 of Schedule 14A under the Exchange Act, except as modified by the order with respect to the disclosure of fees paid to the Managers.

4. SEI Management will not enter into a Management Agreement with any Affiliated Manager without such

agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Portfolio.

5. At all times, a majority of each Fund's Board will be Independent Trustees, and the nomination of new or additional Independent Trustees will be placed with the discretion of the then existing Independent Trustees.

6. When a Manager change is proposed for a Portfolio with an Affiliated Manager, the Fund's Trustees, including a majority of the Independent Trustees, will make a separate finding, reflected in the applicable Fund's Board minutes, that such change is in the best interests of the Portfolio and its shareholders and does not involve a conflict of interest from which SEI Management, SEI Financial or the Affiliated Manager derives an inappropriate advantage.

7. Independent counsel knowledgeable about the Act and the duties of Independent Trustees will be engaged to represent each Fund's Independent Trustees. The selection of independent counsel will be placed within the discretion of the Independent Trustees.

8. SEI Management will provide each Fund's Board no less frequently than quarterly with information about SEI Management's profitability for each Portfolio relying on the requested relief. The information will reflect the impact on profitability of the hiring or termination of Managers during the quarter.

9. Whenever a Manager to a particular Portfolio is hired or terminated, SEI Management will provide that Fund's Board with information showing the expected impact on SEI Management's profitability.

10. SEI Management will provide general management and administrative services to the Funds and, subject to Board review and approval, will (i) set each Portfolio's overall investment strategies; (ii) recommend managers; (iii) allocate and, when appropriate, reallocate the Fund's assets among Managers; (iv) monitor and evaluate Manager performance; and (v) oversee Manager compliance with the Portfolio's investment objective, policies and restrictions.

11. No Director, Trustee or Officer of the Funds, SEI Management or SEI Financial will own directly or indirectly (other than through a pooled investment vehicle over which such person does not have control) any interest in a Manager except for (i) ownership of interests in SEI Management or SEI Financial or any entity that controls, is controlled by or is under common control with SEI Management or SEI Financial; or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly traded company that is either a Manager or an entity that controls, is controlled by or is under common control with a Manager.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–8550 Filed 4–5–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IA–1559]

Notice of Intention To Cancel Registrations of Certain Investment Advisers

April 3, 1996.

Notice is given that the Securities and Exchange Commission (the ''Commission'') intends to issue an order, pursuant to Section 203(h) of the Investment Advisers Act of 1940 (the ''Act''), cancelling the registrations of those investment advisers whose names appear in the attached Appendix.

Section 203(h) provides, in pertinent part, that if the Commission finds that any person registered under Section 203, or who has pending an application for registration filed under that section, is no longer in existence, or is not engaged in business as an investment adviser, the Commission shall by order, cancel the registration of such person.

Paragraph (b) of Rule 204–1, requires an investment adviser to file promptly an amendment to its application for registration (Form ADV) when its address changes or when certain other information becomes inaccurate in a material manner.[1] The Commission has been sending all registrants a booklet of registration materials annually since 1987. Each booklet contains copies of Forms ADV, ADV–S, ADV–E and ADV–W.[2] These forms, when properly filed, are used to update the Commission's records. Since the 1992 mailing, the Commission has had correspondence for each of the registrants listed in the Appendix returned as ''undeliverable'' (addressee unknown, forwarding order expired, or no longer at this address) by the U.S. Postal Service. The Commission's records indicate that these registrants have not filed amendments to their registration, reflecting their current business and/or mailing addresses, as required by Rule 204–1(b). The Commission's records also indicate that many of these registrants have not made annual filings of Form ADV–S, as required by Rule 204–1(c). Accordingly, the Office of Compliance Inspections and Examinations and the Division of Investment Management believe that reasonable grounds exist for a finding that these registrants are no longer in existence or are no longer engaged in business as investment advisers.

Notice is also given that any interested person may, by May 17, 1996, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the cancellations, accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, and he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549.

At any time after May 17, 1996, the Commission may issue an order cancelling any or all of the investment advisers listed in the Appendix, upon the basis of the information stated above, unless an order for a hearing on the cancellation shall be issued upon request or upon the Commission's own motion. Persons who requested a hearing, or to be advised as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For further information contact: Robert L. Lewis, Staff Accountant at (202) 942–0517 (Office of Compliance Inspections and Examinations).

For the Commission, by the Office of Compliance Inspections and Examinations, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

Appendix—Northeast Region (Formerly: Boston, New York and Philadelphia Regional Offices)

Boston

801–04035	American Investors Corp
801–09993	Atlantic Capital & Research Inc.
801–10021	Day, Thomas Ewing
801–12909	Blank, Russell Eugene
801–14112	Investment Research Board Inc.
801–14669	Capen, Samuel Walker
801–15501	Growth Stock Services Inc.

[1] Under Section 204 of the Act and Rule 204–1 thereunder, an investment adviser must also file an annual supplement (Form ADV–S) providing the Commission with certain information about its business activities.

[2] Form ADV–E is used by accountants for certification of client funds and securities in the possession of an adviser. Form ADV–W is used to voluntarily withdraw from registration as an investment adviser.

801–15575 Pell Rudman & Co., Inc.
801–15888 Mahoney, Andrew Jackson
801–16300 Perry, Ami
801–18211 LFP Advisory Corp
801–20216 Marshall Group Inc.
801–20322 Boudreaux Financial Corp
801–23057 Cousin, Edward Joseph
801–23242 Duff, Timothy David
801–24127 Fietz, Robert Glenn
801–25538 Vidette, Michael Patrick
801–25714 Wealth Planning Consultants Inc.
801–26370 Kingbridge Management Co. Inc.
801–26910 Kent, Dennis Brian
801–28425 Crestview Investment Advisors Inc.
801–28829 Shea Associates Inc.
801–28916 Ing, Kelvin Kum Sun
801–30999 Reiss, Hans Fredrick
801–32136 Smith, Kevin Arthur
801–32185 Fund Management Associates Inc.
801–32311 Feeley, Joseph Clement
801–32591 Carroll, Edward Roberts
801–32760 Shea Financial Group Inc.
801–32897 Grant, Lisa Phyliss
801–33121 State Street Capital Advisors Inc.
801–33736 Constantine, Arthur T.
801–34891 Von Kohom & Associates Inc.
801–34913 Dabre, Edgar Reginald
801–35394 North Asset Management Inc.
801–35536 Buckles, Thomas Brian
801–36637 A.J. Investments Limited Partnership
801–38285 Balances Inc.
801–38474 Shea, Robert Stephen
801–38702 Hershberg, Matthew Charles
801–39010 West, Bernard Terrance
801–39474 Jimenez, Stephen
801–40087 IRC Investments Inc.
801–40108 Prism Enterprises Inc.
801–40152 Business Funding Group Inc.
801–40445 Toffey, John James
801–40464 Neilan, James John Jr.
801–40915 R.E. Partnership Services Inc.
801–41673 Meridien Capital Management Ltd.
801–41843 CP Consulting Ltd.
801–41895 Kelso, Douglas Scott
801–42881 Herminghaus, Henry Donald
801–44938 Ray Dirks Advisory Inc.

New York

801–07514 Investors Security Services Inc.
801–09217 UST Advisory Co. Inc.
801–12477 TA Management Co
801–13411 Levine, Alfred
801–15075 Ostaros Market Newsletter
801–15934 Josephthal & Co., Inc.
801–16534 Zabronsky, Alan
801–17050 Reed, James William
801–18280 Manhattan Capital Management Inc.
801–19217 Klinger, Mandel
801–20158 American Foresight Inc.
801–22705 Applied Portfolio Disciplines Inc.
801–23374 Simon, Stanley Harvey
801–24271 Schulman, Daniel B.
801–24355 King, D.L.
801–24494 Ahrens, Peter
801–26633 Trustee Management Inc.
801–28497 Hanseatic American Group Inc.
801–28660 Financial Planning Store Inc.
801–28693 Kolinsky, Steven Ira
801–28861 Clancy Capital Management Inc.
801–29237 Immediato, Peter Joseph
801–29401 Turner, Herman Alfred
801–29514 Joyce, Marjorie Andras
801–30276 L&M Financial Services Inc.
801–30965 Thorpe, Barbara Ann
801–31132 Nestegg Associates Inc.
801–31166 Mitchell, Robert Emmet
801–31800 Simpson Martin Asset Management Inc.
801–31904 Thompson, Maria Markham
801–32422 Procorp Advisory Inc.
801–32763 Gallagher & Associates Inc.
801–32827 Krieger Investments Ltd.
801–34338 Zuck, Peter & Co., Inc.
801–34477 Innovative Financial Planners Inc.
801–35064 Kim, Jerry Taek
801–35617 Reynolds Organization Inc.
801–35789 Wilson Associates Capital Corp
801–36177 Sowarby, John Associates Inc.
801–36716 Druz, Dan Adlai
801–38080 Chapin Draco Inc.
801–38388 Jackson Financial Services Inc.
801–38518 International Strategy & Investment Bond Group Inc.
801–38694 Westreich, Philip Donald
801–38697 Berkeley Capital Management Inc.
801–38790 Bloom, Charles Leonard
801–38940 New Trends Capital Management Corp
801–39046 Gross, Bernard Leon
801–39128 Mitchell & Henry Inc.
801–39570 Tip Top Planning Services Inc.
801–39667 Bradbury Financial Group Inc.
801–39906 Bockler, Stuart
801–41176 Coastal Investment Management Corp
801–41229 Schreiber, James
801–41740 Latef, Javed Anver
801–41761 Network Advisory Services Inc.
801–41768 BFM Japan Inc.
801–41906 Chunduru, Ravi Kumar
801–42102 Educators Financial Management Inc.
801–43179 Tip Top Financial Management Inc.

Philadelphia

801–09109 Gunn & Howard Investors Services
801–15183 Kincaid, Douglas Wexler
801–15818 Moran, M.P. & Assoc. Inc.
801–15964 Hermann, Edward Ronald
801–16222 Spectrum Systems Inc.
801–18257 Collins Investment Corp
801–19421 Hall, Nancy Lee
801–19685 Brickman, Myrtle
801–20217 Mensh, Jeffrey C.
801–20463 Soens, Robert Paul
801–20673 First Financial Management Corp
801–21610 Hidden Value
801–21785 Johnson, Glenn Owen
801–22054 Kuperman, David Arnold
801–22111 Bridges, James Martin
801–23101 Cizinsky, Ludvik
801–23175 Switzer, William Wayne
801–25289 Derand Wealth Advisors Inc.
801–25311 Taylor, Dahri Louise Hill
801–25523 Hopkins, Laura Sue
801–25920 USF&G Review Management Corp
801–26510 Rosals Tax Service Inc.
801–26957 Murphy, Michael John
801–27466 Robinson, M. & Associates
801–27514 Stahlschmidt, Frank Ford
801–27596 Arrington, Edwin Shelbum
801–27651 VDL Ltd.
801–27944 Smithy Braedon Property Co
801–28344 Jones, Jimmie Dene
801–28346 Yen, Chi Lin
801–28745 Cord, Joseph Anthony
801–29030 Newtown Assocs. Investment Advisory Services Inc.
801–29390 Investment Counselors of Roland Park Inc.
801–30461 Huber, Joan J.
801–31235 Eisenberg, Sandra Harol
801–31873 Edmondson, Tad W.
801–32120 Hall, Dywane Alberto
801–32753 Fisher, Clark W. Jr.
801–32956 Douse, George Hunt
801–33258 Markex Inc.
801–33514 Washington Asset Management Inc.
801–33549 Roller Consulting Co., Inc.
801–33758 Edmondson Capital Management, LP
801–34992 Holmes, Allen Edgar
801–35147 Smithy Braedon Realty Investors, Inc.
801–35298 Featherston, Dean Cobb
801–35385 Fravell, Charles Bobbie
801–36163 Osterneck, Alexander
801–36263 Stock Market Research Inc.
801–36298 Boing European Capital Management, Inc.
801–36376 Childers, Roland Dexter, Jr.
801–36385 Meikle, Mark Gregory
801–37121 Graffius, Gordon Marlyn
801–37196 Churchville Financial Service Corp
801–37292 Kashyap, Hans
801–37353 Chaze, Jean Pierre Joseph
801–37408 CEC Advisors, Inc.
801–37682 Patterson, R.R. & Co.
801–37803 Prophter Co., Inc.
801–37995 Wright, Veralynn Laverna
801–38012 Schwartz, Michael Louis
801–38562 Terry, Christopher Daniel Barratt
801–38977 Bretschneider Pauley & Tyndall, Inc.
801–39252 Princeton Asset Management, Inc.
801–39480 Decker, Timothy Jay
801–39526 Faxfolio, Inc.
801–39800 Linder, Raymond Terence
801–39903 Gordon, Lawrence Jay
801–39963 Kretsch, Gerald Peter
801–40630 Dolan, Michael Francis
801–40837 First State Financial Advisors, Inc.
801–41053 Goodwin, Harry Hobbs
801–41338 College Planning Services, Inc.
801–41647 Garris, James Thomas
801–43375 Blount, Martin Conrad
801–43445 Regent Capital Advisors, Inc.
801–43541 Jernigan, Edward Earl
801–43724 Premier Bank Services Corp
801–44139 Mahler, George Carl, Jr.
801–44817 Maryland Financial Corp

Southeast Region (formerly: Atlantic Regional Office)

Atlanta

801–06813 Williams & Williams Financial Management, Inc.
801–10048 Carlisle Asher Management Co.
801–10187 Consensus of Insiders, Inc.

801–11100 Life Insurance Co. of Virginia
801–13687 Fairburn, John Alden
801–13997 Russer, Maximillan Francis
801–14141 Masingill, A.C. & Associates, Inc.
801–15269 Financial Systems Advisors, Inc.
801–15371 Vroman, Lawrence Henry
801–16642 Husserl, Henry Paul
801–16651 Davidson, Robert N.
801–16959 Tutchton, David W., Sr.
801–17115 Vanderbilt Capital Corp
801–17529 Consumer Research Group, Inc.
801–17643 Suncoast Investment Advisory, Inc.
801–17681 Volume Dynamics, Inc.
801–18050 Penrose Gilbert & Associates, Inc.
801–18237 Investment Planning & Management, Inc.
801–18502 Cusnier, Edward Adrian
801–19203 Greger, Edward George
801–19697 Zax, Joseph
801–20199 Argus Capital Management Corp
801–21570 Investment Advisory & Research Corp
801–21857 Smith, Robert Gabay
801–22317 Colley, Russell Huhn
801–22402 Russell, Richard D.
801–22605 Gilholm, Alec Sloan
801–22821 Olderman Investment Advisors, Inc.
801–22947 Sweeney, John Charles
801–23263 Bush, Gregory Jude
801–23595 Westmeyer, Cheryl Irene
801–24496 Lehmann, Richard & Associates, Inc.
801–24696 National Planning Corp
801–24778 Hudspeth, George Laverne, Jr.
801–24851 Casaccia, Giancarlo
801–24946 Investors Asset Management, Inc.
801–25011 Gallaty Enterprises, Inc.
801–25086 Communications Equity Associates
801–25323 Cooper, James McKinney
801–25469 Loch Ness Investment, Inc.
801–25549 LaRocca & Associates, Inc.
801–25601 Investors Financial Services of Tallahassee, Inc.
801–25760 Money Matters, Inc.
801–25791 Abis, Richard Meyer
801–25966 Palmer, Richard David
801–26122 Associates in Financial Planning, Inc.
801–26131 Financial Management Advisors, Inc.
801–26139 Morgan, Randall Neilson
801–26272 Collins, Claude Charles, Jr.
801–26286 Divins, Dennis Lee
801–26334 Teagues, J. Inc.
801–26726 Ward, John Royden
801–26808 Equitrust Securities Corporation
801–27096 Conceptual Financial Planning, Inc.
801–27222 M Securities Investment, Inc.
801–27238 Smith, Bernie Lynne, III
801–27307 Thompson, Lyle Byoir, MBA, CPA, Prof. Assoc.
801–27369 Fact Advisor Group, Inc.
801–27543 Thomas Chiles & Associates, Inc.
801–27751 WGW Investment Advisory, Inc.
801–27804 Capital Management Group, Inc.
801–27898 Financial Analysts of Florida, Inc.
801–28054 Glynco Investment Advisors, Inc.
801–28731 Financial Group, Inc. /Al/
801–28795 Johnson, David John
801–28870 Lashbrook, Garth David
801–29099 Slavic Mutual Management Corp
801–29177 Kennard, Jackson Haas
801–29291 Lincoln National Financial Planning of Florida, Inc.
801–29377 Planners, Inc.
801–29429 Roos, Stephen Lester
801–29441 Allen, Brian Michael
801–29586 Riverside Financial Services, Inc.
801–29593 Yanovitch, George
801–29987 Baker, Sharon Van Den Berg
801–30040 Realty Pension Advisor, Inc.
801–30387 Jackson, Fred Capers, Jr.
801–30501 Adamhill Financial Consultants, Inc.
801–30532 Option Trust, Inc.
801–30603 Graf, P.A., Inc.
801–30676 Nelson, Stephen Craig
801–30951 Dekle, Neel Randolph
801–31003 Pearson, Gloria
801–31145 Mitchell, Thomas Howard, Jr.
801–31353 Edney, Sam C. Co., Inc.
801–31424 Cheesman, David Harry
801–31502 Ell, George
801–31818 Consortium International, Inc.
801–31906 Yegge, Mark Edward
801–31960 Cornerstone Capital Management, Inc. /AL/
801–32031 Lacour, Bennett Joseph, III
801–32251 Hoad, William George
801–32395 American Investors Alliance
801–32546 Market Timers, Inc.
801–32595 Louis Anthony Advisory Group, Inc.
801–33142 Hamilton, Hugh Ford Smith
801–33149 Wiegand Carroll & Associates, Inc.
801–33342 Shine, Randolph Jefferson
801–33460 Burdin, John Wallace, III
801–33513 Ripley & Co.
801–33720 Springer, Larry Earl
801–33810 Equi Planners of Florida, Inc.
801–33812 Guzman & Co.
801–34038 Reed, Doyal Lamont
801–34056 Brooks, Carl Alan
801–34380 Bames, Stuart Francis
801–34724 Strategic Estate Concepts, Inc.
801–34893 Fagin Advisory Services, Inc.
801–34984 Russell, Mark Clinton
801–35336 Northern Financial Group, Inc.
801–35384 Terry, Alvin France
801–35393 Southeastern Capital Group, Inc.
801–35405 RBN Company
801–35436 Seagull Equivest Management, Inc.
801–35472 Rutledge, Richard Lorne
801–35484 Salud, Violeta B. & Associates, Inc.
801–35911 Hirsh, H.L. & Associates, Inc.
801–35951 Burgan Investment Management Associates
801–36428 Eli, Mitchell Evan
801–36441 Primus Advisory Corp
801–36557 DLS Financial Planning, Inc.
801–36611 Boushall & Associates, Inc.
801–36624 Trendex Capital Management Corp
801–36681 Sextant Asset Allocation, Inc.
801–36753 CC&Q Capital Management Group, Inc.
801–36761 O'Connor, Thomas John
801–37007 Argyle Asset Management Corp
801–37066 Nunn, Winston
801–37069 Priority Financial Corp
801–37094 Taylor, John Paul
801–37097 Paradise Financial Services Inc.
801–37167 McDaniel Corp
801–37317 International Investment Management Group Inc
801–37508 R2 Investment Strategies Inc.
801–37529 Solomon & Associates Inc.
801–37534 Block Capital Management Inc
801–37768 Smith, Michael Edward
801–37789 Freeman, Fount Nerone
801–37891 Analytic Capital Management Inc.
801–37929 Megy Advisors Inc.
801–38152 Miner Securities Inc.
801–38214 Institutional Treasury Management Inc.
801–38403 Jones, Donald Willett
801–38576 Maritime Holdings Inc.
801–38654 Creative Financial Planning Concepts Inc.
801–39132 Wells, Sally Ann
801–39489 Giniger, Jerome Bruce
801–39781 World Invest Corp
801–39825 Ostrowski, Donald Raymond
801–40096 Hassenger, Richard Mark
801–40137 Anchor Management Group Inc.
801–40492 Roberts Financial Corp
801–40495 Hinkle, Darryl Lee
801–40553 Diversified Financial Strategies Inc.
801–40628 Conte, Vincent Marion
801–40649 Retirement Plan Systems Inc.
801–40848 Public Asset Advisors Inc.
801–40947 French, Margo Ann
801–40969 Summit Financial Advisory
801–41043 Capital Growth Concepts Inc.
801–41067 Cornerstone Assurance Group
801–41317 Little, Paul Gibson
801–41442 Pullen & Trease
801–41680 Womack, Taft Jr.
801–41788 Midhurst Asset Management Inc.
801–41798 Americas Capital Management Inc.
801–41818 Capital Research Management Inc.
801–41835 Mayo Industries Ltd.
801–41842 Tactical Capital Management Inc.
801–42224 Denison Financial Services Inc.
801–42239 Material Ideas Inc.
801–42272 Meyers, Richard Craig
801–42275 Wilson, Richard Joseph
801–42447 Altenhoff, Norman Richard
801–42464 Internatioanl Benefit Consultant Corp
801–42620 Stiles Financial Group Inc.
801–42641 Madson, Steven Douglas
801–42802 Kehoe, Michael Aloyious
801–42806 Durland, Stephen Howard
801–42818 Houtz, Patricia Ann
801–43259 Marina Securities Inc.
801–43468 Wallace, Robert Lee
801–43516 Connors, Phillip Harry
801–43674 Lipton Capital Management Inc.
801–43893 AIBC Investment Advisors Inc.
801–44090 National Center for Financial Strategies
801–44382 Mrozinski, Phillip David
801–44396 KSquared Diversified Inc.
801–44788 Leigh & Co. Inc.
801–45061 Awad & Associates Inc.

801–45171 Abely, Gary Stephen
801–45371 Southern Capital Enterprises

Midwest Region (formerly: Chicago Regional Office)

Chicago

801–03045 Trendway Advisory Services Inc.
801–11557 Ruth, Thomas Lenore Jr.
801–13572 Cohen, Charlotte Smith
801–14100 Cooke, Walter & Co
801–14347 Hurley, Robert George
801–15915 American Appraisal Capital Services Inc.
801–16627 Field, Larry A. Agency
801–16979 Financial Management Strategies Inc.
801–17292 Resource Management International Inc.
801–19226 GIMG Inc.
801–19946 Fayram, David J.
801–20022 Ely, Thomas V.
801–21291 Oak Financial Advisors Inc.
801–21451 Holtan, Paul Milton
801–22155 Watson, Marilyn
801–22300 Geier & Associates Inc.
801–22450 Christopher, B.C. Securities Co
801–22503 Elan Group Financial Advisors Corp
801–22659 Vanden Plas, Mark Albert
801–22874 Financial Planning Advisor Ltd.
801–23437 Holt, Roger F., Jr.
801–23722 Creative Retirement Plans Inc.
801–23730 Miller Financial Corp
801–23752 SR&A Ltd.
801–24409 Financial Consulting Services Inc.
801–24649 Price Associates Investments Ltd.
801–24892 Croydon Investment Corp
801–25097 Dennis, Richard J. & Co
801–25144 Giblin, Louis Edward
801–25421 Financial Success Advisors Inc.
801–25436 Laatsch, Arthur A.
801–26450 DSI Financial Services Inc.
801–26817 Lundine, Lucinda Raye
801–27551 Meyer Kohn & Co
801–27660 White, John William
801–28393 Vilona La Bonne, Irene Marie
801–28806 Bookbinder & Assoc. Inc.
801–28969 Miller, Kenneth William II
801–29638 Weeks, Ronald Keith
801–29978 Cayce, Benjamin Fleming
801–30646 Sveum Financial Services Inc.
801–31094 Paisley, David Means
801–31431 Investment Watch Inc.
801–31589 Wright, Roy W. Investment Advisory Inc.
801–31603 Strategic Advisers Inc.
801–31853 Serpe, Stephen Michael
801–31897 Howell Group Inc.
801–32344 Hoyt, Douglas Keith
801–32495 Yao, Jonathan Wu Chuan
801–33420 Brown, Jeffrey Langdon
801–33671 Zabkiewicz, Fred Stanley
801–33859 Weinberg Financial Co
801–33991 Connaught Muse Ltd.
801–34168 Liss, J.E. & Co., Inc.
801–34388 Hoffman Financial Planning Ltd.
801–34601 Palmitier, Jeffrey Alan
801–34809 Kahn, Richard Low
801–35103 McCrary Capital Management Inc.
801–35604 Zonca, Todd Alan
801–35892 Metro South Financial Inc.
801–36139 Jones, David Calhoun Jr.
801–36487 Stern Brothers & Co.
801–37149 Geldermann, James Joseph
801–37172 Peake, Charles Stephen
801–37430 Hawthorn Investment Services Inc.
801–37502 Cahn Way Enterprises Inc.
801–37727 Miller, Craig Alan
801–37918 Beta Financial Services
801–38103 Union Heritage Capital Mgmt. Inc.
801–38280 Adrian, Milan Vlaisavljecvich
801–38352 Erickson, James Edward
801–38467 Sherman, Florence Anne
801–38496 Culham, Steven Edward
801–38531 Werman, Michael Bruce
801–39492 Haynes, Howard Thomas
801–39746 Ficon Inc.
801–40003 Brooks Capital Management Inc.
801–40429 Shepherd & Vitek Inc.
801–40474 First Siouxland Financial Inc.
801–40933 Patrick Michael Richard & James Inc.
801–40972 Divall Realty Advisors Inc.
801–41274 Stauffer Group Inc.
801–41998 Butler Finances Unlimited Inc.
801–42012 SCK Investment Group Inc.
801–42206 Reckmann, Curtis Blair
801–42953 Returns Unlimited Inc.
801–43456 Carver, Gary Daryle
801–44729 Trela, David John

Central Region (Formerly: Denver and Fort Worth Regional Offices)

Denver

801–02272 Flumiani, Carlo M.
801–11729 US Denver Management Inc.
801–12316 Regional Securities Corp
801–19514 Financial Planning Consultants
801–21120 Carlson Financial Services Inc.
801–22164 Aiim Financial Ltd.
801–26194 Peters, Charles Arthur
801–26385 Financial Management & Consulting Inc.
801–28259 Lynch, James Fredrick
801–28260 Lynch Municipal Advisory Inc.
801–32257 Marketrends Investment Corp
801–33341 Cathey, James Wilton Jr.
801–34921 Lynch Advisors Inc.
801–35089 Wall, Lucius J.
801–35776 C & S Financial Technology Inc.
801–36296 Poise Inc.
801–36766 Caldemeyer, Terry Lee
801–37361 Vista Del Sol Corp
801–38086 Rest, Hillard Charles
801–39366 Preferred Financial Group Inc.,
801–39366 Trading Desk Inc.
801–39374 Gomez, Michael Gerald
801–39472 Sundance Asset Management Inc.
801–39613 First National Brokerage Services Inc.
801–42077 Avey, John Jacob
801–42244 Campbell, James Butler
801–42687 Taylor, Michael John & Co
801–44695 Journey Investment Group Inc.

Fort Worth

801–10578 Carey, Richard J.
801–18281 Private Ledger Planning Corp
801–22137 Mattei, R.S. & Co., Inc.
801–24046 Schaefer, Joseph P.
801–24927 United Financial Investment Advisors Inc.
801–26506 Krocker, Dan Werland
801–26967 Benchmark Asset Management Inc.
801–27500 Futures Management Inc.
801–28449 Ainsworth & Lambert CPA
801–28687 Austin Equity Management Group Inc.
801–29212 Atlas Bookkeeping & Associates Inc.
801–29583 Reed, Richard Lee
801–30041 Security Investors Corp
801–30408 Garrett Advisory Corp
801–30436 Kavanaugh Securities Inc.
801–31324 Paulsel, Lee Allen
801–31686 Glankler & Robert
801–34347 IMS CPAs & Associates
801–34864 Advanced Advisory Inc.
801–35570 Mumm, Robert Joseph
801–36022 Sims & Sims CPAs, PC
801–36516 Guillory, Stephanie Moreau
801–39282 Karau, Jon Olin
801–39637 Shaheen, Ricky Seaid
801–40237 Still, A.K. & Co
801–41037 Wear, Craig Gordon
801–41121 New England Financial Advisors Dallas
801–41548 Flores, Ruben
801–42238 Mallicote, James McLean
801–42755 Cox, Doug P.

Pacific Region (Formerly: Los Angeles and Seattle Regional Offices)

Los Angeles

801–08511 Hadady Corp
801–14924 Levin, Roy Stuart
801–15324 Athletic Financial Planning Inc.
801–15494 Vest Corp of California
801–16058 Corsair Asset Management Inc.
801–16458 BMI Financial Group
801–16753 French, Richard James
801–16767 Mulligan, Martha Jane
801–17107 Felten, Gene & Associates Inc.
801–17278 Crowell, Richard Fred
801–18261 Katersky Financial
801–18533 Sandoval, Dennis Michael
801–19637 Trask, Richard Henry
801–21234 Abts, H.W. & Associates
801–22010 Spectrum Advisory Services Inc.
801–22167 Cash Flow Co., Inc.
801–22191 Bockstein, Solomon Aaron
801–22471 Price, Marvin F.
801–23069 Novkov, Mark William
801–23125 McDonald, Garland William
801–23316 Tax & Financial Strategies Inc.
801–23432 Wilson, Eugene Hubert
801–23457 Reynolds, David Charles
801–23464 Economic Profiles Inc.
801–23562 Liguori, Frank C.
801–24367 Princeton, J.M. Co., Inc.
801–25069 Tehachapi Tax Service
801–25118 Gordon, Maryann Spicer
801–25336 Lee, Gary Dwayne
801–25818 Lefcourt Financial Group Inc.
801–26037 Fremer, Lisa R.
801–26307 Chang, Antony Wan Tung
801–26309 Coordinated Financial Services Ltd.
801–26909 Petrossi, Louis Franklin
801–26948 Tishman West Management Corp
801–27097 Taylor, Kathryn Ann
801–27132 Evergreen Investors Inc.
801–27315 Preston Securities Inc.
801–27545 PAI Investments Inc.
801–27908 Otto, Judith M.
801–28119 Iacopi, John Timothy

801–28646 Pacific Inland Securities Corp
801–28720 Lindsay, Gary Lee
801–29145 O'Mara, John Francis
801–29225 Mitchell, Walter Lee
801–29380 Hummer, Robert Charles
801–29555 Reserve Financial Strategies Corp
801–29676 American Insurance Brokerage Ltd.
801–29848 Abina, Armando Arellano
801–29913 DWS Securities Corp
801–31116 Daly, E.F. Financial Group
801–31126 Hutton, Jeffrey Robert
801–31430 Palmer, Donald Dwayne
801–31486 Alsin & Co
801–31576 Boulden, James Baynard
801–31715 Financial Concepts Inc.
801–31755 Strategic Equities Corp
801–32673 Bixler, Robert Warren
801–33024 Managed Portfolio Research Inc.
801–33412 Plan Design Center Inc.
801–33585 Burroughs, John Cordell
801–33874 Morehouse, John Charles
801–34245 Financial Coalition Inc.
801–34397 Dravo, Edward Johnson, Jr.
801–34698 Henriques, Allan Inc.
801–34960 New Centruy Securities Inc.
801–35387 Balistrieri, Frank & Associates Inc.
801–35824 Kendrick, James Anthony
801–36459 Deuel Group Inc.
801–36535 Abas, Mamdoh Aziz
801–36707 Fund for Life Advisors Inc.
801–36909 Plesha, Richard Edward
801–36940 Leedha Inc.
801–37521 Morrison, Marc M.
801–37573 Matthew, A.G. & Co
801–38090 Esquire Investment Partners Ltd.
801–38422 Dewey, John Richard
801–38506 Lamkins, Gail Robin
801–38773 Carcel, Denise Pauline
801–39006 Yano, William T.
801–39264 Frazer, Steven George
801–40147 Cole, Lee Francis
801–40251 Zwicker, Theodore Benedikt
801–41056 Terranova, Ann Jennie
801–41126 Nash, McKinley Merchand
801–41225 Pine, Neil Marcell
801–41684 Clark, Victor Robert
801–41812 Kumar, Sukhandra
801–42263 Shing, Michael Shang Tung
801–42311 Podbelsek, Frank Jr.
801–43251 Stillwell Financial Service Corp
801–44903 Alexander, Richard Leroy

Seattle

801–18277 McLaurin, Donald Lee, Jr.
801–20318 Evergreen Financial Center Inc.
801–20346 Walker, Earl Martin
801–20848 Nielsen & Nielsen Inc.
801–21642 Provisor Corp
801–23846 Neir, Paul Randolph
801–24325 Century Financial Service of Western Washington
801–24380 Bidwell, Renald Jennings
801–25862 Cascade Asset Management Co., Inc.
801–26088 Maffeo, Paul Alfred
801–26140 Shuster, Lowell Edward
801–26813 Phillips, George Craig
801–27327 Shulman Investment Advisors Inc.
801–27472 Malinowski, Mark Thomas
801–28327 Roth, Nancy Scott
801–28814 Ackerman, John Frederick
801–30099 Prange, Roy Helmut
801–30230 Snetsinger, Patrick Michael
801–30849 Allegra, Arlene Beatrice
801–30872 Coordinated Planning Services Inc.
801–31958 Fenter, Stephen Lloyd
801–32852 Levine, Robert L. Accountancy Corp
801–33106 Excel Financial Advisory Services Inc.
801–33840 Unique Investment Advisory Co
801–34348 CMC Services Inc.
801–34718 R&R Financial Advisors Inc.
801–35079 Mastascusa, Mary Berg
801–36680 Copeland Dunham Financial Group
801–36729 Potter, Donn E. CPA
801–37475 Camden, Steven M., CPA
801–38062 Federiuk, Nancy Ruth
801–38622 Dukart, Delmar D.
801–40155 Hamilton Capital Management Ltd.
801–40209 Koenig, Gregory Alan
801–40412 Sporar, Thomas Robert
801–41588 Integrated Wealth Management Inc.
801–43444 Smith Mitchell Asset Mgmt. Services Group Ltd.

Foreign

801–10073 Nikko Research Center Ltd.
801–13687 Fairburn, John Adlen
801–33604 Gan Conseil
801–34239 Turk Merchant Bank, AS
801–40020 Metaxis, S.A.

[FR Doc. 96–8625 Filed 4–5–96; 8:45 am]

BILLING CODE 8010–01–M

Sunshine Act Meeting

''FEDERAL REGISTER'' CITATION OF PREVIOUS ANNOUNCEMENT: [61 FR 14165, March 29, 1996].

STATUS: Closed meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: March 29, 1996.

CHANGE IN THE MEETING: Cancellation.

The closed meeting scheduled for Wednesday, April 3, 1996, at 10:00 a.m., has been cancelled.

Commissioner Johnson, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942–7070.

Dated: April 3, 1996.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–8817 Filed 4–4–96; 2:36 pm]

BILLING CODE 8010–01–M

[Release No. 34–37053; File No. SR–Amex–95–57]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the American Stock Exchange, Inc., Relating to the Listing and Trading of Flexible Exchange Options on Specified Equity Securities

March 29, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 26, 1995, the American Stock Exchange Inc. (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On March 18, 1996, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rules 900G through 909G to provide for the listing and trading of Flexible Exchange Options on equity securities (''FLEX Equity Options''). The Exchange also proposes to amend the FLEX Index Option rules (1) governing priority of bids and offers, and (2) to provide for the trading and settlement of such contracts in certain foreign currencies. The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange proposes to (1) set position and exercise limits for FLEX Equity Options that are three times the current position limit tiers for Non-FLEX Equity Options, (2) provide a guaranteed minimum right of participation for Submitting Member seeking to cross a public customer order in FLEX Equity Options, (3) provide for the settlement of FLEX Index Options in designated foreign currencies, and (4) amend the hours of trading so that FLEX Options transactions may be effected during normal Exchange options trading hours on any business day. *See* Letter from Claire McGrath, Special Counsel, Derivative Securities, Amex, to Michael Walinskas, Branch Chief, Office of Market Supervision (''OMS''), Division of Market Regulation (''Market Regulation''), Commission, dated March 14, 1996 (''Amendment No. 1'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The Exchange has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In 1993 the Exchange began trading Flexible Exchange Options (''FLEX Options'') on select broad-based indexes.[4] The Exchange now proposes to expand its FLEX Options program to equity securities. FLEX Equity Options will give investors the ability to customize basic option features, including size, expiration date, exercise style and exercise price. FLEX Equity Options will give investors, especially large institutional investors, the benefit of Options Clearing Corporation (''OCC'') issuance, clearance and financial guarantee, as well as the ability to customize equity option contract specifications. The Exchange believes that the expansion of its FLEX Options program to equity securities will broaden the base of institutional investors that use options to manage their trading and investment risk.

Generally, the current rules governing FLEX Index Options will apply to FLEX Equity Options with some changes in the rules necessary to take into consideration the specific characteristics of FLEX Equity Options. In particular, the Exchange will add several new definitions to accommodate the trading of FLEX Equity Options, adopt specific terms for FLEX Equity option contracts, and revise certain rules that describe FLEX Options and govern their trading.

The Exchange proposes to revise Rule 903G to make specific reference to FLEX Equity Options. In particular, FLEX Equity Option transactions will be limited to transactions in options on underlying securities that have been approved by the Exchange in accordance with Rule 915.[5] Additionally, the terms include a maximum term of three years for any FLEX Equity Option contract, a minimum size of 250 contracts for an opening transaction in a new series, and a minimum size of 100 contracts for an opening or closing transaction in a series in which there is already an open interest (or any lesser amount in a closing transaction that represents the entire remaining contracts). The terms also include the minimum size for FLEX Quotes responsive to a Request for Quotes as the lesser of 100 contracts or the remaining underlying size in a closing transaction.

It is also proposed that exercise prices and premiums for FLEX Equity Options will be stated in dollar amounts or percentages, with premiums rounded to the nearest minimum tick and exercise prices to the nearest one-eighth. Exercise will be by physical delivery, and the OCC exercise-by-exception procedures will apply.

The Exchange is proposing position limits and exercise limits for FLEX Equity Options that are larger than the limits applicable to Non-FLEX Equity Options. Position and exercise limits for FLEX Equity Options are set forth and compared to existing limits for non-FLEX Equity Options on the same underlying security.[6]

Non-FLEX equity position limit	FLEX equity position limit
4,500 contracts	13,500 contracts.
7,500 contracts	22,500 contracts.
10,500 contracts	31,500 contracts.
20,000 contracts	60,000 contracts.
25,000 contracts	75,000 contracts.

The applicable position and exercise limit tiers for Non-FLEX Equity Options are based on the number of outstanding shares and trading volume of the underlying security.[7] This proposal does not alter the applicable tier criteria set forth in the Equity Option Position Limit Approval Orders.

As is currently the case for FLEX Index Options, it is proposed that there will be no aggregation of positions or exercises in FLEX Equity Options with positions or exercises in Non-FLEX Equity Options for purposes of the limits.

The Exchange also proposes to amend rule 904G in order to provide a minimum right of participation to Exchange members who initiate Requests for Quotes in respect of FLEX Equity Options and indicate an intention to cross or act as principal on the trade. The proposed rule change would provide that a member who submits a Request for Quotes in respect of a FLEX Equity Option and indicates an intention to cross or act as principal on the trade, and who matches or improves the BBO during the BBO Improvement Interval, has a priority right to execute the contra side of the trade for at least twenty-five percent (25%) of the trade, 100 contracts or the remaining number of contracts on a closing transaction of less than 100 contracts.[8]

The Exchange also proposes to amend FLEX Index Option rules to conform to certain rules currently in place at the Chicago Board Options Exchange. Specifically, the Exchange proposes to amend its rules to provide for the trading and settlement of FLEX Index Options in select foreign currencies. Currently, FLEX Index Options trade and settle in U.S. Dollars only. The Exchange now proposes to trade and settle FLEX Index Options in Canadian Dollars, British Pounds, Japanese Yen, Deutsche Marks, Swiss Francs, French Francs, or European Currency Units. The Exchange believes that this change will increase the utility and, thus, the attractiveness of FLEX Index Options, which in turn should broaden the base of domestic and international institutional investors that use exchange—traded FLEX Index Options to manage their trading and investment risk.

The Exchange believes the proposed rule change will improve the efficiency and transparency of the equity option markets and the markets in the underlying equities, and bring transactions which are currently subject to little or no regulatory oversight under a regulatory framework that is fully consistent with the regulation of common stock trading and reporting.

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)5 in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and is not designed to permit unfair

[4] *See* Securities Exchange Act Release Nos. 32781 (August 20, 1993), 58 FR 45360 (August 27, 1993) (approving the trading of FLEX Index Options on the Major Market, Institutional and MidCap Indexes), and 33262 (December 1, 1993), 58 FR 64622 (December 8, 1993) (approving the trading of FLEX Index Options on the Japan Index).

[5] The Exchange proposes to be able to trade FLEX Options on any options-eligible security regardless of whether standardized non-FLEX options overlie that security, and regardless of whether such non-FLEX options trade on the Exchange.

[6] *See* Amendment No. 1, *supra* note 3.

[7] *See* Securities Exchange Act Release Nos. 36409 (October 23, 1995), 60 FR 55399 (October 31, 1995) (File Nos. SR–NYSE–95–31; SR–PSE–95–25; SR–Amex–95–42; and SR–Phlx–95–71); and 36371 (October 13, 1995), 60 FR 54269 (October 20, 1995) (File No. SR–CBOE–95–42) (collectively the ''Equity Option Position Limit Approval Orders'').

[8] *See* Amendment No. 1, *supra* note 3.

discrimination between customers, issuers, brokers or dealers.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Amex consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–95–57 in the caption above and should be submitted by April 29, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–8548 Filed 4–5–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37052; File No. SR–CBOE–96–22]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to the Effective Date of the Standing Assurance Provision Relating to the Requirement to Make Prior Arrangements or Obtain Other Assurances Before Short Selling

March 29, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 29, 1996, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE hereby gives notice that it proposes to change the effective date of a certain aspect of a rule change, Interpretation .04 to Rule 30.20, previously approved by the Commission.[1] The previously approved rule change relates to the requirement to make prior arrangements to borrow stock or to obtain other assurances that delivery can be made on settlement date before a member or person associated with a member may sell short. Specifically, the CBOE proposes to delay, until May 10, 1996, the effectiveness of that portion of Interpretation .04 to Rule 30.20 that prohibits CBOE members from using blanket assurances that securities are available for borrowing to satisfy their affirmative determination requirements.

The text of the proposed rule change is available at the office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this rule proposal is to delay the effectiveness of a certain aspect of a rule change previously approved by the Commission relating to the requirement to make prior arrangements to borrow stock, warrants, or other securities that trade subject to Chapter 30 of the Exchange's rules, or to otherwise ensure availability of the subject securities before engaging in short sales. Specifically, the CBOE proposes to delay, until May 10, 1996, the effectiveness of that portion of the rule change that prohibits CBOE members from using blanket or standing assurances that securities are available for borrowing to satisfy their affirmative determination requirements.

The Exchange delayed the effectiveness of this provision while the NASD determined how to address the feedback from a broad spectrum of members who believed that the standing assurance provisions created an unnecessarily burdensome regulatory requirement on NASD members. Since that time, the NASD has adopted a new rule that would allow members to rely on standing assurances in certain circumstances. The CBOE has decided to adopt the same provision for its short sale rule. However, because the deadline for the earlier delay in effectiveness of March 30, 1996 has nearly arrived, the Exchange is again delaying the effectiveness of the standing assurance provision until May 10, 1996 in order to allow it to submit a rule change that brings CBOE's rule into conformity with that of the NASD.

By delaying the effectiveness of the standing assurance provision until May 10, 1996, this rule proposal will allow the Commission to present the proposal for public comment and will ensure that the CBOE rule can be made consistent with a similar rule of the NASD.

[9] 17 CFR 200.30–3(a)(12).

[1] *See* Securities Exchange Act Release No. 36245 (Nov. 27, 1995), 60 FR 62273 (Dec. 5, 1995).

Therefore, CBOE represents that the proposed rule change is consistent with Section 6 of the Act, in general, and furthers the objectives of Section 6(b)(4) of the Act in particular, in that it is designed by the Exchange as constituting a stated policy with respect to the enforcement of an existing rule.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change constitutes a stated policy, practice or interpretation with respect to the enforcement of an existing CBOE rule, it has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to the File No. SR–CBOE–96–22 and should be submitted by April 29, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–8540 Filed 4–5–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37049; File No. SR–CBOE–96–14]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Telephone Policy for the S&P 100 (''OEX'') Options Post

March 29, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on March 12, 1996, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its policy governing the use of member-owned or Exchange-owned telephones located at the trading post where options on the Standard & Poor's 100 Stock Index (''OEX Options'') are traded [2] by relaxing the restriction on the use of the telephones to receive orders and by relaxing the prohibition on the use of post telephones to receive incoming calls. In addition, the Exchange is amending Rule 6.70 to make clear that a Floor Broker may receive orders from non-member registered broker-dealers without satisfying the additional requirements necessary to take orders from public customers.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend the Exchange's regulatory circular governing the use of telephones at the OEX trading post in two respects. First, the Exchange is relaxing the prohibition against brokers taking orders over the post telephones. Floor brokers who meet the requirements to do a public customers business, including the requirement that they be registered Representatives associated with a member organization which is qualified to do a public customer business under Chapter IX of the Exchange's rules, and who are approved by the Exchange to receive such telephone orders, would be permitted to take the orders of public customers.[3] Floor brokers who are not qualified to do a public customer business would still be permitted to take the orders of registered broker-dealers, after receiving Exchange approval to take such telephone orders.[4] Only phone lines dedicated to a particular floor broker who has been approved for such use by the Exchange may be used to receive orders.

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[2] CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] The Regulatory Circular setting forth the OEX telephone policy initially was filed by the Exchange as SR–CBOE–95–15 (noticed in Securities Exchange Act Release No. 35725 (May 17, 1995)) on May 12, 1995, under paragraph (e)(6) of Exchange Act Rule 19b–4 and accordingly became effective upon the date of filing and operative 30 days thereafter. The Exchange decided to re-file the policy for full Commission review in SR–CBOE–95–49. That second filing was approved by the Commission on December 1, 1995 (Securities Exchange Act Release No. 36546, 60 FR 63552 (December 11, 1995)).

[3] In addition to the SEC net capital, recordkeeping, and financial reporting requirements applicable to member organizations, a member or associated person transacting business with the public must satisfy other requirements including, receiving approval of the Membership Committee, participating in certain education programs, and passing a test concerning the handling of customer accounts.

[4] Floor brokers who intend to receive orders only from other Exchange members or other registered broker-dealers for their own accounts need not qualify to do a public customer business under Chapter IX, but still have to apply for approval to take orders over a floor telephone.

In File No. SR–CBOE–95–49, the Exchange expressed its concern regarding the ability of floor brokers to receive orders over the telephones by stating that it was concerned about ''how to provide customers with access to the trading floor on a fair and nondiscriminatory basis, how to assure that persons on the floor are qualified to receive orders directly from customers, and how to surveil order-taking activity conducted over floor telephones.'' The Exchange does not believe that its proposal will have a significant effect on customers access, given that calls now come into member firm booths, some of which are located just outside of the OEX post. In fact, allowing calls to come directly to the post eliminates the existing disparity between those members whose booths are adjacent to the post and those whose booths are further away. The Exchange believes it will be a business decision of the individual floor brokers and their member firms whether to use telephones at the OEX post, and that will determine customer access. Moreover, under the current system, brokerage firms already decide which customers may call them at the booth telephones. Therefore, this policy change should not represent a material departure from the current state of customer access. The Exchange's Department of Compliance will maintain a list of floor brokers who are approved to receive orders over telephone lines at the post. The Exchange will rely on floor officials and other members in the OEX trading crowd to surveil activities of floor brokers to assure compliance with these requirements.

A second change to the current policy involves relaxing the prohibition against receiving incoming calls to accommodate the receipt of orders. In File No. SR–CBOE–95–49, the Exchange stated that it ''intends to consider these issues in the near future, and depending on its conclusions, the Exchange may determine to revise or eliminate these conditions.'' In fact, over the ensuing months, the Exchange has held a number of meetings to reconsider these conditions on the OEX post telephone before it decided to amend the policy. Only those telephone lines at the OEX post that are dedicated to the exclusive use of a floor broker who is approved to receive orders will be enabled to receive incoming calls. Under the proposal, only floor brokers who have been approved to receive orders would be permitted to receive incoming calls. At this point, the Exchange, however, is reviewing this policy and expects to decide soon whether or not market-makers at the OEX post also should be permitted to receive incoming calls.

Pursuant to these proposed changes to the CBOE's telephone policy, two of the seven conditions from the Exchange's existing regulatory circular will be amended to read as follows:

- The telephones may not be used to receive orders except for those telephones dedicated to a particular floor broker who has been approved for such use by the Exchange. Only persons qualified to receive public customer orders may take such orders over the telephones. Quotations that have been publicly disseminated pursuant to Rule 6.43 may be provided from any of the telephones.
- Incoming calls are only permitted at the OEX post on the telephone lines of floor brokers who have been approved to receive calls by the Exchange.

To accommodate the receipt of orders, Rule 6.70, Floor Broker Defined, is being amended to state that a floor broker may receive orders from registered broker-dealers without satisfying the additional requirements necessary to take orders from public customers. Currently, Rule 6.70 states that a floor broker may only receive orders either from: (1) members, or (2) public customers, if, in the case of public customer orders, that floor broker is either the nominee of, or has registered his individual membership for, a member organization approved to transact business with the public in accordance with Rule 9.1. Orders from non-member registered broker-dealers do not fit into either of the above categories; they are not considered public customer orders and are not, by definition, orders of members.

The CBOE also proposes to amend Rule 6.70 to state explicitly the CBOE Rule 9.3 requirements that a floor broker seeking to transact business with the public must complete successfully an examination demonstrating adequate knowledge of the securities business. Currently, a floor broker must complete successfully the Series 7 examination to transact business with the public.

The CBOE believes that the proposed rule change will enhance communications between the OEX post and the public and provide faster execution for orders. The Exchange believes, however, that its proposal does not raise any regulatory concerns beyond those already presented by the current system. For the foregoing reasons, the Exchange believes the rule proposal is consistent with and furthers the objectives of Section 6(b)(5) of the Act, in that it is designed to perfect the mechanisms of a free and open market and to protect investors and the public interest by providing better access to the OEX post.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principle office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–CBOE–96–14 and should be submitted by April 29, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

[5] 17 CFR 200.30–3(a)(12) (1994).

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 96–8541 Filed 4–5–96; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 34–37050; File No. SR–CBOE–96–15]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Placing of Orders Over the Outside Telephone Lines at the Equity Trading Posts

March 29, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on March 12, 1996, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Regulatory Circular governing the use of member-owned or Exchange-owned telephones located at the equity trading post on the floor of the Exchange.[2] The amendment would permit floor brokers to receive orders from CBOE market makers over outside telephone lines at the equity trading posts.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] The regulatory circular that governs the use of telephones at the equity trading posts was approved by the Commission on March 2, 1994. *See* SR–CBOE–93–24, Exchange Act Release 34–33701 (March 2, 1994), 59 FR 11336.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend the policy currently governing the use of telephones at equity option trading posts by permitting market makers to place orders with floor brokers over the outside telephone lines.[3] Currently, the telephone policy for the equity posts, which has been instituted pursuant to Exchange Rule 6.23,[4] prohibits orders of any type to be entered via outside telephone lines. The policy for use of the telephones at the equity posts will remain unchanged in every other respect.

The Exchange has determined to make this change in the equity post telephone policy so that market makers may transmit their orders more efficiently even when they need to be off the floor to attend to personal or Exchange business. This change will permit the market makers to provide capital more quickly at option posts in the wake of news or market events and to hedge their positions in response to market news even when they are off the floor of the Exchange temporarily. The change will be particularly useful to those members of the Exchange that are often requested to attend meetings on Exchange matters during the trading day.

The Exchange believes that Exchange rules will prevent this policy from being used by market makers to avoid standing in their respective crowds or to assume de facto an appointment in an option traded at another post. Under the proposed policy, orders placed over the outside telephone lines will be counted as off-floor orders for purposes of determining a market maker's compliance with the 80% requirement of Rule 8.7. Pursuant to Interpretation .03 of Rule 8.7, Obligations of Market-Makers, a market maker must execute in-person 80 percent of his total transactions to receive market maker treatment for off-floor orders. An order that receives market maker treatment is entitled to certain benefits, such as favorable margin treatment under Regulation T; this is a strong incentive for the market makers to satisfy the 80% requirement. In addition, consistent with Rule 8.7(a), orders placed by a market maker over the outside telephone lines at the equity posts should constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market. Also, Interpretation .03 of Rule 8.7 states that the off-floor orders for which a market maker receives market maker treatment shall be effected for the purpose of hedging, reducing risk of, rebalancing, or liquidating open positions of the market maker. Finally, Interpretation .03 to Rule 8.7 also generally requires a market maker to executive at least 25 percent of this total transactions in-person.

Upon the approval of this new policy as a rule of the Exchange, the Exchange will publish a Regulatory Circular, substantially in the form attached hereto.

As with the current policy governing the use of telephones at the equity trading posts, the Exchange intends to monitor compliance with these conditions by means by customary floor surveillance procedures, including reliance on surveillance by Floor Officials and Exchange employees. In addition, the Exchange will review on a weekly basis clearance data, as it does now, to assure that a market maker meets the 80% in-person requirement.

The Exchange believes that its proposal is consistent with and further the objectives of Section 6(b)(5) of the Securities Exchange Act of 1934 in that they are designed to improve communications to and from the Exchange's trading floor in a manner that promotes just and equitable principles of trade, prevents fraudulent and manipulative acts and practices, and maintains fair and orderly markets. In addition, the Exchange believes that this change in policy will enhance the Exchange's ability to provide capital where it is most needed on the Exchange floor and it will provide market makers with an efficient method to protect their portfolio even when they need to be off the floor.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

[3] Currently, the Exchange permits market makers to place orders with floor brokers via intra-floor lines.

[4] Exchange Rule 6.23 prohibits members from establishing or maintaining any telephone or other wire communications between their offices and the Exchange floor, and it authorizes the Exchange to direct the discontinuance of any communication facility terminating on the Exchange floor.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organizations. All submissions should refer to File No. SR–CBOE–96–15 and should be submitted by April 29, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–8542 Filed 4–5–96; 8:45 am]

BILLING CODE 8010–01–M

[5] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–37051; File No. SR–CBOE–96–20]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Chicago Board Options Exchange, Incorporated Relating to FLEX Equity Options

March 29, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 18, 1996, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend certain rules pertaining to FLEX Equity Options. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange proposes to amend two rules pertaining to FLEX Equity Options. First, the Exchange proposes to amend Interpretation and Policy .05 under Exchange Rule 5.5 in order to provide that new series of FLEX Equity options may be opened during the month in which they will expire, so long as options of that series expire no earlier than the day following the day the series is added. The Exchange believes that this will provide maximum flexibility to users of FLEX Equity Options, while avoiding the administrative costs that would be associated with options that expire on the day they are issued.

Second, the Exchange proposes to amend Rule 24A.5(e) in order to provide a minimum right of participation to Exchange members who initiate Requests for Quotes in respect of FLEX Equity Options and indicate an intention to cross or act as principal on the trade, similar to the right of participation that applies under existing Exchange rules in respect of FLEX Index Options. Under existing Rule 24A.5(e)(iii), a member who submits a Request for Quotes in respect of a FLEX Index Option and indicates an intention to cross or act as principal on the trade, and who matches the current best bid or offer (''BBO'') during the BBO Improvement Interval, has priority to execute the contra side of the trade up to the greater of (i) one-half of the trade, (ii) $1 million Underlying Equivalent Value, or (iii) the remaining Underlying Equivalent Value on a closing transaction valued at less than $1 million. If the member improves the BBO and any other FLEX-participating member matches the improved BBO, the submitting member has priority to execute the contra side of the trade up to the greater of (i) two-thirds of the trade, (ii) $1 million Underlying Equivalent Value, or (iii) the remaining Underlying Equivalent Value on a closing transaction valued at less than $1 million. By contrast, under current Exchange rules no priority right of participation in a principal or agency cross is given to a member who submits a Request for Quotes in respect of a FLEX Equity Option, even if the submitting member matches or improves the BBO.

The proposed rule change would provide that a member who submits a Request for Quotes in respect of a FLEX Equity Option and indicates an intention to cross or act as principal on the trade, and who matches or improves the BBO during the BBO Improvement Interval, has a priority right to execute the contra side of the trade for at least twenty-five percent (25%) of the trade.[1] The Exchange believes that the proposed rule change will encourage members to bring FLEX Equity Option orders to CBOE and to commit their capital to the FLEX Equity Options market on CBOE, and thereby contribute to the liquidity of that market, by

[1] The proposed rule change amends the language of Rule 24A.5(e) to state that a submitting member will ''have priority'' to execute the specified share of a trade, instead of that he will ''be permitted'' to execute that share, in order to clarify that a member may cross more than the designated share as to which he has priority if no one else is willing to trade at the same or a better price.

guaranteeing them a minimum right of participation in the other side of any trade they bring to the market if they are prepared to match or improve the BBO.

The Exchange believes that by providing investors with the flexibility to request quotes for options that expire as early as the day following the day they are issued, and by encouraging members to submit requests for quotes in FLEX Equity Options and to commit capital to CBOE's FLEX Equity Option market, the proposed rule change furthers the objectives of Section 6(b)(5) of the Securities Exchange Act of 1934 to remove impediments to and perfect the mechanism of a free and open market in securities, and to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File No. SR–CBOE–96–20 and should be submitted by April 29, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–8549 Filed 4–5–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37054; File No. SR–CHX–96–10]

Self-Regulatory Organizations; The Chicago Stock Exchange Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Clearing Support and Other Fees

April 1, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] (''Act''), notice is hereby given that on February 29, 1996, the Chicago Stock Exchange, Incorporated (''CHX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–CHX–96–10) as described in Items I, II, and III below, which items have been prepared primarily by the CHX. The CHX supplemented the filing on March 18, 1996, to clarify and to provide additional detail to the original filing.[2] The Commission is publishing this notice to solicit comments on the proposed rue change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CHX proposes to amend its Membership Dues and Fees Schedule by deleting the P&L System report fee and by adding new clearing support fees which pertain to certain additional services that the CHX will provide to its floor members and member organizations as a result of Midwest Clearing Corporation's (''MCC'') withdrawal from the securities clearing business.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CHX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CHX has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.[4]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The primary purpose of the proposed rule change is to delete from the CHX's Membership Dues and Fees schedule the P&L System report fees and to institute new clearing support fees. The new fees will be charged in connection with certain additional services that the CHX will provide to floor members and member organizations as a result of the MCC's withdrawal from the securities clearing business. The clearing support fees are applicable to all members and member organizations that have entered into an agency agreement with the CHX pursuant to Article XXI, Rule 13 of the CHX's rules. The agency agreements will authorize the CHX to perform various functions on behalf of such a member, including, among other things, (i) drawing upon and depositing to such member's bank account, (ii) borrowing of securities and providing reports and records for such member, and (iii) performing special cashiering functions for such member. The two categories of clearing support fees are account fees and CUSIP fees, which will compensate the CHX for its time and effort in providing these agency services.

Account fees include a fee for (i) a master account, (ii) each additional master account, and (iii) each sub-account. Each firm that enters into an agency agreement must establish a master account and a sub-account. In addition, firms may have additional master accounts or sub-accounts. The interest in maintaining more than one

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[2] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Letter from George T. Simon Foley & Lardner [counsel to CHX], to Glenn Barrentine, Senior Attorney, Division of Market Regulation, Commission (March 25, 1995).

[3] For a discussion of MCC's withdrawal from the securities clearing business, refer to Securities Exchange Act Release No. 36684 (January 5, 1996), 61 FR 1195 [File No. SR–MCC–95–04] (order approving proposed rule change).

[4] The Commission has modified the text of the summaries prepared by CHX.

master account has been expressed to the CHX by its member firms that have several joint ventures on the floor of the CHX. Such members have requested additional master accounts so that they can segregate their pay and collect figures, dividends, and reorganization processing with respect to each entity on the exchange floor. In addition, in response to the request of member firms that have more than one registered co-specialist trading for them, CHX members will be able to maintain more than one sub-account so that they may maintain a sub-account for each of their co-specialists. This will enable such firms to receive separate purchase and sale reports and profit and loss reports for each co-specialist while also receiving reports of aggregate figures at the master account level.

CUSIP fees are divided into three categories: (i) the specialist CUSIP fee, (ii) the market maker CUSIP fee, and (iii) the floor broker as principal fee. The CHX will charge a floor broker that trades as principal and has entered into an agency agreement a certain monthly fee for each CUSIP in which such floor broker trades as principal. Likewise, a market maker that enters into an agency agreement will be charged a monthly fee for each CUSIP in which it is registered as a market maker. The CHX will charge a specialist that has entered into an agency agreement a monthly fee for each CUSIP in which it is registered as a specialist. For a specialist, the amount of the fee per CUSIP will vary depending on the number of trades that the specialist has in a particular CUSIP in given month. Thus, the amount of the per CUSIP fee for specialists will be discounted for CUSIPs in which trading is below certain thresholds.

The different CUSIP fees for each of the three categories are based upon the difference in expected account activity and the different expenses that the CHX will incur in servicing accounts for market makers, specialists, and floor brokers as principal. For example, because the CHX expects specialists to have the most activity per CUSIP, resulting in the greatest amount of staff time expended to produce reports and to provide the services contemplated by the agency agreement, specialists have the highest CUSIP fee.

The CHX also proposes to add a new self-regulatory organization (''SRO'') fee that is applicable to all CHX members and member organizations. This fee relates to the additional costs that the CHX will incur in performing SRO obligations, such as capturing certain surveillance information and producing surveillance reports. Prior to MCC's withdrawal from the securities clearing business, the CHX received certain surveillance information from and utilized the expertise of MCC at no cost.

The text of the proposed rule change is as follows:

CHICAGO STOCK EXCHANGE, INCORPORATED, MEMBERSHIP DUES AND FEES, ADDITIONS ARE *Underlined* ; Deletions [Bracketed]

(o) [MSE P&L System Reports	$125 per account per month, and 20 cents per trade]
Clearing Support Fees:	
(1) Account Fees:	
First Master Account Fee.	*$500 per month*
Additional Master Account Fee.	*$300 per month*
Sub-Account Fees .	*$100 per account per month*
(2) CUSIP Fees:	
Specialist CUSIP Fee.	*$50 per CUSIP per month*
Market Maker CUSIP Fee.	*$10 per CUSIP per month*
Floor Broker as Principal.	*$2 per CUSIP per month*
(minimum clearing support fee is $600 per month)	
Discounts:	
The above Specialist CUSIP Fee will be subject to the following discounts:	
If between 20 and 200 trades occur in a particular CUSIP in a given month, the Specialist CUSIP Fee for that CUSIP shall be $40 for that month.	
If less than 20 trades occur in a particular CUSIP in a given month, the Specialist CUSIP Fee for that CUSIP shall be $20. for the month.	
(p) (Reserved)	
(q) Self-Regulatory Organization Fee	*$100 per month and member organization per month*

The CHX believes the proposed rule change is consistent with Section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and persons using its facilities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CHX does not believe that the proposed rule change will impose a burden on competition.

(C) Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received by the CHX.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii)[5] of the Act and pursuant to Rule 19b–4(e)(2)[6] promulgated thereunder because the proposal establishes or changes a due, fee, or other charge imposed by the CHX≤ At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the CHX. All submissions should refer to file number SR–CHX–96–10 and should be submitted by April 29, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–8546 Filed 4–5–96; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C. 78s(b)(3)(A)(ii) (1988).

[6] 17 CFR 240.19b–4(e)(2) (1994).

[Release No. 34–37055; File No. SR–NYSE–96–05]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to Listing Standards

April 1, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange of 1934 (''Act''), 15 U.S.C. § 78s(b)(1), notice is hereby given that on March 18, 1996, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends Paragraphs 102.01 and 103.00 of the Exchange's Listed Company Manual (''Manual''). Paragraph 102.01 establishes the minimum numerical standards for listing on the Exchange pursuant to ''domestic'' criteria. The Manual expressly provides that the domestic criteria are available not only to U.S. companies, but also to non-U.S. companies that elect to qualify under those standards. The domestic criteria include a requirement that an issuer have a specified number of stockholders, depending on the trading volume in a stock. Specifically, the issuer must have either: (i) 2,000 round lot holders; (ii) 2,200 total holders with average monthly trading over the last six months of 100,000 shares; or (iii) 500 total holders with average monthly trading over the last 12 months of 1,000,000 shares.

The proposed rule change amends these standards to specify that, for companies domiciled in Canada, Mexico and the United States (''North America''),[1] the stockholder and trading volume requirements cover holders and trading volume in North America. This proposed rule change also makes conforming changes to Paragraph 103.00, which establishes alternative listing criteria for non-U.S. companies.

The text of the proposed rule change is available at the Exchange and the Commission.

[1] For purposes of this rule, a company is ''domiciled'' in the country under the laws of which it is organized.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Companies applying to list on the Exchange must meet the listing criteria contained in the Manual, including the numerical standards. There are two sets of standards for equity listings: domestic criteria, which are available for all companies (''domestic standards''), and criteria available solely for non-U.S. companies (''worldwide standards''). The worldwide standards contain higher criteria for market value of shares, pre-tax income, net tangible assets (''NTAs'') and number of stockholders.

Paragraph 103.00 of the Manual specifically permits a non-U.S. company to qualify for listing using either the domestic or worldwide listing standards. Thus, a non-U.S. issuer that does not meet the higher worldwide numerical criteria nevertheless can list under the domestic standards if the issuer can satisfy the stockholder requirements of those standards. As noted, these requirements range from 2,000 round lot holders to 500 total holders, depending on the trading volume in the security.

The purpose of the rule filing is to provide that, for North American companies, the domestic stockholder and trading volume requirements in Paragraph 102.01 of the Manual cover holders and trading volume in North America. With the continuing integration of the North American market, the Exchange believes that this market should be viewed as a whole in reviewing a company's eligibility for listing. This will foster internationalization of the securities markets by enhancing the access of U.S. investors to the trading of Canadian and Mexican securities.

Recognizing the integration of the U.S., Mexican and Canadian markets is especially appropriate at this time, given the recent ratification of the North American Free Trade Agreement (''NAFTA''). Furthermore, with respect to Canada, the Commission itself has recognized the integration of these securities markets with the adoption of its multijurisdictional disclosure systems (''MJDS''). The MJDS allows Canadian issuers to access the U.S. securities markets using documents prepared almost entirely according to Canadian securities laws.

Pursuant to the rule change, in applying the listing criteria in Paragraph 102.01 to North American companies, the Exchange would look to the number of beneficial holders resident in North America. In computing trading volume, the Exchange would look to the reported volume (i) on U.S. stock exchanges, (ii) in the U.S. over-the-counter market and (iii) on Canadian or Mexican stock exchanges.[2] This volume, in total, must meet the Exchange's listing standards. For securities that trade in the format of American Depositary Receipts (''ADRs''), volume in the ordinary shares would be adjusted to be on an ADR-equivalent basis.[3]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to prevent fraudulent and manipulative acts and practices and to perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

[2] According to the NYSE, the NYSE would consider an ''exchange'' to be a trading market that is regulated as a stock exchange by home-country regulators. Therefore, currently in Mexico, such an ''exchange'' would be the Bolsa Mexicana de Valores. In Canada, there currently are five stock exchange: The Montreal Exchange and the Toronto, Vancouver, Winnipeg, and Alberta Stock Exchanges. *See* letter from Michael J. Simons, Milbank, Tweed, Hadley & McCloy, to Glen Barrentine, Senior Counsel, Division of Market Regulation, SEC, dated April 1, 1996.

[3] For example, assume that a Mexican company has ADRs trading in the United States and ordinary shares trading in Mexico, with each ADR representing 10 ordinary shares. If the company were to apply to list its U.S.-traded ARDs on the NYSE, the Exchange would divide the Mexican shares volume by 10 in determining whether the combined ARD/share volume meets the requirements of the listing criteria. For companies that have multiple series of shares or ADRs, the Exchange will include the volume only in the specific ordinary shares and overlying ADRs that would be listed on the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the Federal Register or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–96–05 and should be submitted by April 29, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–8543 Filed 4–5–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37056; File No. SR–NYSE–96–06]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by New York Stock Exchange, Inc., Relating to Continued Listing Standards for Specialized Securities

April 1, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. § 78s(b)(1), notice is hereby given that on March 18, 1996, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE is proposing amendments to its continued listing criteria, contained in Paragraphs 801 and 802.01 of the Exchange's Listed Company Manual (''Manual''). The amendments contain continue listing criteria for certain ''specialized securities'': stock warrants; foreign currency warrants and currency index warrants; stock index warrants; contingent value rights (''CVRs''); other securities; and equity-linked debt securities (''ELDS'').

The text of the proposed rule change is available at the Exchange and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The test of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Over the past several years the Exchange has adopted listing standards for specialized securities. These standards are contained in various sections of Paragraph 703 of the Manual. Although the Exchange has adopted uniform listing standards for these securities, there currently are no corresponding uniform continued listing criteria. The purpose of the proposed rule change is to adopt such uniform criteria.[1]

The current listing standards for specialized securities require one million shares outstanding, 400 holders, $4 million aggregate market value and a minimum life of one year.[2] The proposed continued listing criteria would require 100,000 publicly-held shares, 100 holders and an aggregate market value of $1 million. The proposed continued listing criteria also would require that for securities that are related to other securities, such as warrants and CVRs, the related security must remain listed. For ELDS, the issuer of the linked security must remain subject to last sale reporting obligations and remain trading in a market in which there is last sale reporting, again paralleling the original listing standards.[3] However, if the related or linked securities are delisted for violation of the Exchange's ''Corporate Responsibility'' criteria in Section 3 of the Manual, the exchange will also delist any related specialized securities.[4]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to prevent fraudulent and manipulative acts and practices and to perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

[1] Although there currently are continued listing criteria for warrants, those criteria do not conform to the current warrant listing standards. Therefore, the proposed rule change would delete the current warrant continued listing criteria and include warrants within the new uniform criteria.

[2] There are additional standards for certain of these securities. For example, ELDS must have a term of two to seven years (two to three years for non-U.S. securities).

[3] Telephone conservation between Michael Simon, Milbank, Tweed, Hadley & McCloy, and Jennifer S. Choi, Attorney, Division of Market Regulation, SEC, on April 1, 1996.

[4] The proposed rule change also would eliminate the delisting criteria relating to creation of a class of non-voting common stock. These criteria are no longer appropriate because the Exchange currently has listing criteria specifically addressing non-voting common stock. *See* Paragraph 313.00(B) of the Manual.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the Federal Register or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–96–06 and should be submitted by April 29, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–8544 Filed 4–5–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37057; File No. SR–NYSE–96–07]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by New York Stock Exchange, Inc., Relating to Continued Listing Criteria for Capital or Common Stock

April 1, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 18, 1996, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend Paragraph 802.00 of the Exchange's Listed Company Manual (''Manual''). Paragraph 802.00 contains the criteria for continued listing on the Exchange.

The text of the proposed rule change is available at the Exchange and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change amends the Exchange's continued listing criteria. In 1995 the Exchange amended its initial listing standards to include an alternate method by which a company could meet the ''demonstrated earnings'' listing standard.[1] Specifically, that standard was based on a company's ''adjusted net income,'' rather than on a company's ''income before federal income taxes and under competitive conditions.'' That filing also increased the listing standard regarding aggregate market value of publicly-held shares and added a new liquidity standard of 500 total stockholders and average monthly trading volume of 1,000,000 shares. In approving that filing, the Commission noted that the Exchange committed to propose corresponding continued listing criteria.[2]

This filing proposes two changes to the NYSE's continued listing criteria: the adoption of new continued listing criteria to parallel the adjusted net income listing standard; and the amendment of the current continued listing criteria to reflect the 1995 changes to the initial listing standards.

Adjusted Net Income Continued Listing Criteria. The Exchange is proposing continued listing criteria that parallel the new adjusted net income listing standard: a company that listed pursuant to that standard would be subject to possible delisting if (1) Its average adjusted net income for the most recent three years is less than $6,500,000 and (2) the aggregate market value of the company's shares falls below $25,000,000. These new criteria would be available to companies that either listed pursuant to the adjusted net income standards or that are currently valued on a ''cash flow'' basis.

Earnings and Liquidity Continued Listing Criteria. The second change to the Exchange's continued listing criteria conforms those criteria to the new earnings and liquidity listing standards. A company would be subject to possible delisting if the aggregate market value of its common stock is less than $8,000,000 (up from $5,000,000). A company also would be subject to delisting if: (1) The company has less than 400 total stockholders; or (2) if there are less than 1,200 total stockholders and the average monthly trading volume in the common stock is less than 100,000 for the most recent 12 months. This means that if a company meets the trading volume standard of 100,000 shares a month it would be subject to possible delisting if there are less than 400 total stockholders; if a company does not have such trading volume it would be subject to possible

[1] *See* Securities Exchange Act Release No. 35571 (Apr. 5, 1995), 60 FR 18649 (Apr. 12, 1995) (order approving proposed rule change relating to domestic listing standards).

[2] *See* Securities Exchange Act Release No. 35571 n. 19 (Apr. 5, 1995), 60 FR 18649 (Apr. 12, 1995).

delisting if there are less than 1,200 total stockholders.

With respect to a company's earnings and net tangible assets, a company would be subject to possible delisting if its average net income after taxes for three years is less than $600,000 and either the aggregate market value of the company's stock or its net tangible assets is less than $12,000,000 (up from $8,000,000).

A small number of companies that initially listed on the Exchange before the original listing standards were increased to their current levels are above the current continued listing criteria but are below the proposed criteria. Upon Commission approval of this proposed rule change, the Exchange will notify these companies of the new continued listing criteria and will inform such companies that the Exchange expects them to be in compliance with the new criteria within 18 months of their effective date. If such a company does not meet these new standards by such date, the Exchange will consider it to be below the continued listing criteria at that time.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to prevent fraudulent and manipulative acts and practices and to perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the Federal Register or within such other period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–96–07 and should be submitted by April 29, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–8545 Filed 4–5–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37048; File No. SR–Phlx–96–08]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Customized Index and Equity Options

March 29, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 22, 1996, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On March 21, 1996, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to adopt Rule 1069A, Customized Options, to govern the trading of customized or flexible index and equity options on the Exchange. Specifically, the Exchange proposes to trade customized options on the following two broad-based (market) index options currently traded on the Phlx: Value Line Composite Index (''VLE'') and National Over-the-Counter Index (''XOC''). The Phlx also proposes to trade customized industry (narrow-based) index options pursuant to the proposed rule, specifically, the following four industry index options currently traded on the Phlx: Bank Index (''BKX''), Gold/Silver Index (''XAU''), Semiconductor Index (''SOX'') and Utility Index (''UTY''). In addition, the Phlx is proposing to trade customized equity options on securities which are options-eligible pursuant to Phlx Rule 1009, and have been designated as such by the Options Committee.[4]

Proposed Rule 1069A contains the characteristics, trading procedure and other provisions applicable to trading customized options. All customized options would trade in the trading crowd of the corresponding non-customized option. Customized options would not be continuously quoted, nor are series pre-established. The Exchange notes that the Automated Options Market (''AUTOM'') system will not be available for customized options.

In order to initiate a transaction, a Requesting Member submits a Request-for-Quote (''RFQ'') to the appropriate trading crowd, announcing the terms of the quote sought. The characteristics, including which terms and to what degree customization will be available,

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[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] In Amendment No. 1, the Exchange proposes to amend its filing so that (1) customized equity options may be traded on any options-eligible issue, whether or not it is listed for traditional options trading on the Phlx, and (2) the position limit for customized narrow-based (industry) index options are 24,000, 36,000, and 48,000 contracts, as compared to existing position limit tiers for traditional narrow-based index options. *See* Letter from Gerald D. O'Connell, First Vice President, Market Regulation and Trading Operations, Phlx, to Michael Walinskas, Branch Chief, Office of Market Supervision (''OMS''), Division of Market Regulation (''Market Regulation''), Commission, dated March 21, 1996.

[4] *Id.*

are outlined in Rule 1069A(a).[5] For example, the exercise strike price can be specified at the time the quote is requested in terms of a specific index value number (*e.g.*, 553.5), a method for fixing such number (*e.g.*, 10 basis points over the index value at a certain time, or with the future trading at a certain price), or a percentage of index value calculated as of the open or close of trading on the Exchange on the trade date (*e.g.*, 5% above the close). Similarly, respecting customized equity options, the exercise strike price can be specified in terms of a specific dollar amount rounded to the nearest one-eighth of a dollar, or a percentage of the underlying security rounded to the nearest tick.

The exercise style can be either American or European, regardless of the exercise style of the non-customized option. The expiration date can also be customized, specifying any business day—any month, day and year within five years for customized index options and three years for customized equity options. However, customized options may not expire on any day that falls on, or within two business days of (prior or subsequent to) a mid-month expiration day for a non-customized option on the same underlying index or security (other than a quarterly expiring index option).

With respect to the minimum size of customized *market index* option quotes, if there is no open interest in the particular series when an RFQ is submitted, the minimum value size of an RFQ is $10 million underlying equivalent value; if there is open interest, the minimum value size of an RFQ is $1 million underlying equivalent value, or the remaining underlying equivalent value on a closing transaction, whichever is less. The underlying equivalent value is defined as the aggregate underlying value of a customized index option (index multiplier times the current index value) multiplied by the number of customized index options. The minimum value size for a responsive quote in customized market index options is $1 million underlying equivalent value, or the remaining underlying equivalent value on a closing transaction, whichever is less.

With respect to the minimum size of customized *industry index* option quotes, if there is no open interest in the particular series when an RFQ is submitted, the minimum value size of an RFQ is $5 million underlying equivalent value; this amount is one-half of the minimum size proposed by the Phlx and currently in place on other options exchanges for flexible broad-based index options. Where there is open interest, the minimum value size of an RFQ is $1 million underlying equivalent value, or the remaining underlying equivalent value on a closing transaction, whichever is less. The minimum value size for a responsive quote is $1 million underlying equivalent value, or the remaining underlying equivalent value on a closing transaction, whichever is less.

With respect to the minimum size of customized *equity* option quotes, if there is no open interest in the particular series when an RFQ is submitted, the minimum value size of an RFQ is 250 contracts; if there is open interest, the minimum value size of an RFQ is 100 contracts, or the remaining size on a closing transaction, whichever is less. The minimum value size for a responsive quote in customized equity options is 100 contracts, or the remaining size on a closing transaction, whichever is less.

However, assigned Registered Options Traders (''ROTs'') are required to respond to each RFQ with a certain minimum size. Respecting broad-based index options, assigned ROTs are required to respond with at least $10 million underlying equivalent value or the dollar amount requested in the RFQ, whichever is less. Respecting narrow-based index options, assigned ROTs are required to respond with at least $5 million underlying equivalent value or the dollar amount requested in the RFQ, whichever is less. Respecting customized equity options, assigned ROTs are required to respond with a market of at least 250 contracts or the dollar amount requested in the RFQ, whichever is less.

The settlement value for customized index options may be specified as the value reported at the: (i) close of trading (P.M.-settled), (ii) opening (A.M.-settled) of trading on the Exchange, or (iii) as an average over a specified period of time, within parameters established by the Exchange. For example, the third category includes the average of the index's opening and closing settlement values on the expiration date, the average of the index's high and low values on the expiration date, or the average of the index's opening, closing, high and low values on the expiration date. However, American style index options exercised prior to the expiration date can only settle based on the closing value on the exercise date. Customized index options may be designated for settlement in U.S. dollars, British pounds, Canadian dollars, Deutsche marks, European Currency Units, French francs, Japanese yen or Swiss francs. With respect to the settlement process applicable to customized equity options, exercise settlement shall be by physical delivery of the underlying security pursuant to Rule 1044.

With respect to the quote format, a bid and/or offer in the form of a specific dollar amount reflected as a fractional price (*e.g.*, ⅛, ¼), or a percentage of the underlying security or underlying equivalent value, rounded to the nearest minimum tick shall be acceptable. The option type may be a put, call or hedge order.[6]

The quoting and trading procedure, beginning with the RFQ, is enumerated in Rule 1069A(b). Submitting an RFQ in the appropriate trading crowd is the first step in quoting customized options. The Requesting Member must announce and submit an RFQ ticket containing the following: (1) underlying index or security, (2) type, (3) exercise style, (4) expiration date, (5) exercise price, (6) settlement value (AM or PM) and currency for index options, (7) response time, (8) account type, (9) size, and (10) intent to cross. On receipt of an RFQ in proper form, the Requesting Member shall cause the terms of the RFQ to be immediately displayed for dissemination as an administrative text message through the Options Price Reporting Authority (''OPRA'').[7]

Following the RFQ announcement, a preset response time will begin, during which members may provide responsive quotes. As stated in Rule 1069A(b)(2), the response time, between two and 15 minutes, will be determined by the Options Committee, depending on the complexity of the RFQ. During the response time, qualified members may provide responsive quotes to the RFQ, which may be entered, modified or withdrawn during such response time.

At the end of the response time, the Requesting Member shall determine the best bid and offer (''BBO''), in accordance with Rule 1014, displaying and disseminating such market with reference to the corresponding RFQ. However, where two or more bids/offers are at parity, priority will be afforded to bids/offers submitted by assigned ROTs.

Following the determination of the BBO, a BBO Improvement Interval may be invoked if the Requesting Member rejects the BBO or the BBO is for less than the entire size requested. The BBO

[5] The Exchange notes that Rule 1069A generally parallels the provisions of Rule 1069 governing foreign currency options.

[6] *See* Rules 1000(b)(7) and 1066(f).

[7] Operationally, the Requesting Member provides this information to a key puncher, who enters it into Exchange systems.

Improvement Interval is a two minute time period during which the BBO may be matched or improved. As a result of the Improvement Interval, a new BBO is established. The parity/priority principles applicable during this time period, including the ability of assigned ROTs to join the new BBO, are discussed below.

A trade in customized options cannot be executed until the end of the response time or BBO Improvement Interval. Once the response time or BBO Improvement Interval ends, the Requesting Member is given the first opportunity to trade on the market, and must promptly accept or reject the BBO, unless an intention to cross was stated in the RFQ. The Requesting Member has no obligation to accept any bid or offer for a customized option. If the Requesting Member rejects the BBO or the BBO size exceeds the entire size requested, another member may accept such BBO or the unfilled balance of the BBO. Acceptable of a bid/offer creates a building contract under Exchange rules. Failure to promptly accept the BBO results in the expiration of the BBO and the RFQ.

The Exchange notes that no ROT or Specialist may trade customized options from the trading floor for a market maker account without being an assigned ROT. Assigned ROTs would be subject to certain obligations respecting the trading of customized options. For example, the affirmative and negative market making obligations of Rule 1014(c) apply. Further, assigned ROTs are required by proposed Rule 1069A(b)(ii) to respond with a market of the minimum size.[8] The Exchange also notes that at least two ROTs will be assigned to each customized option. Because of these obligations, assigned ROTs who responded with a quote during the response time may join a new bid/offer voiced during the Improvement Interval, provided they do so immediately. Enabling assigned ROTS to join such new bid/offer affords them parity at that new BBO. Assigned ROTs must apply pursuant to the appropriate Exchange form.

Generally, on the Exchange options floor, a cross may take place in accordance with Rule 1064. With respect to customized options, an intention to cross must be stated as part of the RFQ. After the BBO has been determined, the Requesting Member intending to cross must bid (or offer) at or better than the BBO. If such bid is *at* the BBO, joining it placed the Requesting Member behind the existing BBO pursuant to the time priority principles of Rule 1014(g), because the BBO was established first. That BBO must first be satisfied before the Requesting Member can execute a cross at that price.

If the Requesting Member's bid/off is *better* than the BBO, the Requesting Member must first allow the trading crowd a reasonable opportunity to respond to his improved market. Then, the Requesting Member must offer (or bid) the other side of the cross by at least the minimum variation. An assigned ROT who responded with a market during the response time may immediately join the Requesting Member's bid/offer, thus matching and achieving parity at that new price. Then, the Requesting Member can not execute the entire cross without affording the appropriate split to any assigned ROT at parity.

II. Self-Regulatory Organization's Statements Regarding the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A., B., and C. below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

The purpose of the proposal is to trade options with flexible characteristics in an exchange auction environment. The Phlx is specifically proposing to trade customized index and equity options, where several different contract specifications will be available for customization, including the exercise price, exercise style, expiration date and method for determining the exercise settlement value.

The Exchange believes that customized options will provide important trading opportunities, which may currently be unavailable due to pre-set expiration dates, exercise prices and exercise styles. For example, although the XOC is American style, a flexible XOC contract could be crafted pursuant to Rule 1069A as a European style option. Thus, customization offers new trading potential respecting existing securities.

Currently, there exists an active over-the-counter (''OTC'') market in options, where basic option features can be customized. These customized options are often traded by institutional investors with specific trading needs. In response, the Exchange seeks to trade customized options in an exchange auction market environment, with the Options Clearing Corporation (''OCC'') as issuer and guarantor. Thus, customized options are structured with a minimum size reflecting the larger-sized trades of these institutional users.

Proposed Rule 1069A is based upon rule 1069, Customized Foreign Currency Options, a product that the Exchange traded since November 1994.[9] Generally, customized options shall be traded in accordance with many of the existing equity option and index option rules. Rule 1069A, however, contains new trading procedures unique to customized options. In addition, the proposal, to a large extent, is similar to proposals by other exchanges to trade flexible options.[10]

For example, to ensure orderly trading, customized options will begin trading at 10:00 AM, one half hour after the normal opening of trading index options on the Exchange, in order to limit the burden on the trading crowd. Customized industry index and equity options would trade until 4:10 PM, to correspond to the non-customized option, similar to customized market index options, which would trade until 4:15 PM. The Exchange notes that no trading rotations will occur in customized options.

In order to minimize the market impact of this product, the expiration date may not fall on, or within two business days before or after the normal mid-month Friday expiration for options. In addition, customized options will be subject to a separate position limit of, on the same side of the market: 200,000 broad-based index option contracts, four times the current position limits for narrow-based index option contracts,[11] and, respecting customized equity options, three times the current limit applicable to the listed equity option. The Exchange believes that their proposed market index and equity option position limits are similar to existing or proposed provisions of other exchanges. The text of the proposed rule specifies the following

[8] However, assigned ROTs are not required to provide continuous quotes or markets at a certain minimum spread (quote spread parameters).

[9] Securities Exchange Act Release No. 34925 (November 1, 1994) (SR–Phlx–94–18).

[10] *See, e.g.*, CBOE Rules, Chapter XXIVA; and Amex Rules, Section 15, Rules 900G, et. seq.

[11] *See* Amendment No. 1, *supra* note 3.

position limit tiers for both customized equity and industry index options as follows: (1) 24,000, 36,000 or 48,000 customized industry index option contracts; and (2) 75,000, 60,000, 31,500, 22,500 or 13,500 customized equity option contracts.

Generally, customized option positions are not taken into account when calculating position limits for non-customized options on the same index.[12] A separate exercise limit would also apply, equivalent to the applicable position limit. The minimum exercise size would be the lesser of $1 million or the remaining size of the position respecting index options, and the lesser of 100 contracts or the remaining size of the position respecting equity options.

In order to enhance customer protection, the proposal requires assigned ROTs to submit a Letter of Guarantee [13] issued by a clearing member organization, specifically accepting financial responsibility for all customized option transactions made by such person. Moreover, a minimum of $100,000 in net liquid assets is required to be maintained by assigned ROTs. Floor Brokers must maintain a minimum of $50,000 in net capital to qualify to trade customized options. Both assigned ROTs and Floor Brokers must immediately notify the Exchange's Examinations Department upon failure to be in compliance with these requirements.

Although customized options will not be continuously quoted, once an RFQ is received, its terms, as well as the responding quotes, will be disseminated by Exchange systems. The terms of any resulting trade will also be disseminated. Specifically, the Requesting Member will ensure immediate dissemination to OPRA, which will, in turn, disseminate the information to subscribing vendors in the form of an administrative text message. The Exchange believes that transparency in customized options will be preserved by prompt and complete quotation and transaction reporting. The Exchange expects to utilize a separate computer system to handle customized index and equity options, similar to the system utilized for customized foreign currency options.

Unlike the provisions of other exchanges,[14] discretionary transactions will not be permitted in customized index and equity options. Thus, the existing provisions of Rule 1065 will apply to prohibit such transactions. The Exchange also notes that there will be no specialist in customized options. The assigned specialist in the non-customized option must apply to be an assigned ROT in order to participate. The current responsibilities of a Specialist to determine a market based on the bids and offers voiced as well as to disseminate bids/offers and trades will be handled by the Requesting Member. The Exchange believes that this procedure is similar to market maker systems on other exchanges. Nevertheless, customized options will trade in the crowd of the non-customized option in order to facilitate participation by assigned ROTs who will most likely be trading in the non-customized option.

Under the proposal, the RFQ must state the size and account type, in addition to the other components, which are similar to those of other exchanges.[15] The RFQ is intended to detail the information necessary for ROTs to make a market, enhancing the accuracy of such market in view of the fact that customized option series are not pre-established and thus do not appear on trading sheets. The Exchange believes that stating the size and account type in the RFQ is important to the market making function.

Further, the proposed crossing procedure differs from that of other exchanges. The Exchange notes that stating an intention to cross in the RFQ is similar to the procedures of other exchanges.[16] Prohibiting a cross *on* the BBO is consistent with the parity/priority principles of Rule 1014(g), because the Requesting Member's later-voiced bid does not have time priority over the established BBO. With respect to an intent to cross at a price *better* than the existing BBO, the proposal would afford assigned ROTs an opportunity to immediately join the Requesting Member's market. Thus, no guaranteed minimum right of participation exists for a Requesting member intending to cross.[17] Instead, the Exchange believes it is critical to its ability to attract market maker interest, and thus liquidity, to customized options trading to afford assigned ROTs the ability to achieve parity.

In view of the obligations of assigned ROTs to make a market of a certain minimum size as well as that each customized option traded must have at least two assigned ROTs, the Exchange believes this ability to match is critical to the success of the product. The Exchange notes that the priority that an assigned ROT has over non-assigned market participants in voicing bids/offers and determining the BBO is similar to that of other exchanges.[18] This priority is limited to voicing bids/offers to establish a BBO; for purposes of joining bids/offers during the Improvement Interval or crossing procedure, parity, not priority, is afforded to assigned ROTs. Priority for assigned ROTs is also based on the need to offset the obligations of assigned ROTs. The Exchange has also proposed to limit the ability of traditional option ROTs and Specialists to trade customized options, by requiring assignment in order to participate.

The Exchange believes that assignment of ROTs with respect to customized options serves to ensure that these ROTs are qualified in terms of financial requirements, to encourage and monitor that each customized option has two assigned ROTs, and to offset the more substantial market making obligations associated with customized options. The absence of the customized option market making obligation implies that the benefits of market maker status, including favorable margin treatment, should not be extended to non-assigned ROTs. The Exchange believes that non-assigned market makers should not be permitted to participate as ROTs, because the viability of customized options is in the market making response, which the Exchange believes would be enhanced by affording exclusivity to assigned ROTs. The Exchange believes that these enhancements and this exclusivity are both reasonable and necessary to the liquidity of customized options. The Exchange notes that non-assigned ROTs may nevertheless trade customized options as customers through a qualified Floor Broker.

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act in general, and in particular, with Section 6(b)(5), in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, as well as to protect investors and the public interest, in creating a customized options trading procedure in proposed Rule 1069A to enable the trading of flexible index and equity options. The Exchange believes that the proposed trading procedure should

[12] However, positions in P.M.-settled customized index options shall be aggregated with positions in quarterly expiring options (''QIXs'') on the same index, *if* the customized option expires at the close of trading on or within two business days of the last trading day in a quarter. The Exchange is authorized to trade QIXs pursuant to Rule 1101A(b)(iv), although none currently trade.

[13] *See* Phlx Rule 703.

[14] *See e.g.*, CBOE Rule 24A.6.

[15] *See, e.g.*, CBOE Rule 24A.4(d)(ii).

[16] *See, supra* note 10.

[17] Pursuant to CBOE Rule 24A.5(e)(iii), Submitting Members representing index FLEX crosses are entitled to a one-half split on the BBO and a two-thirds split if improving the BBO.

[18] *See e.g.*, CBOE Rule 24A.5(d) (i) and (ii).

ensure that just and equitable principles of trade govern customized options trading. The Exchange also believes that the financial requirements and assigned ROT obligations should promote liquidity, and thus, the protection of investors trading customized options.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Phlx consents, the Commission will:

(A) by order approve such proposed rule change, or,

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–96–08 and should be submitted by April 29, 1996.

For the Commisson by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–8551 Filed 4–5–96; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

This statement amends part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Chapter S4 Covers the Deputy Commissioner for Systems. Notice is given that subchapter S4K, the Office of Information Management (OIM) and Subchapter S4E, the Office of Systems Operations (OSO) are being amended to reflect minor division level functional realignments. This notice also reflects minor organizational changes within the Office of Finance (OF) (S1NC) which is in the Office of the Deputy Commissioner for Finance, Assessment and Management (DCFAM) (S1). The changes are as follows:

Section S4K.20 *The Office of Information Management*—(Functions):

D. Division of Information Resource Management (S4KB).

Amend to read as follows:

1. Plans, implements, integrates and supports Office Automation (OA) software functions at SSA and is responsible for development and dissemination of OA software acquisition and utilization policies, standards, guidelines and procedures.

2. Delivers problem resolution and technical advisory support agency-wide to all SSA users of Commercial-Off-the-shelf (COTS) Office Automation software and SSA developed OA applications. Acquires COTS Office Automation software for all SSA users.

3. Monitors Office Automation Technology trends and maintains current information on OA software and hardware tools and techniques.

4. Supports the SSA user community with Office Automation applications engineering services in requirements analysis, system design, development, implementation and training.

5. Provides the justification, preparation, acquisition and management of contracts for OA/end-user computing/MI hardware, software and support services.

6. Supports the SSA user community in Office Automation software procurement and small purchases.

7. Operates, enhances and provides technical support for the OIM local area network (LAN).

8. Provides systems configuration control and human/fiscal/physical resource management support for OIM development, maintenance and staff functions and responsibilities.

F. Division of Information Systems Policy and Administration (S4KC). Amend to read as follows:

1. Plans, designs, develops, and implements all Administrative and Management Information Data Bases.

2. Provides for the establishment, issuance and enforcement of Data Administration and Data Base Administration strategies and standards for Administrative/Management Information Systems Architecture (ISA).

3. Establishes, enforces and implements procedures to ensure security procedures are followed and authorized access is granted to Administrative and Management Information data base/files.

4. Serves as the focal point for strategic and tactical level planning, management and maintenance of Computer-aided Software Engineering (CASE) and related software development tools used in the development of Admin/MI systems. This includes budget formulation and management of related Information Technology Systems (ITS) Special Expense Items (SEI's), and technical planning and management of related ITS acquisitions. Maintenance of OIM's inventory of such CASE and software development tools is included. Prepares, maintains and enforces appropriate standards, procedures and guidelines for the use of CASE and other software development tools in the Admin/MI area.

5. Plans, analyzes, designs, develops, builds and maintains logical and physical data models with Admin/MI applications support software to facilitate the integration of data across applications.

6. Plans, develops, maintains and coordinates the strategic plans for SSA's ADMIN/MI Information Systems Architecture and the transition of new data base and data access technologies into the architecture.

7. Plans, analyzes, designs, develops and maintains the central repository containing information about all of SSA's Admin/MI applications. Responsibilities include developing and implementing repository policies, standards, guidelines, automated access, information dissemination and update.

[19] 17 CFR 200.30-3(a)(12).

8. Supports all OIM development divisions as the focal point for technical problem resolution as necessary.

G. Division of Administrative Systems Development (S4KE).

Amend to read as follows:

2. Designs, develops, coordinates and implements new administrative application systems and enhancements to existing systems which include quality assurance, financial/physical, human resources and payroll systems.

H. Division of Management Information Systems Development (S4KG).

Amend to read as follows:

1. Responsible for the entire MI systems life cycle.

2. Directs SSA-wide work measurement and performance management systems, as well as component work measurement systems for the field, State agencies and Regional Program and Integrity Review offices.

3. Directs audit and analyses of MI systems and reports to ensure adherence to users' and Agency needs, Federal and SSA guidelines and integrity standards.

4. Plans, develops and coordinates MI policy and integration among all involved SSA components, and plans for the transition to, and integration with, current SSA automated information systems and with those of the future.

5. Designs, develops, coordinates and implements new MI application systems and enhancements to existing systems which include workload management, work measurement, program demographics, earnings and employee/employer statistics.

Section S4E.20 *The Office of Systems Operations*—(Functions):

D. The Division of Systems User Services and Facilities (S4EE).

Delete:

3. The first sentence.

J. The Division of Integration and Environmental Testing (S4EM).

Add:

11. Serves as focal point for all user systems problems, questions, complaints and corrective actions regarding the full range of production services.

Section S1NC.10 *The Office of Finance*—(Organization):

Rename:

1. The Division of Central Accounting Operations (S1NC1) as The Division of Central Accounting and Reporting (S1NC1).

2. The Division of Administrative Payments and Recovery (S1NC2) as The Division of Administrative Payments (S1NC2).

Section S1NC.20 *The Office of Finance*—(Function):

Rename:

1. The Division of Central Accounting Operations (S1NC1) as The Division of Central Accounting and Reporting (S1NC1).

Add:

Serves as the Agency's focal point for administrative debt management ensuring the billing and collection of fees charged by SSA for reimbursable services.

Rename:

2. The Division of Administrative Payments and Recovery (S1NC2) as The Division of Administrative Payments (S1NC2).

Delete:

2nd sentence ''adjudicates claims submitted to the Agency under the Federal Tort Claims and Military Personnel and Civilian Employees' Claims Act; and serves as the Agency's focal point for administrative debt management ensuring the billing and collection of fees charged by SSA for reimbursable services.''

Dated: March 19, 1996.

Ruth A. Pierce,

Deputy Commissioner for Human Resources.

[FR Doc. 96–8579 Filed 4–5–96; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

Bureau of Consular Affairs, Overseas Citizen Services

[Public Notice 2362]

Security Advisory Regarding Athens Airport

AGENCY: Bureau of Consular Affairs, Department of State.

SUMMARY: The Department of State issued a Consular Information Sheet concerning the recent determination by the Secertary of the U.S. Department of Transportation that the international airport in Athens, Greece, does not administer nor maintain effective security measures.

FOR FURTHER INFORMATION CONTACT: Janet Whiteside, American Citizens Services and Crisis Management, Department of State, 2201 C Street, NW, Room 4811, Washington, D.C. 20520, 202–647–5226.

SUPPLEMENTARY INFORMATION: Pursuant to 49 U.S.C. 44908(a), on March 22, 1995, the Department of State issued the following information in a Consular Information Sheet:

On March 21, 1996, the United States Secretary of Transportation announced that Hellenikon International Airport in Athens needs to implement and carry out more effective security measures in order to be fully consistent with the standards established by the International Civil Aviation Organization (ICAO). The determination applies to Athens airport and not to the air carriers which fly from Athens to the United States. Delta, TWA and Olympic are providing additional security measures that counter the deficiencies identified. Further questions may be directed to the Federal Aviation Administration Consumer Hotline at 1–800–322–7873.

Dated: March 26, 1996.

Georgia Rogers,

Managing Director, Overseas Citizens Services.

[FR Doc. 96–8534 Filed 4–5–96; 8:45 am]

BILLING CODE 4710–06–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Trade and Environment Policy Advisory Committee

AGENCY: Office of the United States Trade Representative.

ACTION: Notice that the April 11, 1996, meeting of the Trade and Environment Policy Advisory Committee will be held from 10:00 a.m. to 3:00 p.m. The meeting will be closed to the public from 10:00 am. to 2:30 p.m. The meeting will be open to the public from 2:30 p.m. to 3:00 p.m.

SUMMARY: The Trade and Environment Policy Advisory Committee will hold a meeting on April 11, 1996, from 10:00 a.m. to 3:00 p.m. The meeting will be closed to the public from 10:00 a.m. to 2:30 p.m. The meeting will include a review and discussion of current issues affecting U.S. trade policy. Pursuant to Section 2155(f)(2) of Title 19 of the United States Code, I have determined that this portion of the meeting will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to the operation of any trade agreement and other matters arising in connection with the development, implementation and administration of the trade policy of the United States. The meeting will be open to the public and press from 2:30 p.m. to 3:00 p.m. The public is invited to comment during this period. Members of the public who wish to make comments must contact the Office of the U.S. Trade Representative prior to April 9, 1996. Written comments will also be

accepted. The agenda for the meeting is available upon request.

DATES: The meeting is scheduled for April 11, 1996, unless otherwise notified.

ADDRESSES: The meeting will be held at the Sheraton Carlton Hotel at 16th and K streets NW., Washington, DC, unless otherwise notified.

FOR FURTHER INFORMATION CONTACT: Suzanna Kang, Office of Intergovernmental Affairs and Public Liaison, Office of the United States Trade Representative, (202) 395–6120.

Michael Kantor,

United States Trade Representative.

[FR Doc. 96–8582 Filed 4–5–96; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 96–014]

Commercial Fishing Industry Vessel Advisory Committee (CFIVAC)

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The Coast Guard is seeking applications for appointment to membership on CFIVAC.

DATES: Completed applications and supporting documentation should be submitted to the U.S. Coast Guard before August 1, 1996.

ADDRESSES: Persons interested in applying for membership on CFIVAC may obtain an application form by writing to Commandant (G–MOS–2), U.S. Coast Guard, Room 1210, 2100 Second Street SW., Washington, DC 20593–0001, or by calling the points of contact listed in the following paragraph.

FOR FURTHER INFORMATION CONTACT: Commandant Adan D. Guerrero, Executive Director, or Lieutenant Commander Mark D. Bobal, Assistant to the Executive Director, CFIVAC at (202) 267–1181, or by fax at (202) 267–4570.

SUPPLEMENTARY INFORMATION: As required by the Commercial Fishing Industry Vessel Safety Act of 1988, the Coast Guard established the CFIVAC to provide advice to the Coast Guard on issues related to the safety of commercial fishing vessels regulated under chapter 45 of Title 46, United States Code, which includes uninspected fishing vessels, fish processing vessels or fish tender vessels. The CFIVAC consists of 17 members as follows: Ten members from the commercial fishing industry who reflect a regional and representational balance and have experience in the operation of vessels to which chapter 45 of Title 46, United States Code applies, or as a crew member or processing line worker on an uninspected fish processing vessel; one member representing naval architects or marine surveyors; one member representing manufacturers of equipment for vessels to which chapter 45 applies; one member representing education or training professionals related to fishing vessel, fish processing vessel, or fish tender vessel safety, or personnel qualifications; one member representing underwriters that insure vessels to which chapter 45 applies; and three members representing the general public, including whenever possible, an independent expert or consultant in maritime safety and a member of a national organization composed of persons representing owners of vessels to which chapter 45 applies and persons representing the marine insurance industry.

The CFIVAC meets at least once a year at different seaport cities nationwide. Special meetings may also be called. Subcommittee meetings are held to consider specific problems as required.

Applications will be considered for five positions that expire or become vacant in October 1996 in the following categories: (a) Commercial Fishing Industry (three positions); (b) Naval Architect or Surveyor (one position); and (c) General Public (one position). Persons selected as general public members are required to complete a Confidential Financial Disclosure Report, SF450, on an annual basis. The purpose of the report is to determine compliance with conflict of interest laws. This report will not be disclosed to any person unless release is authorized by law, such as in response to a subpoena in an administrative or court proceeding. Each member serves for a term of 3 years. A limited portion of the membership may serve consecutive terms. Members of the CFIVAC serve without compensation from the Federal Government, although travel reimbursements and per diem are provided.

In support of the U.S. Department of Transportation's policy on ethnic and gender diversity, the Coast Guard is especially seeking applications from qualified women and minority group members.

Dated: April 2, 1996.

Joseph J. Angelo,

Director for Standards, Marine Safety and Environmental Protection Directorate.

[FR Doc. 96–8671 Filed 4–5–96; 8:45 am]

BILLING CODE 4910–14–M

[CGD 96–013]

National Offshore Safety Advisory Committee (NOSAC)

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The Coast Guard is seeking applications for appointment to membership on NOSAC.

DATES: Completed applications and supporting documentation should be submitted to the U.S. Coast Guard before November 30, 1996.

ADDRESSES: Persons interested in applying for membership on NOSAC may obtain an application form by writing to Commandant (G–MOS–2), U.S. Coast Guard, Room 1210, 2100 Second Street SW., Washington, DC 20593–0001, or by calling the points of contact listed in the following paragraph.

FOR FURTHER INFORMATION CONTACT: Captain Robert L. Skewes, Executive Director, or Mr. James M. Magill, Assistant to the Executive Director, NOSAC, at (202) 267–1181, or by fax at (202) 267–4570.

SUPPLEMENTARY INFORMATION: NOSAC provides advice and makes recommendations to the Chief, Marine Safety and Environmental Protection Directorate, on safety and rulemaking matters related to the offshore mineral and energy industries. NOSAC consists of 14 regular members who have particular expertise, knowledge, and expertise regarding the transportation and other technology, equipment, and techniques that are used, or are being developed for use, in the exploration or recovery of offshore mineral resources. The advice and recommendations of NOSAC also assist the U.S. Coast Guard in formulating U.S. positions at meetings of the International Maritime Organization.

NOSAC meets at least once a year at U.S. Coast Guard Headquarters in Washington, DC. Special meetings may also be called. Subcommittee meetings are held as required to consider specific problems.

Applications will be considered for four positions that expire or become vacant in January 1997. To be eligible, applicants should have experience in offshore operations, diving services, pipelaying, and general public interest

associated with offshore activities. Persons selected as ''general public'' members are required to complete a Confidential Financial Disclosure Report, SF450, annually. The purpose of this report is to determine compliance with conflict of interest laws. This report will not be disclosed to any person unless release is authorized by law, such as in response to a subpoena in an administrative or court proceeding. Each member serves a term of 3 years. A limited portion of the membership may serve consecutive terms. Members of NOSAC serve at their own expense, and receive no salary, reimbursement of travel expenses, or other compensation from the Federal Government.

In support of the U.S. Department of Transportation's policy on ethnic and gender diversity, the Coast Guard is especially seeking applications from qualified women and minority group members.

Dated: April 1, 1996.

Joseph J. Angelo,

Director for Standards, Marine Safety and Environmental Protection Directorate.

[FR Doc. 96–8673 Filed 4–5–96; 8:45 am]

BILLING CODE 4910–14–M

[CGD 96–017]

Chemical Transportation Advisory Committee (CTAC), Subcommittee on Prevention Through People (PTP); Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The newly established PTP Subcommittee will meet to discuss various issues to assist the marine chemical transportation community to develop actions which minimize accidents and injuries through application of PTP principles. The meeting is open tot he public.

DATES: The PTP meeting will be held on Wednesday, May 1, 1996, from 9:30 a.m. to 3 p.m.

ADDRESSES: The PTP meeting will be held in Room 6103, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Mr. Calvin A. Bancroft, Ocean Shipholdings, Inc., 16211 Park Ten Place, Houston, TX 77084; telephone (713) 579–3900, fax (713) 579–3329 or Lieutenant Rick J. Raksnis, Commandant (G–MOS–3), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; telephone (202) 267–0084, fax (202) 267–4570.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C., App. 2, section 1 *et seq.* The agenda for the PTP meeting will include discussion of the following topics:

(1) Review the Declaration of Inspection requirements to identify additional task safety items which provide minimum safe practices for marine workers;

(2) Review the existing Coast Guard accident/incident investigation form (CG 2692) to determine where improvements need to be made in identifying root causes which lead to accidents; and

(3) Establish recommended industry guidelines for pre-evolution and post-evolution conferences. This will be the first meeting of the PTP Subcommittee since it was created in February, 1996. With advance notice, and at the Subcommittee Chairman's discretion, members of the public may make oral presentations during the meeting. Persons wishing to make oral presentations should notify Mr. Bancroft, listed above under ''FOR FURTHER INFORMATION CONTACT,'' no less than five days before the meeting. Written material may be submitted any time for presentation to the subcommittee. However, to ensure advance distribution to each subcommittee member, persons submitting written material are asked to provide 30 copies to Mr. Bancroft no later than April 25, 1996.

Dated: April 1, 1996.

Joseph J. Angelo,

Director for Standards, Marine Safety and Environmental Protection Directorate.

[FR Doc. 96–8672 Filed 4–5–96; 8:45 am]

BILLING CODE 4710–14–M

Federal Aviation Administration

Notice of Intent To Request Renewal From the Office of Management and Budget (OMB) of Current Public Collections of information

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Renew Twelve Currently Approved Public Information Collection Activities.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995, and 5 CFR Part 1320, Reporting and Recordkeeping Requirements, the FAA invites public comment on twelve currently approved public information collections being submitted to OMB for renewal.

DATES: Comments must be received on or before June 7, 1996.

ADDRESSES: Comments on any of these collections may be mailed or delivered in duplicate to the FAA at the following address: Ms. Judith Street, Federal Aviation Administration, Corporate Information Division, ABC–100, 800 Independence Ave., SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Judith Street at the above address or on (202) 267–9895.

SUPPLEMENTARY INFORMATION: The FAA solicits comments on any of the current collections of information in order to: Evaluate the necessity of the collection; the accuracy of the agency's estimate of the burden; the quality, utility, and clarity of the information to be collected; and possible ways to minimize the burden of the collection.

Following are short synopses of the twelve currently approved public information collection activities which will be submitted to OMB for review and approval.

1. 2120–0008, Certification and Operations: Air Carriers and Commercial Operators of Large Aircraft—FAR 121. The respondents are an estimated 80 air carriers and commercial operators certificated under FAR 121. The estimated total annual burden is 3.3 million hours. Abstract: Each operation which seeks to obtain, or is in possession of, an air carrier operating certificate must comply with the requirements of FAR Part 121 in order to maintain data which is used to determine if the air carrier is operating in accordance with minimum safety standards.

2. 2120–0009, Pilot Schools—FAR Part 141. The respondents are an estimated 860 pilot school operators or proposed pilot school operators. The estimated total annual burden is 47,000 hours. Abstract: The information is required from applicants who wish to be issued pilot school certificates and associated ratings.

3. 2120–0027, Application for Certificate of Waiver or Authorization. The respondents are those persons wishing authorization to deviate from certain prescribed regulations. The estimated number of respondents is 1,750. The estimated total annual burden is 14,000 hours. Abstract: This public reporting burden is imposed on persons that have a need to deviate from the provisions of the Federal Aviation Regulations (FAR) that govern use of airspace within the United States. This request also describes the burden associated with authorizations to make parachute jumps.

4. 2120–0507, SFAR—Development of Major Repair Data. To be eligible to be

a respondent, the entity must hold a current domestic repair station certificate under Part 145, an air carrier certificate under Part 121 or 127, or a commercial operator certificate under Part 121, or be an air taxi operator subject to the requirements of Part 135.2. The estimated number of respondents is 10 annually. The estimated total annual burden is 7,000 hours. Abstract: SFAR–36 relieves qualifying applicants (repair stations, air carriers, air taxis and commercial operators) of the burden of obtaining FAA approval of data developed by them for major repairs on a case-by-case basis and provides for one-time approvals.

5. 2120–0098, Airplane Operator Security—FAR 108. The respondents are air carriers. The estimated number of air carriers with security programs is 120. The estimated total annual burden is 7,000 hours. Abstract: FAR Part 108 requires air carriers to check radiation leakage on x-ray equipment used for property security screening at least annually, evaluate and record personal dosimeter readings monthly, and report aircraft piracy as part of the required security program, and maintain security training records.

6. 2120–0500, Aviation Safety Inspector Employment Application; FAA forms 3330–47–1, 3330–47–2, 3330–47–3. The respondents are estimated 5,000 people applying for aviation safety inspector, GS–1825 positions with the FAA .The estimated total annual burden is 7,000 hours. Abstract: This information is needed to evaluate applicants' qualifications for Aviation Safety Inspector (ASI) positions. It is used for computerized rating and ranking of ASI applicants on civil service registers of eligibles maintained by FAA.

7. 2120–0505, Indirect Air Carrier Security, CFR 14, Part 109. The respondents are an estimated 120 indirect air carriers. The estimated total annual burden is 500 hours. Abstract: Part 109 sets forth procedures to be used by indirect air carriers in carrying out their responsibilities involving the protection of persons and property against acts of criminal violence, aircraft piracy, and terrorist activities in the forwarding of package cargo by passenger aircraft.

8. 2120–0536: Security Programs for Foreign Air Carriers. The respondents are an estimated 160 foreign air carriers/governments. The estimated total annual burden is 26,000 hours. Abstract: Each foreign air carrier landing or taking off in the United States is to submit a security program for the Administrator's acceptance to ensure adequate security measures are being implemented by those foreign air carriers.

9. 2120–0545, Race and National Origin Identification. The respondents are an estimated 60,000 individuals taking the FAA air traffic control specialist examination. The estimated total annual burden is 2000 hours. Abstract: The collection of data is necessary for examination of employee selection procedures, enhancement of recruitment programs, and providing equal employment opportunity to all candidates.

10. 2120–0572, Operating Procedures for Airport Traffic Control Towers (ATCT) that are not Operated by or Under Contract with the United States (non Federal) Advisory Circular (AC) 90–93. The respondents are an estimated 30 non-Federal airport traffic control tower vendors, managers, and air traffic controllers. Abstract: The FAA is requesting operators of non-Federal ATCT's to voluntarily comply with the recommendations as stated in this Advisory Circular as well as to voluntarily submit information by using the listed forms, in the same manner as is currently prescribed for FAA air traffic personnel. The estimated total annual burden is 1,000 hours.

11. 2120–0574, Accident Prevention Counselor of the Year Competition. There is an estimated 200 people who will nominate a person to be considered for the Accident Prevention Counselor of the Year Award. The estimated total annual burden is 200 hours. Abstract: This award will be used as an incentive for the Accident Prevention Program's voluntary Accident Prevention Counselors who assist in promoting aviation safety.

12. 2120–0587, Aviator Safety Studies. The respondents are an estimated 6000 certified pilots. The burden is an estimated total of 12,000 hours for all of the studies. Abstract: In order to conduct effective research on the contribution of pilots to aircraft accidents,data are required on the normative distribution of various pilot attributes and their association with accident involvement.

Issued in Washington, DC., on April 1, 1996.

Steve Hopkins,

Manager, Corporate Information Division, ABC–100.

[FR Doc. 96–8638 Filed 4–5–96; 8:45 am]

BILLING CODE 4910–13–M

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review Chattanooga Metropolitan (Lovell Field) Airport Chattanooga, TN

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Chattanooga Metropolitan Airport Authority for Chattanooga Metropolitan (Lovell Field) Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) and 14 CFR Part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Chattanooga Metropolitan (Lovell Field) Airport under Part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before September 23, 1996.

DATES: The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is March 27, 1996. The public comment period ends May 26, 1996.

FOR FURTHER INFORMATION CONTACT: Jerry O. Bowers, Airports District Office, 2851 Directors Cove, Suite #3, Memphis, TN 38131–0301, telephone number 901–544–3495. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Chattanooga Metropolitan (Lovell Field) Airport are in compliance with applicable requirements of Part 150, effective March 27, 1996. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before September 23, 1996. This notice also announces the availability of this program for public review and comment.

Under section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such

operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

Chattanooga Metropolitan Airport Authority submitted to the FAA on October 2, 1995, noise exposure maps, descriptions and other documentation which were produced during Chattanooga Metropolitan Airport Noise Compatibility Study, initiated in Fall 1992. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by Chattanooga Metropolitan Airport Authority. The specific maps under consideration are Chattanooga Metropolitan (Lovell Field) '1995 Base Case LDN Contours' and '1999 Forecast Case LDN Contours' in the submission. The FAA has determined that these maps for Chattanooga Metropolitan (Lovell Field) Airport are in compliance with applicable requirements. This determination is effective on March 27, 1996. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under, section 103 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Chattanooga Metropolitan (Lovell Field) Airport, also effective on March 27, 1996. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before September 23, 1996.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, Community and Environmental Needs Division, APP–600, 800 Independence Avenue, SW., Room 615B, Washington, D.C. 20591

Federal Aviation Administration, Airports District Office, 2815 Directors Cove, Suite #3, Memphis, Tennessee 38131–0301

Mr. Hugh Davis, President, Chattanooga Metropolitan Airport Authority, P.O. Box 22444, Chattanooga, Tennessee 37422.

Questions may be directed to the individual named under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Memphis Airports District Office, March 27, 1996.

LaVerne F. Reid,

Manager.

[FR Doc. 96–8642 Filed 4–5–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Extension of Draft Clean Air Act General Conformity Determination Comment Period for Seattle-Tacoma International Airport Seattle, WA

ACTION: The Federal Aviation Administration, Airports Division, Northwest Mountain Region and the Port of Seattle, Seattle, Washington, announce an extension (to May 2, 1996) of the public and agency comment period associated with the Draft General Conformity Determination prepared as specified in Section 176(c) [42 USC 7506c] of the Clean Air Act Amendments of 1990. The Draft General Conformity Determination, and supporting documentation is contained in the February 1996, Final Environmental Impact Statement, Master Plan Update, Seattle-Tacoma International Airport.

This comment period extension applies only to comments pertaining exclusively to the Draft General Conformity Determination and no other issues. Comments on other issues will not be accepted or addressed.

PUBLIC REVIEW: The public is invited to review and comment on the Draft Conformity Determination. Copies of the FEIS are available for review at the following locations:

Federal Aviation Administration, Airports Regional Office, Room 540, 1601 Lind Avenue, SW, Renton, WA

Port of Seattle, Aviation Planning, 3rd floor—Room 301, Terminal Building, Sea-Tac Airport, and Pier 69 Bid Office, 2711 Alaskan Way, Seattle

Puget Sound Regional Council, Information Center, 1011 Western Avenue, Seattle

Beacon Hill Library, 2519—1st Avenue, South, Seattle

Boulevard Park Library, 12015 Roseberg South, Seattle

Seattle Public Library, 1000—4th Avenue, Seattle

Magnolia Library, 2801—34th Ave W, Seattle
Rainier Beach Library, 9125 Rainier Avenue S., Seattle
Bothell Regional Library, 9654 NE 182nd, Bothell
Burien Library, 14700—6th SW, Burien
Des Moines Library, 21620—11th South, Des Moines
Federal Way Regional Library, 34200—1st South, Federal Way
Foster Library, 4205 South 142nd, Tukwila
Kent Regional Library, 212—2nd Ave N, Kent
Vashon Ober Park, 17210 Vashon Highway, Vashon
Tacoma Public Library, 1102 Tacoma Ave S., Tacoma
University of Washington, Suzallo Library, Government Publications, Seattle
Valley View Library, 17850 Military Road South, SeaTac
West Seattle Library, 2306—42nd Ave SW, Seattle
Bellevue Regional Library, 1111—110th Ave NE, Bellevue

Comments may be directed to: Mr. Dennis Ossenkop, Northwest Mountain Region, Airports Division, Federal Aviation Administration, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments must be received by May 2, 1996.

Issued in Renton, Washington on March 28, 1996.

Lowell H. Johnson,

Manager, Airports Division, Federal Aviation Administration, Northwest Mountain Region, Renton, Washington.

[FR Doc. 96–8641 Filed 4–5–96; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–96–16]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before April 29, 1996.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), petition Docket No. _____, 800 Independence Avenue SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 900 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on April 2, 1996.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28211.
Petitioner: Captain Milton J. Songy.
Sections of the FAR Affected: 14 CFR 121.383(c).
Description of Relief Sought: To permit Captain Songy to act as a pilot in operations conducted under part 121 after reaching his 60th birthday. Captain Songy submitted an outline of a proposed technique to assess an individual pilot's abilities and risks of subtle and sudden incapacitation.

Docket No.: 28492.
Petitioner: Varig S.A.
Sections of the FAR Affected: 14 CFR 145.47(b).
Description of Relief Sought: To permit Varig S.A. to substitute the calibration standards of the Instituto Nacional de Metrologia, Normalização e Qualidade Industrial (INMETRO), Brazil's national standards organization for the calibration standards of the U.S. National Institute of Standards and Technology, formerly the National Bureau of Standards, to test its inspection and test equipment.

Dispositions of Petitions

Docket No.: 26577.
Petitioner: Jet Tech, Inc.
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57 (c) and (d); 61.58(c)(1) and (d); 61.63(c)(2) and (d)(2) and (3); 61.65(c), (e)(2) and (3), and (g); 61.67(d)(2); 61.157(d) (1) and (2) and (e) (1) and (2); 61.191(c); and appendix A to part 61 Description of Relief Sought/Disposition

To extend Exemption No. 5377C, as amended, which permits Jet Tech, Inc., to use FAA-approved simulators to meet certain flight experience requirements of part 61.

GRANT, February 27, 1996, Exemption No. 5377C

[FR Doc. 96–8639 Filed 4–5–96; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–96–15]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before April 29, 1996.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: nprmcmts @mail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rule Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C., 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on April 2, 1996.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28457.

Petitioner: Mr. Clifford L. Hoyle.

Sections of the FAR Affected: 14 CFR 21.19 (a) and (b)(1).

Description of Relief Sought: To allow Mr. Hoyle to apply for supplemental type certificate rather than a new type certificate for a design change that would add an engine to the Grob 103 Twin II glider.

Docket No.: 28468.

Petitioner: Honolulu Community College Aeronautics.

Sections of the FAR Affected: 14 CFR 65.75, 65.77, and 65.80.

Description of Relief Sought: To permit Honolulu Community College Aeronautics, a part 147 school, exemption from the aforementioned sections to implement a new testing system for mechanic certification.

Dispositions of Petitions

Docket No.: 26017.

Petitioner: Era Helicopters.

Sections of the FAR Affected: 14 CFR 43.3(a) and 135.443(b)(3).

Description of Relief Sought/ Disposition: To allow appropriately trained pilots or crewmembers employed by Era Helicopters, a division of Era Aviation, Inc., to install and to remove an approved emergency rescue hoist on its Aerospatials Model No. AS332 Super Puma (AS332 Super Puma) helicopters.

GRANT, February 7, 1996, Exemption No. 6397

Docket No.: 27388.

Petitioner: Rockwell International Corporation.

Sections of the FAR Affected: 14 CFR 21.195(a).

Description of Relief Sought/ Disposition: To extend Exemption No. 5849, as amended, which permits Rockwell International's North American Aircraft Division to obtain an experimental certificate for its two prototype Model DASA FR–06 Ranger 2000 airplane S/N –001 and –002 for the purpose of conducting market surveys, sales demonstrations, or customer crew training.

GRANT, February 28, 1996, Exemption No. 5849B

[FR Doc. 96–8640 Filed 4–5–96; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting on Transport Airplane and Engine 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 transport airplane and engine issues.

DATES: The meeting will be held on April 30 and May 1, 1996 beginning at 8:30 a.m. on April 30. Arrange for oral presentations by April 18, 1996.

ADDRESSES: The meeting will be held at McDonnell Douglas, 1735 Jefferson-Davis Highway, suite 1200, Crystal City, Virginia.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Office of Rulemaking, FAA, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9682.

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 given of a meeting of the Aviation Rulemaking Advisory Committee to be held April 30 and May 1, 1996 at McDonnell Douglas, 1735 Jefferson-Davis Highway, suite 1200, Crystal City, Virginia.

The agenda for the meeting will include:

- Opening remarks.
- Review of action items.
- Reports of working groups.
- Vote on proposed draft Advisory Circular on Cabin Direct View.
- Vote on proposed draft Advisory Circular on Safe-Life Scatter Factors.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by April 18, 1996, 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 for Transport Airplane and Engine Issues or by bringing the copies to him at the meeting. In addition, 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. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, on April 2, 1996.

Chris A. Christie,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 96–8646 Filed 4–5–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Transit Administration

Environmental Impact Statement on Canal Street Spine Streetcar Project

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Federal Transit Administration (FTA) and the Regional Transit Authority (RTA) intend to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) for transportation improvements in the Canal Street Corridor within the City of New Orleans, Louisiana. The Locally Preferred Alternative (the Proposed Action) for transportation improvements consists of the construction of a streetcar rail route in the neutral ground (median) of Canal Street extending from the Riverfront streetcar line to City Park Avenue with a connection along Carrollton and Orleans Avenues to City Park and Delgado Community College.

The FTA and RTA will prepare the draft and final EIS in conformance with 40 CFR Parts 1500–1508, Council on Environmental Quality, Regulations for Implementing the Procedural Requirements of the National Environmental Policy Act of 1969, and 49 CFR Part 622, FTA, Environmental Impact and Related Procedures. In addition, in conformance with Federal Transit Laws, as codified at 49 U.S.C. 5301 *et seq.*, and FTA policy, the Draft EIS will be prepared as a follow-on document to the Canal Street Corridor Project, Major Investment Study (March

1995) and the Canal Street Corridor Project, Locally Preferred Alternative Report (March 1995). In addition, both the Draft and Final EIS will be prepared in conjunction with Preliminary Engineering for the Canal Street Spine Streetcar Project.

DATES: *Comment Due Date*: Written comments on the scope of alternatives and impacts to be considered should be sent to Mr. Jeffrey Roesel, Project Manager, RTA by May 8, 1996. *Scoping Meeting:* A public scoping meeting will be held on Tuesday, April 30, 1996, at the St. John Lutheran Church Fellowship Center. See **ADDRESSES** below.

ADDRESSES: *Written comments* on the project scope should be sent to Mr. Jeffrey Roesel, Project Manager, RTA, 6700 Plaza Drive, New Orleans, Louisiana 70127–2677.

A *Scoping Meeting* will be held beginning at 7:00 p.m. on April 30, 1996, at the following location: St. John Lutheran Church Fellowship Center, 136 North Pierce Street, New Orleans, LA 70119.

FOR FURTHER INFORMATION CONTACT: Mrs. Peggy Crist, Director, Planning and Program Development, FTA, (817) 860–9663.

SUPPLEMENTARY INFORMATION:

I. Scoping

The FTA and RTA invite the public and affected Federal, State, and local agencies to comment on the alternatives that will be evaluated in the EIS and identify any significant issues related to the alternatives. Written materials describing the Proposed Action, the expected environmental impacts, a public involvement program, and the preliminary work schedule are being mailed to affected Federal, State, and local agencies and to interested parties on record. Others may request these scoping materials by calling or writing to Mr. Jeffrey Roesel, Project Manager, RTA, 6700 Plaza Drive, New Orleans, Louisiana 70127–2677; Telephone (504) 248–3899.

A scoping meeting is set for April 30, 1996, at the St. John Lutheran Church Fellowship Center. Verbal and written comments may be submitted at this meeting, and RTA staff will be available for questions. Opportunity for additional public comment will be provided during the study. If you would like to be placed on the mailing list to receive further information on the project and notices of public meetings and hearings, please contact Mr. Roesel at the above address.

II. Description of Study Areas and Project Need

The Canal Street Corridor is delineated by the area bounded by and including the abutting properties from the intersection of City Park Avenue and the I–10 to Canal Boulevard to the Norfolk Southern Railroad right-of-way to the Bayou St. John to St. Ann Street to Decatur Street to Elysian Fields Avenue to the Mississippi River to Poydras Street to the I–10 to the intersection with City Park Avenue. This corridor contains several of the City's oldest and most famous neighborhoods, some of which are listed on the National Register of Historic Places. The neighborhoods in the study area include Mid-City, Treme, the French Quarter, Faubourg Marigny, the Warehouse District, the Central Business District (CBD), and the New Orleans Regional Medical Center.

The RTA, in cooperation with the FTA, is undertaking the Canal Street Spine Streetcar Project as part of an overall plan to upgrade and expand transit ridership and services in the New Orleans Metropolitan Area. The project is needed to improve local commuting access along the Canal Street Corridor and into the New Orleans CBD. Other transportation goals include increasing transit system ridership and operating efficiency, while reducing conflicts between transit vehicles and passenger cars.

III. Alternatives

Transportation improvements proposed for consideration in the Canal Street Corridor EIS include the No Build Alternative and the Proposed Action. The No Build Alternative consists of a continuation of the current five bus lines operating in the Canal Street Corridor. Issues to be evaluated under the No Build Alternative include elimination of underutilized stops and modification of traffic signals to incorporate priority control.

The Proposed Action consists of re-occupation of the traditional street rail corridor in the neutral ground (median) of Canal Street from the foot of Canal Street (connection to the Riverfront Line) to City Park Avenue. It also includes a spur line that would depart from the Canal Spine at Carrollton Avenue, travel along Carrollton to Orleans Avenue, and follow Orleans across City Park Avenue to a terminus in Marconi Boulevard near the entrances to City Park and Delgado Community College at Victory Drive. Service will begin at the Esplanade station on the Riverfront Line and proceed along the existing Riverfront Line to the foot of Canal Street. From the foot of Canal, service will proceed in the Canal Street neutral ground (median) to the terminus at City Park Avenue or the Marconi Boulevard terminus. The entire route, consisting of double-tracked rail, is approximately 5.6 miles (9.0 km) in length.

In addition, the Proposed Action will include the construction of a maintenance facility for daily service, inspection, and storage of the Canal Street Spine and Riverfront streetcar fleet (SIS Barn). Preliminary screening of locations has identified three potential locations for the SIS Barn: (1) and (2) Lafitte Avenue Sites I and II, located within the rail corridor bounded by St. Louis Street, Lafitte Avenue, North Claiborne Avenue, and North Dorgenois Street; and (3) Jefferson Davis/Tulane Site, bounded by Tulane Avenue, South Jefferson Davis Parkway, Julia Street, South Genois Street, and South Clark Street. All existing facilities have also been considered.

IV. Probable Effects/Potential Impacts for Analysis

The FTA and RTA propose to evaluate in the EIS all significant social, economic, and environmental impacts of the alternatives under consideration. The impacts evaluated will include: noise; residential and business displacements; changes in development patterns and land use; community disruption due to traffic, noise, displacements, and parking changes; safety considerations; effects on parks and historic sites (Sections 106 and 4(f)); degradation of the air quality and water quality; encroachment on wetlands and floodplains, ecologically sensitive areas, hazardous waste sites; changes to wildlife habitat; and the overall aesthetic quality of the area. These impacts will be evaluated for both the construction period and for the long-term operation of each alternative. Measures to mitigate identified impacts will be discussed.

V. FTA Procedures

In accordance with Federal transportation planning regulations, the DEIS will be prepared as a follow-on document to the Canal Street Corridor Project, Major Investment Study (March 1995) and the Canal Street Corridor Project, Locally Preferred Alternative Report (March 1995) as approved by the City of New Orleans. In addition, both the Draft and Final EIS will be prepared in conjunction with Preliminary Engineering for the Canal Street Spine Streetcar Project. Upon completion of the DEIS, and in consideration of comments received from the public and

affected agencies, the RTA, as the lead agency, will continue with further preliminary engineering and preparation of a Final EIS.

Issued on: April 3, 1996.

Wilbur E. Hare,

Regional Administrator.

[FR Doc. 96–8649 Filed 4–5–96; 8:45 am]

BILLING CODE 4910–57–P

Draft Environmental Impact Statement: Salt Lake County, Utah

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of public scoping meeting.

SUMMARY: The Federal Transit Administration (FTA) is issuing this notice to advise the public that a scoping meeting will be held on Thursday, May 9, 1996 from 4:00–8:00 p.m. in the Cafeteria at Bryant Intermediate School, 40 South 800 East in Salt Lake City, Utah. This meeting will occur as part of the preparation of a Draft Environmental Impact Statement (DEIS) for proposed transportation improvements in the corridor from the University of Utah, through downtown Salt Lake City, to the Salt Lake City International Airport in Salt Lake County, Utah.

FOR FURTHER INFORMATION CONTACT: Don Cover, U.S. Department of Transportation, Federal Transit Administration, 216 Sixteenth St., Suite 650, Denver, Colorado 80202, Telephone (303) 844–3242; or Mick Crandall, Wasatch Front Regional Council, Suite 200, 420 West 1500 South, Bountiful, Utah 84010, Telephone (801) 292–4469.

SUPPLEMENTARY INFORMATION: FTA, in cooperation with the Federal Highway Administration (FHWA), the Federal Aviation Administration (FAA), the Utah Department of Transportation (UDOT), the Utah Transit Authority (UTA), and the Wasatch Front Regional Council (WFRC) will prepare a major investment study/draft environmental impact statement for transportation improvements in the corridor from the University of Utah through Salt Lake City to the Salt Lake City International Airport in Salt Lake County, Utah.

The study will consider no-build, transportation system management, and build alternatives. A multimodal evaluation of transportation improvements in the corridor will be the focus of the study, with both transit and highway improvements such as traffic management strategies being considered. Among the transit alternatives to be studied are light-rail transit and express bus service on high-occupancy vehicle lanes.

This Notice of Public Scoping Meeting will be distributed to federal, state, and local agencies and jurisdictions to advise them of the MIS/DEIS process and to request comments and suggestions. An on-going public involvement process will be developed to provide additional opportunities for the public to participate in this planning/environmental process.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the MIS/DEIS should be directed to the FTA and/or the WFRC at the addresses provided above.

Issued on: April 1, 1996.

Louis F. Mraz, Jr.,

Regional Administrator, Federal Transit Administration, Region VIII Denver, Colorado.

[FR Doc. 96–8555 Filed 4–5–96; 8:45 am]

BILLING CODE 4910–57–P

Surface Transportation Board [1]

[Finance Docket No. 32530]

Kansas City Southern Railway Company; Construction and Operation Exemption; Geismar Industrial Area Near Gonzales and Sorrento, in Ascension Parish, LA

AGENCY: Surface Transportation Board.

ACTION: Notice of final scope of study for environmental impact statement.

SUMMARY: This notice announces the final scope of study prepared in response to written comments, as well as oral comments given at a public meeting, for the environmental impact statement to be prepared for the above proceeding. Written comments on the final scope are requested.

DATES: Written comments on the final scope of work are due May 6, 1996.

ADDRESSES: Michael Dalton, Section of Environmental Analysis, Room 3219, Surface Transportation Board, 12th and Constitution Avenue, NW, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Michael Dalton (202) 927–6197.

SUPPLEMENTARY INFORMATION: The Kansas City Southern Railway Co. (KCS) has filed a petition for exemption with the Board seeking authority to construct and operate an 8.8-mile line of railroad from the KCS mainline near Sorrento to the Geismar Industrial area in Ascension Parish, Louisiana.

We believe that if the Board approves the construction and operation, this action would constitute a major Federal action having the potential to significantly affect the quality of the human environment. Therefore, we will prepare an environmental impact statement (EIS). A notice of intent to prepare an EIS and to hold a public scoping meeting for this proceeding was published on October 30, 1995. The notice requested comments in writing or orally at a public scoping meeting that was held in Gonzales, Louisiana on November 30, 1995. Over 100 parties provided comments and/or attended the scoping meeting. In accordance with the Board's environmental rules at 49 CFR 1105, the final scope of study is summarized below.

SUMMARY OF THE SCOPE OF STUDY: Construction and operation activities may significantly affect the environment in the project area. Based on the comments and our initial evaluation, the proposed construction and operation may result in a number of environmental impacts. These impacts may include:

Land Use Impacts
Socioeconomic Impacts from Physical Environmental Changes
Impacts to Water Resources
Impacts to Biological Resources
Transportation and Safety Impacts
Energy Impacts
Air Quality Impacts
Noise and Vibration Impacts
Impacts to Historic and Cultural Resources
Impacts to Recreational Resources

Copies of the complete scope of study have been served on all the parties to this proceeding. A copy of the scoping document may be obtained by contacting Michael Dalton at (202) 927–6197.

A notice of availability of the draft EIS will be announced in the Federal Register and served on parties to the proceeding.

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to section 49 U.S.C. 10901. Therefore, this notice applies the law in effect prior to the Act, and citations are to the former section of the statute, unless otherwise indicated.

By the Board, Elaine K. Kaiser, Chief, Section of Environmental Analysis.

Vernon A. Williams,

Secretary.

[FR Doc. 96–8578 Filed 4–5–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986)

Bahrain
Iraq
Kuwait
Lebanon
Libya
Oman
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen, Republic of

Dated: April 1, 1996.

Joseph Guttentag,

International Tax Counsel (Tax Policy).

[FR Doc. 96–8537 Filed 4–5–96; 8:45 am]

BILLING CODE 4810–25–M

Corrections

Federal Register
Vol. 61, No. 68
Monday April 8, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95-31-008, et al.]

National Fuel Gas Supply Corporation; Notice of Motion to Place Into Effect Revised Tariff Sheets

Correction

In notice document 96–7926 appearing on page 14564 in the issue of Tuesday, April 2, 1996, the docket number should read as set forth above.

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 74

RIN 0991-AA56

Uniform Administrative Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, Other Non-Profit Organizations, and Commercial Organizations; and Certain Grants and Agreements With States, Local Governments and Indian Tribal Governments

Correction

In rule document 96–6878 beginning on page 11743 in the issue of Friday, March 22, 1996, make the following correction:

§74.26 [Corrected]

On page 11747, in the first column, §74.26(d)(2), in lines 11 and 12, remove phrase ''a computer disk containing the entire contents of the audit report''.

BILLING CODE 1505–01–D

Federal Register

Monday
April 8, 1996

Part II

Environmental Protection Agency

40 CFR Part 148, et al.

Land Disposal Restrictions Phase III; Final Rule and Partial Withdrawal and Amendment of Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 148, 268, 271, and 403

RIN 2050–AD38

[EPA # 530–Z–96–002; FRL–5438–3]

Land Disposal Restrictions Phase III—Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is promulgating treatment standards for hazardous wastes from the production of carbamate pesticides and from primary aluminum production under its Land Disposal Restrictions (LDR) program. The purpose of the LDR program, authorized by the Resource Conservation and Recovery Act (RCRA), is to minimize short- and long-term threats to human health and the environment due to land disposal of hazardous wastes.

The Agency is also amending the treatment standards for hazardous wastes that exhibit the characteristic of reactivity. The rule also begins the process of amending existing treatment standards for wastewaters which are hazardous because they display the characteristic of ignitability, corrosivity, reactivity, or toxicity. These wastes are sometimes treated in lagoons whose ultimate discharge is regulated under the Clean Water Act, and sometimes injected into deepwells which are regulated under the Safe Drinking Water Act. Prior to today's rule, the treatment standard for these wastes required only removal of the characteristic property. Today's revised treatment standards require treatment, not only to remove the characteristic, but also to treat any underlying hazardous constituents which may be present in the wastes. Therefore, these revised treatment standards will minimize threats from exposure to hazardous constituents which may potentially migrate from these lagoons or wells.

Finally, EPA is codifying as a rule its existing Enforcement Policy that combustion of inorganic wastes is an impermissible form of treatment because hazardous constituents are being diluted rather than effectively treated.

EFFECTIVE DATE: This final rule is effective on April 8, 1996, except:

Sections 148.18(a), 268.39(a), (b), and (f), which are effective on July 1, 1996; and

Sections 148.18(b) and 268.39(c), which are effective on January 8, 1997; and

Sections 148.1 (a), (b), and (d), 148.3, 148.4, 148.18 (c) and (d), 148.20(a), 268.1(e), 268.2 (k) and (l), 268.3 (a) and (b), 268.9 (d), (e), (f), and (g), 268.39 (d) and (e), 268.44(a), and 403.5 (c) and (d), which are effective on April 8, 1998.

ADDRESSES: Supporting materials are available for viewing in the RCRA information Center (RIC), located at Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, VA. The Docket Identification Number is F–96–PH3F–FFFFF. The RCRA Docket is open from 9 a.m. to 4 p.m. Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information on the LDR program, contact the RCRA Hotline at 800–424–9346 (toll-free) or 703–412–9810 locally. For general information on today's rule, contact Peggy Vyas in the Office of Solid Waste, phone 703–308–8594.

SUPPLEMENTARY INFORMATION:

Glossary of Acronyms

BAT—Best Available Technology
BDAT—Best Demonstrated Available Technology
BIFs—Boilers and Industrial Furnaces
CAA—Clean Air Act
CWA—Clean Water Act
EP—Extraction Procedure
HON—Hazardous Organic NESHAPs
HSWA—Hazardous and Solid Waste Amendments
HWIR—Hazardous Waste Identification Rule
ICR—ignitable, corrosive, and reactive wastes, or, Information Collection Request (in section IX.D.)
ICRT—ignitable, corrosive, reactive, and TC wastes
LDR—Land Disposal Restrictions
NESHAPs—National Emission Standards for Hazardous Air Pollutants
NPDES—National Pollutant Discharge Elimination System
POTW—Publicly-Owned Treatment Works
PSES—Pretreatment Standards for Existing Sources
PSNS—Pretreatment Standards for New Sources
RCRA—Resource Conservation and Recovery Act
RIA—Regulatory Impact Analysis
SDWA—Safe Drinking Water Act
TC—toxicity characteristic
TCLP—Toxicity Characteristic Leaching Procedure
TRI—Toxic Release Inventory
UIC—Underground Injection Control
UTS—Universal Treatment Standards

Outline

I. Background
A. Summary of the Statutory Requirements of the 1984 Hazardous and Solid Waste Amendments, and Requirements of the 1993 Consent Decree with the Environmental Defense Fund
B. Treatment Standards for Hazardous Wastes That Exhibit a Characteristic—The D.C. Circuit's Opinion in Chemical Waste Management v. EPA
II. Miscellaneous Issues for Which EPA is Not Finalizing an Approach in This Final Rule
A. Treatment Standards for Organobromine Wastes
B. Potential Prohibition of Nonamenable Wastes From Land-Based Biological Treatment Systems
C. Certain Sections of Completing Universal Treatment Standards
D. Prohibition of Hazardous Waste as Fill Material
E. Point of Generation
F. Prohibition on Using Iron Filings to Stabilize Spent Foundry Sand
III. End-of-Pipe Equivalence: Treatment Standards for Clean Water Act (CWA) and CWA-Equivalent Wastewater Treatment Systems
A. Types of Facilities to Which Treatment Standards Apply
B. End-of-Pipe Treatment Standards
C. Why CWA Limitations and Standards Can Also Be RCRA Treatment Standards
D. When CWA Limitations and Standards Become the RCRA Standards
1. Direct Dischargers
2. Indirect Dischargers
3. Zero Dischargers Performing CWA-Equivalent Treatment
E. Implementation
1. Where Permits Contain Standards for Hazardous Constituents
2. Where Permits Do Not Contain a Limitation for a Hazardous Constituent
3. Indirect Dischargers
4. Zero Dischargers Performing CWA-Equivalent Treatment
5. Implementation When CWA Standards and Limitations Will Not be the Exclusive Standard
6. RCRA Controls Over Point Source Discharges and Domestic Sewage?
7. Applicability to the Pulp and Paper Industry
IV. Treatment Standards for Class I Nonhazardous Injection Wells and Response to Comments
A. Introduction
B. Compliance Options for Class I Nonhazardous Wells
C. Pollution Prevention Compliance Option
D. De Minimis Volume Exemption
V. Treatment Standards for Newly Listed Wastes
A. Carbamates
B. Spent Aluminum Potliners (K088)
1. Comments Received on the ''Inherently Waste-Like'' Determination
2. Comments Received on Regulated Constituents
3. Comments Received on Data

4. Comments Received on Technical Basis for BDAT
VI. Improvements to the Existing Land Disposal Restrictions Program
A. Completion of Universal Treatment Standards
1. Addition of Constituents to Table 268.48
2. Wastewater Standard for 1,4–Dioxane
3. Revision to the Acetonitrile Standard
B. Aggressive Biological Treatment as BDAT for Petroleum Refinery Wastes
C. Dilution Prohibition
1. Inorganic Metal-Bearing Wastes
2. Inorganic Metal-bearing Wastes Not Prohibited Under the LDR Dilution Prohibition
3. Cyanide-Bearing Wastes
4. Table of Inorganic Metal Bearing Wastes
D. Expansion of Treatment Options That Will Meet the LDR Treatment Standard ''CMBST''
E. Clean Up of 40 CFR Part 268
1. Section 268.8
2. Sections 268.10–268.12
3. Section 268.2(f)
4. Corrections to Proposed Rule Languages
VII. Capacity Determinations
A. Introduction
B. Capacity Analysis Results Summary
VIII. State Authority
A. Applicability of Rules in Authorized States
B. Abbreviated Authorization Procedures for Specified Portions of Today's Rule
C. Effect on State Authorization
IX. Regulatory Requirements
A. Regulatory Impact Analysis Pursuant to Executive Order 12866
1. Methodology Section
a. Methodology for Estimating the Affected Universe
b. Cost Methodology
c. Economic Impact Methodology
d. Benefits Methodology
2. Results
a. Volume Results
b. Cost Results
c. Economic Impact Results
d. Benefit Estimate Results
B. Regulatory Impact Analysis for Underground Injected Wastes
C. Regulatory Flexibility Analysis
D. Paperwork Reduction Act
X. Unfunded Mandates Reform Act

I. Background

A. Summary of the Statutory Requirements of the 1984 Hazardous and Solid Waste Amendments, and Requirements of the 1993 Consent Decree With the Environmental Defense Fund

The Hazardous and Solid Waste Amendments (HSWA) to the Resource Conservation and Recovery Act (RCRA), enacted on November 8, 1984, largely prohibit the land disposal of untreated hazardous wastes that do not meet treatment standards established by EPA under section 3004(m). Once a hazardous waste is prohibited, the statute provides only two options for legal land disposal: meet the treatment standard for the waste prior to land disposal, or dispose of the waste in a land disposal unit that has been found to satisfy the statutory no migration test. A no migration unit is one from which there will be no migration of hazardous constituents for as long as the waste remains hazardous. RCRA sections 3004 (d), (e), (f), (g)(5).

The amendments also require the Agency to set levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short term and long term threats to human health and the environment are minimized. RCRA section 3004(m)(1). To date, the Agency has implemented this provision by establishing treatment standards for chemical constituents in hazardous wastes based on the performance of the best demonstrated available technology (BDAT) to treat the waste. EPA may establish treatment standards as specified technologies, as constituent concentration levels in treatment residuals, or both. When treatment standards are set as levels, the regulated community may use any technology not otherwise prohibited (such as impermissible dilution) to treat the waste.

It should be noted that the Agency has proposed risk-based exit levels—levels at which wastes are no longer considered hazardous for purposes of RCRA subtitle C—for the majority of hazardous constituents found in listed hazardous wastes in the Hazardous Waste Identification Rule (HWIR) (60 FR 66344, December 21, 1995). Wastes meeting these levels either before or after treatment consequently could be disposed in units not subject to RCRA hazardous waste management requirements (e.g., landfills without subtitle C permits). A consent decree approved by the U.S. District Court for the District of Columbia requires EPA to finalize the HWIR exit levels by December 15, 1996. In the same notice, the Agency proposed to allow the exit levels for some constituents to serve as alternative, risk-based LDR treatment standards satisfying the ''minimize threat'' standard of section 3004(m). Where these risk-based levels are higher (less restrictive) than current BDAT treatment standards, they will effectively supersede the BDAT requirements. See *Hazardous Waste Treatment Council* v. *EPA*, 886 F.2d 355, 362–63 (D.C. Cir. 1989).

EPA was required to promulgate land disposal prohibitions and treatment standards by May 8, 1990 for all wastes that were either listed or identified as hazardous at the time of the 1984 amendments (RCRA sections 3004 (d), (e), and (g)(5)), a task EPA completed within the statutory timeframe. EPA was also required to promulgate prohibitions and treatment standards for wastes identified or listed as hazardous after the date of the 1984 amendments within six months after the listing or identification takes effect (RCRA section 3004(g)(4)).

The Agency did not meet this latter statutory deadline for all of the wastes identified or listed after the 1984 amendments. As a result, a suit was filed by the Environmental Defense Fund (EDF). EPA and EDF signed a consent decree that establishes a schedule for adopting prohibitions and treatment standards for newly identified and listed wastes. (*EDF* v. *Reilly*, Cir. No. 89–0598, D.D.C.). EPA also entered into a settlement agreement with the environmental petitioners in *Chemical Waste Management* v. *EPA*, 976 F.2d 2 (D.C. Cir. 1992), cert. denied 113 S. Ct. 1961 (1993) regarding the procedural effect of the mandate entered in that case. This settlement calls for EPA to take action to implement the portions of the opinion dealing with centralized management of wastewaters that initially exhibit a hazardous waste characteristic within specified timeframes.

Today's rule fulfills several provisions of the settlement agreement and proposed consent decree. First, the rule amends the treatment standards for initially characteristic wastewaters managed in centralized wastewater management systems containing land disposal units. Three specific fact patterns are covered by the rule: (1) Where the wastewaters are ultimately discharged and are subject to limitations or standards established under the Clean Water Act (CWA) and the treatment system preceding discharge includes a surface impoundment; (2) where a facility with initially characteristic wastes treats those wastes with CWA-equivalent treatment but ultimately uses a form of land disposal (such as spray irrigation) that is not regulated under the CWA as the final means of disposing of the treated wastewaters; and (3) the initially characteristic wastes are injected into Class 1 non-hazardous deep wells subject to regulation under the Safe Drinking Water Act (SDWA). In all cases, the wastewaters no longer exhibit a characteristic at the point of land disposal. The amended treatment standards require treatment that destroys, immobilizes, or removes the hazardous constituents present in the initially characteristic wastewaters (referred to as ''underlying hazardous

constituents'' because these constituents are not typically the reason the waste is classified as hazardous). Treatment of the underlying hazardous constituents is nevertheless required in order to minimize the long-term threats land disposal of these wastes can cause. 976 F.2d at 16–17.

EPA is fulfilling provisions of the consent decree by promulgating prohibitions and treatment standards for two ''newly listed wastes'' wastes from production of carbamate pesticides, and spent aluminum potliners from primary aluminum production.

That being said, the risks addressed by the portion of the rule dealing with centralized wastewater management, particularly UIC wells, are very small relative to the risks presented by other environmental conditions or situations. In a time of limited resources, common sense dictates that we deal with higher risk activities first, a principle on which EPA, members of the regulated community, and the public can all agree. For this reason, the Administration is supporting HR 2036, legislation which passed the House of Representatives, that would remove the mandate to automatically apply LDR treatment standards to decharacterized wastes managed in centralized wastewater management situations regulated by the CWA or the SDWA. If this legislation passes in its current form, it would affect the regulations discussed in sections III., IV., and VI.B. of the preamble. It would not affect the other sections of the preamble and rule. The sections of preamble and rule that are affected by the legislation have been granted 2-year national capacity variance (see §§ 148.18 (c) and (d) and 268.39 (c) and (d)). The sections of preamble and rule not affected by the legislation have more immediate effective dates. If the legislation does pass into law, the Agency could issue an immediately effective final rule remanding the affected portions.

Nevertheless, the Agency is presently required to set treatment standards for these relatively low risk wastes and disposal practices, although there are other actions and projects with which the Agency could provide greater protection of human health and the environment. At the same time, however, EPA has sought to exercise the full extent of its authority under current law to implement these mandates with significantly lower cost while ensuring protectiveness, such as giving credit for up-stream reductions in hazardous constituents, and crafting limited exemptions for wastewaters containing de minimis amounts of hazardous constituents.

B. Treatment Standards for Hazardous Wastes That Exhibit a Characteristic—The D.C. Circuit's Opinion in Chemical Waste Management v. EPA

In *Chemical Waste Management* v. *EPA*, 976 F.2d 2 (D.C. Cir. 1992) cert. denied 113 S. Ct. 1961 (1993), the court made a number of far-reaching rulings pertaining to treatment standards for hazardous wastes that are hazardous because they exhibit a characteristic. First, the court held that land disposal restriction requirements can continue to apply to characteristic hazardous wastes even after they no longer exhibit a characteristic. 976 F.2d at 12–14. Second, to satisfy the requirement in RCRA section 3004(m) that treatment address both short-term and long-term threats posed by a waste's land disposal, it is not enough that characteristic hazardous wastes be treated to remove the short-term property (viz. ignitability, corrosivity, or reactivity) that makes them hazardous. Long-term threats, in the form of toxic underlying hazardous constituents, also must be addressed. 976 F.2d at 16–17. Third (as EPA reads the opinion), the court held that dilution was ordinarily not a permissible means of treating hazardous constituents. Such constituents generally must be destroyed, immobilized, or removed from the waste to satisfy the requirements of section 3004(m), specifically, the requirement that long-term threats be minimized. 976 F.2d at 23, 25 and n. 8; 60 FR at 11706–11708 (March 2, 1995). Fourth, centralized wastewater management systems whose discharge is ultimately regulated under the Clean Water Act, and which dilute characteristic hazardous wastes before treatment in surface impoundments, may continue to do so provided the wastewater treatment system destroys, immobilizes, or removes the same volume of hazardous constituents as would be removed, immobilized, or destroyed if the wastes were treated separately. 976 F.2d at 22–24. In other words, notwithstanding that these wastes are disposed in impoundments without being fully treated, the practice is permissible provided equivalent treatment occurs before the waste is ultimately discharged. Fifth, this option of demonstrating equivalent treatment across a treatment system is not available for Class I nonhazardous deep well injection systems because such units are permanent disposal rather than treatment units. 976 F.2d at 24–6.

These portions of the opinion are addressed in various sections of today's rule.

The Agency is also addressing the issue of equivalent treatment by Clean Water Act treatment systems managing de-characterized wastes in impoundments by promulgating treatment standards and related requirements that would be used to measure this so-called end-of-pipe equivalence. Finally, EPA is implementing the court's mandate with respect to Class I nonhazardous injection wells by requiring treatment of underlying hazardous constituents in ignitable, and corrosive characteristic wastes being injected into such wells, and prohibiting dilution as a means of achieving those standards.

Responses to the comments on EPA's reading of the court's opinion are found in the Response to Comment Background Document which is part of the administrative record for this rule. In general, however, the Agency adheres to the reading set out in the proposed rule's preamble at 60 FR 11706–11708.

EPA is also amending the treatment standards for reactive wastes (other than reactive sulfide and cyanide reactive wastes) so that treatment addresses both the property of reactivity and the threat posed by disposal of underlying hazardous constituents in these wastes (with an exception for ordnance and other explosives which are the subject of an emergency response, as explained in the next paragraph). The Agency is taking this action despite the fact that the court found reactive wastes did not contain sufficient concentrations of hazardous constituents to require any treatment beyond that of removing the characteristic. The Agency believes that it is as likely that reactive wastes contain underlying hazardous constituents at levels that may create a threat as do ignitable and corrosive wastes, and consequently, proposed to regulate reactive wastes in the Phase III proposal. Commenters submitted no data suggesting that reactive wastes do not contain the same types and concentrations of underlying hazardous constituents. Therefore, EPA is promulgating treatment standards for reactive wastes (other than reactive sulfides and cyanides) in this rule that require treatment of all underlying hazardous constituents reasonably expected to be present in the reactive wastes at the point of generation.

EPA is, however, temporarily deferring application of these amended LDR treatment standards for reactive wastes with respect to unexploded ordnance and other explosive devices which are the subject of an emergency response. An emergency response is an action taken to prevent imminent risk of explosion. (See 40 CFR 264.1(g)(8)

setting out circumstances where such responses are exempt from RCRA permitting requirements.) During the development of the proposed Military Munitions Rule: Hazardous Waste Identification and Management; Explosives Emergencies; Redefinition of On-site proposed rule (60 FR 56468, November 8, 1995), the Department of Defense, the military services, and other Federal agencies raised concerns that LDR requirements requiring treatment of underlying hazardous constituents might impede the most effective emergency responses involving these materials. If a responding team had to determine LDR applicability before deactivating an explosive subject to an emergency response, the response could be significantly delayed or complicated. Furthermore, concern about LDR applicability might discourage the team from responding at all. This discussion serves as EPA's initial response to these comments.

EPA agrees that the primary goal in emergency responses to explosives is the safe and prompt elimination of immediate threats to human life and property, and the Agency would be concerned if LDR or other regulatory requirements complicated these responses. The issue is too important and potentially complicated to resolve in today's rule. Therefore, EPA is temporarily deferring final action while it considers this issue further.

In deferring action for this limited class of reactive wastes, EPA notes that emergency responses present issues different from routine management of reactive wastes, where there is no competing consideration of need for immediate action to prevent an imminent threat. In non-emergency response management situations, as discussed earlier, the Agency believes these wastes can be fully treated to minimize both short and long-term threats posed by land disposal of wastes.[1] EPA also is amending the treatment standards for wastes exhibiting the toxicity characteristic to include standards for underlying hazardous constituents.

Toxic wastes can also contain underlying hazardous constituents in the same potentially harmful concentrations as ICR wastes. 60 FR at 11706. Today's final rule consequently conforms standards for toxic characteristic hazardous wastes to assure treatment of underlying hazardous constituents as well, when such constituents are present at levels exceeding the minimize threat level (as established either by the current technology-based standards or, if risk-based levels are established, exceeding a risk-based level.) Thus, the prohibitions and standards in today's rule will apply to ignitable, corrosive, reactive and toxic characteristic wastes, as just discussed.

II. Miscellaneous Issues for Which EPA Is Not Finalizing an Approach in This Final Rule

A. Treatment Standards for Organobromine Wastes

Organobromine wastes are not yet listed as hazardous. EPA anticipates making a final listing determination in a future rulemaking.

Although EPA proposed treatment standards for organobromine wastes, it clearly would be putting the cart before the horse to promulgate treatment standards in advance of a determination of whether the wastes are hazardous. The Agency intends to establish treatment standards for organobromine wastes should these wastes are listed in the future.

B. Potential Prohibition of Nonamenable Wastes From Land-Based Biological Treatment Systems

The proposed rule contained an extensive discussion of whether certain wastes should be prohibited from placement in biological treatment surface impoundments because they are not amenable to biological treatment. To allow more time to gather comments, the Agency has decided to address this issue in the LDR Phase IV rule, which was proposed on August 22, 1995 (60 FR 43654) and is scheduled to be finalized in June of 1996.

C. Certain Sections of Completing Universal Treatment Standards

The LDR Phase III proposed rule included a section on the completion of universal treatment standards (60 FR at 11727, March 2, 1995). Possible nonwastewater universal treatment standards (UTS) for eleven constituents were discussed in the proposal, and comments and data were solicited. In general, commenters felt more data should be gathered before EPA proposes nonwastewater standards for these constituents, and EPA agrees. EPA had also solicited comment and data on extending certain universal treatment standards to fill gaps in the § 268.40 table of universal treatment standards where ''NA'' appeared for either the wastewater or nonwastewater form of a regulated hazardous constituent. Commenters were opposed to this, stating that it would be arbitrary to add a standard to a waste code where before there was none without supporting data. The Agency again agrees. Therefore, EPA is not taking final action at this time.

D. Prohibition of Hazardous Waste as Fill Material

EPA proposed to prohibit use of hazardous waste as fill material. 60 FR at 11732. Because issues raised in the proposal are related to those in a number of other pending rulemakings, including the Hazardous Waste Identification Rule, and the proposed rule relating to land-based uses of hazardous waste K061 (59 FR 67256 (Dec. 29, 1994)), EPA is not taking final action on the proposal at this time.

E. Point of Generation

The Agency discussed possible changes that could be made to the ''point of generation''—or point at which LDR requirements attach to a hazardous waste (see 60 FR 11717, March 2, 1995). The Agency is still considering the options discussed in the proposal and potentially other options not discussed. The Agency will reopen the point of generation issue for further comment, and is intending to finalize an option in a future rulemaking.

F. Prohibition on Using Iron Filings to Stabilize Spent Foundry Sand

The Agency proposed designating the practice of adding iron dust/filings to spent foundry sand as impermissible dilution (60 FR 11731, March 2, 1995). The Agency is gathering data on the stability of the chemical bond formed between the iron and lead in the spent foundry sand. After the Agency analyzes these data, as well as further studies the public comments on this issue, it may take final action on the proposal.

III. End-of-Pipe Equivalence: Treatment Standards for Clean Water Act (CWA) and CWA-Equivalent Wastewater Treatment Systems

A. Types of Facilities to Which Treatment Standards Apply

As explained above, the D.C. Circuit established a standard of so-called end-of-pipe equivalence, allowing CWA treatment systems with surface impoundments to dilute characteristic wastes before land disposal in those impoundments without violating LDR requirements, provided the treatment system destroys, immobilizes, or removes an equivalent amount of hazardous constituent as if the characteristic waste were treated separately to meet RCRA standards. EPA

[1] EPA also notes that it is not reopening the issue of open burning/open detonation of reactive wastes. In 1986, EPA determined that such activities are not a form of land disposal. See 51 FR at 40580 (Nov. 7, 1986).

is establishing in this rule the treatment standards that must be satisfied in order to demonstrate that equivalent treatment is occurring.

These treatment standards apply to the following types of facilities: (1) facilities treating formerly characteristic wastes in surface impoundments whose ultimate discharge is subject to regulation under either section 402 or 307 of the CWA. The rule thus encompasses both direct dischargers (facilities discharging to navigable waters) and indirect dischargers (those discharging to POTWs); and, (2) permitted and unpermitted zero dischargers engaging in treatment that is equivalent to that of the CWA-regulated facilities (see 40 CFR 268.37(a) defining CWA-equivalent treatment), including facilities treating formerly characteristic wastes in tanks prior to release on the land for such purposes as irrigation or land treatment.

EPA also wishes to make clear the types of wastewater management situations to which these standards do not apply. First, the standards do not apply to facilities that discharge to navigable waters or POTWs and that manage decharacterized wastes in treatment systems without surface impoundments. Consequently, if a facility generates a characteristic waste, dilutes it so that it no longer exhibits a characteristic, and then treats the waste in tanks before ultimate discharge to a navigable water or a POTW, this rule does not apply. There is no land disposal of a prohibited waste occurring and consequently no RCRA requirement that the characteristic waste be pretreated. Applicable CWA limitations and standards would, of course, continue to apply (as would a one-time recordkeeping requirement under RCRA (see § 268.9).

Second, the standards do not apply in situations where RCRA hazardous waste (subtitle C) impoundments are used. The statute already sets out the requirements for subtitle C impoundments receiving wastes which may not yet have met a treatment standard. RCRA section 3005(j)(11). These requirements are not altered by the Third Third opinion. 976 F. 2d at 24 n. 10.

Finally, in response to comment, EPA has determined that the end-of-pipe treatment standards should not apply to stormwater impoundments. Stormwater impoundments are used by treatment facilities to catch stormwater during rain events, because their biological treatment systems cannot adequately handle such sudden, large volumes of water. At some treatment facilities, however, because they have a combined wastewater system, stormwater impoundments also receive process water containing decharacterized wastes.

The Agency agrees with commenters who stated that stormwater impoundments are necessary to maintain the efficacy of biological treatment units. In addition, such impoundments are empty most of the time because they are designed for emergency rain events. In the Third Third opinion, the court focused on wastewater treatment surface impoundments. It seems likely that stormwater impoundments were outside the court's consideration. Furthermore, imposing treatment standards on such impoundments could require treatment of the stormwater/decharacterized waste before it could permissibly go into the impoundment, not a practical alternative during a major storm event. Alternatively, imposing LDR treatment standards might require the facility to replace its combined wastewater system, which would be a major disruption to most of these facilities and hardly seems justified when stormwater impoundments are used only on an emergency basis. These are the very types of disruptions that the integration clause in RCRA 1006(b) is intended to prevent. Consequently, EPA is indicating that today's rule does not apply to stormwater impoundments.

B. End-of-Pipe Treatment Standards

The treatment standards that EPA is promulgating for characteristic wastewaters are found in the table of LDR treatment standards at 40 CFR 268.40 and 268.48. As explained more fully in the following section, these treatment standards generally adopt the limitations or standards that apply to the facility's discharge as the RCRA treatment standards. The reason EPA is taking this approach is that the CWA industry category or case-by-case industrial POTW limitations and standards represent specific determinations of what Best Available Treatment (BAT) technology is capable of achieving for that plant's wastewater, or, in the case of Water Quality Criteria-based limitations, what an appropriate limit is based on BAT treatment plus risk-based considerations. In the event a hazardous constituent present in the wastewater at point of generation of the original characteristic hazardous waste is not already regulated pursuant to a CWA limitation or standard, the RCRA Universal Treatment Standard for that constituent would apply.

These treatment standards may be met at the CWA point of compliance, typically the point the wastewater is discharged to a navigable water or a POTW. For CWA-equivalent facilities, the treatment standards must be met at the point where the wastewater is sprayed onto the land in irrigation (or similar) activities, or injected into a non-Class I injection well. This accords with the equivalence standard established by the court: ''hazardous constituents are [to be] removed from the waste before it enters the environment.'' 976 F. 2d at 24; see also id. at 23 and n. 8. Most commenters likewise agreed with an end-of-pipe measuring point. Indeed, requiring full treatment before ultimate discharge could destroy the very accommodation with the CWA regime that the court thought critical. See 60 FR at 13677 (Aug. 22, 1995).

However, EPA also agrees with commenters that there is no reason to impede individual facilities from choosing an alternative point of compliance (i.e. other than end-of-pipe) provided the facility can demonstrate that the prohibited waste (the decharacterized portion of the combined effluent) has been treated by means other than dilution to remove an equivalent mass of hazardous constituents. This is specifically consistent with the principle announced in the Administration's report on ''Reinventing Environmental Regulation'' to ''provid[e] maximum flexibility in the means of achieving our environmental goals, but requiring accountability for the results''. Consequently, the Agency is allowing a facility to designate any compliance point downstream of treatment that destroys, immobilizes, or removes hazardous constituents as the point for demonstrating that equivalent treatment occurs. This point can, but need not be, the NPDES or pretreatment point of compliance. Examples of alternative points of compliance that would be permissible (assuming the treatment standard is being satisfied) would be prior to initial placement in an impoundment, or after treatment in an impoundment but before final discharge.

The Agency also agrees with commenters that there can be alternative points of compliance for different underlying hazardous constituents. Again, the reason is to allow flexibility of compliance alternatives when a facility can demonstrate that it is destroying, immobilizing, or removing an equivalent mass of hazardous constituents through wastewater treatment as would be achieved by segregating the characteristic wastestream for separate RCRA treatment. Thus, if a facility generated a

characteristic waste containing metal and organic underlying hazardous constituents and the waste was treated sequentially by means not involving impermissible dilution, there could be different compliance points for the metal and organic hazardous constituents.

EPA notes, however, that if alternative points of compliance are utilized, enforcement would normally be pursuant to RCRA, not the Clean Water Act. This is by necessity, since CWA permits (or, for indirect dischargers, control mechanisms) would not normally apply to effluent quality before final discharge. See further discussion on means of implementing today's standards below in this preamble.

C. Why CWA Limitations and Standards Can Also Be RCRA Treatment Standards

As explained above, when a hazardous constituent is already subject to a CWA industry category or Water Quality Criteria-based limitation, or a case-by-case industrial POTW limitation or standard, the Agency believes (and the final rule provides) that the CWA limitations and standards satisfy RCRA section 3004(m) requirements and consequently become the RCRA treatment standard for purposes of demonstrating equivalent treatment. EPA believes that this is an obvious and effective means of integrating CWA and RCRA requirements, in accord with the court's objective. 976 F. 2d at 22; RCRA section 1006(b). This approach was generally supported by commenters as a reasonable means of satisfying the court's mandate and the underlying policy of integration of the two statutes.

Several commenters, however, argued that CWA limitations and standards could not be equivalent to RCRA because such standards can reflect (among other things) ''the cost of achieving such effluent reduction'', and ''the age of equipment and facilities involved''. CWA section 304(b)(2)(B) (factors to be considered in determining Best Available Technology). EPA disagrees. While it is true that technology-based standards developed to address toxic pollutants from various industrial categories are developed after consideration of levels that can be achieved through application of the best available technology economically achievable, the CWA limitations and standards nevertheless represent the best evaluation of what technically advanced wastewater treatment is capable of achieving for a particular industry's (or, in some cases, particular plant's) wastewater. Although there is no requirement that a particular treatment technology must be used to achieve the facility's limits, it is expected that plants utilizing BAT will have treated their effluent so that there are substantial reductions in concentration and mass of hazardous constituents. As the Agency has stated many times, EPA believes that section 3004(m) is satisfied by treatment that substantially destroys, immobilizes, and removes the hazardous constituents that are present in the waste, notwithstanding that minor amounts of hazardous constituents remain after treatment. Put another way, the statute does not require that every conceivable threat posed by land disposal be eliminated by treatment. 55 FR at 6641 and n. 1 (Feb. 26, 1990); 56 FR at 12355 (March 25, 1991); 57 FR 37259 (August 18, 1992); 55 FR at 22596 (June 1, 1990). In fact, the legislative history states explicitly that the treatment standards are not to be technology forcing, but rather are to utilize the available effective treatment technologies. 130 Cong. Rec. S. 1978 (daily ed. July 25, 1984) (statement of Sen. Chaffee); 56 FR at 12355. That is precisely what EPA has done here.

Second, with specific regard to use of CWA limitations, EPA notes that virtually all of the current LDR treatment standards for wastewaters are already drawn from CWA limitations and standards. See 55 FR at 22601 (wastewater standards for U and P wastes and F039, which essentially became the universal treatment standards, were transferred from treatment data from CWA programs), and see also the Final BDAT Background Document for U and P Wastes and Multi-Source Leachate (F039) Volume C (documenting that most of existing RCRA wastewater standards were transferred from CWA limitations and standards). Moreover, the technologies that are often used to achieve CWA limitations and standards are, in most cases, the same technologies upon which the RCRA Universal Treatment Standards are based. As EPA has already stated, ''because most treatment technologies cannot be so precisely calibrated as to achieve, for example, 3.5 ppm rather than 2.7 ppm, the likely result is that the same amount of treatment will occur.'' 59 FR at 47989 (Sept. 19, 1994). Since frequently the same technologies are used to treat wastewaters, EPA expects the degree of treatment to be comparable.

EPA also emphasizes that RCRA section 1006(b) requires EPA (among other things) to integrate provisions of RCRA and the CWA when implementing RCRA, and to avoid duplication to the maximum extent possible with CWA requirements. The Agency feels it is accomplishing this requirement by allowing a constituent-specific, CWA treatment standard to satisfy RCRA 3004(m). The Agency reiterates that a technology-based CWA limitation or standard for a hazardous constituent satisfies RCRA because such a limitation or standard directly reflects the capability of BAT technologies to treat a specific industry's or facility's wastewater, whereas the RCRA UTS for wastewaters were developed by transferring performance data from various industries, and thus EPA need not make that same transfer when industry-specific (or plant-specific) wastewater treatment data is available.

A water-quality based limitation would also satisfy RCRA section 3004(m). A CWA water quality-based limitation must be at least as stringent as the limitations required to implement an existing technology-based standard. (See CWA section 301(b)(1)(c).) Even where there is no existing BAT limitation for a toxic or nonconventional pollutant, a permit writer must determine whether BAT would be more stringent than the applicable water quality-based limitation, and again, must apply the more stringent of the two potential limitations. (40 CFR 125.3(c)(2).)

If a facility has received a Fundamentally Different Factors (FDF) variance, the limitations established by that variance also satisfy RCRA requirements. Limitations established by the FDF variance process are technology-based standards reflecting facility-specific circumstances, and hence can appropriately be viewed as BDAT as well, just as with RCRA treatability variance standards. See 51 FR at 40605 (Nov. 7, 1986).

EPA also believes that there are adequate constraints in the CWA implementing rules to prevent these end-of-pipe standards from being achieved by means of simple dilution. First, many of the effluent limitation guidelines and standards regulate the mass of pollutants discharged, and thus directly regulate not only the concentration of pollutant discharged but the degree of wastewater flow as well. Even where rules are concentration-based, NPDES permit writers can set requirements which preclude excessive water use, and EPA has so instructed permit writers. (See 58 FR 66151, December 17, 1993, encouraging permit writers to estimate reasonable rate of flow per facility and factor that flow limit into the permit.) These permit conditions can take the form of best management practices,

explicit mass limitations, and conditions on internal waste streams. 40 CFR 122.44(k); 122.45 (f), (g) and (h).

Indirect dischargers are also subject to specific CWA dilution rules in both the general pretreatment rules and the Combined Wastestream Formula (as well as through many of the categorical standards). 40 CFR 403.6 (d) and (e). Many of the guidelines and standards also preclude addition of stormwater runoff to process wastewater to preclude achieving treatment requirements by means of dilution. The Agency is accordingly of the view that end-of-pipe equivalence would be achieved by treatment that removes, immobilizes, or destroys hazardous constituents, and therefore we have determined the treatment satisfies the requirements of RCRA section 3004(m).

EPA emphasizes, however, that it is not addressing the issue of whether cross-media transfers of hazardous constituents become so extensive as to invalidate the wastewater treatment function of a land-based unit. This is the subject of the pending Phase IV proposed rule (60 FR at 43654 (August 22, 1995)), and will be addressed as part of that proceeding.

D. When CWA Limitations and Standards Become the RCRA Standards

Today's rule establishes the following principles:

1. Direct Dischargers

A CWA limitation becomes the RCRA treatment standard as well in the following situations: (a) where there is a categorical BAT or NSPS limitation for the underlying hazardous constituent; (b) where there is a facility-specific limitation for the underlying hazardous constituent pursuant to 40 CFR 125.3 (c)(2) and (d)(3); (c) where there is a Water Quality-based limitation established pursuant to 40 CFR 122.44(d); or (d) where the facility has received a Fundamentally Different Factors variance establishing an alternative limitation pursuant to 40 CFR Part 125 subpart D.

2. Indirect Dischargers

A Clean Water Act pretreatment standard becomes the RCRA treatment standard as well in the following circumstances: (a) where there is a categorical PSES or PSNS for a particular hazardous constituent; and, (b) where POTWs have developed local limits, in addition to categorical standards, to prevent pass through and interference and apply them to indirect dischargers.

EPA proposed that if pretreatment standards reflected a finding that a particular hazardous constituent will not pass through to navigable waters because of efficacious treatment by the POTW, that standard would also satisfy RCRA. The reason is that there will be full-scale treatment of the hazardous constituent before its final release into the environment. Such full-scale treatment satisfies the court's equivalency test. 60 FR at 11711. EPA is adopting this provision in today's rule for these reasons.

The Agency also proposed that pretreatment standards based on interference with POTW operations would not be considered to satisfy RCRA. *Id.* EPA is adopting this position in the final rule. The reason is that interference findings reflect the effect the pollutant may have on overall POTW treatment, not necessarily treatment of the particular constituent. Because the relationship of an interference-based standard with treatment of a particular hazardous constituent is tenuous, EPA does not believe that such a standard can be said to be equivalent to RCRA treatment. Several commenters disagreed with this reasoning, but provided no empirical information calling the Agency's conclusion into question. EPA is consequently adopting this provision as proposed.

3. Zero Dischargers Performing CWA-Equivalent Treatment

In the May 24, 1993 emergency rule, EPA established the principle that zero discharge facilities performing CWA-equivalent treatment on decharacterized wastewaters would be subject to the rules for direct dischargers, and thus would retain the ability to use surface impoundments as part of the treatment process for decharacterized wastes provided equivalent treatment occurs. 58 FR at 29863–29864. The reason is that these facilities can be performing wastewater treatment identical to, or more stringent than, that required of direct dischargers, and thus the same policy of integrating RCRA and the CWA should apply to such facilities. *Id.*

EPA is consequently also applying today's rules on equivalency to zero dischargers performing CWA-equivalent treatment, including tank-based systems that ultimately land dispose rather than discharge treated effluent. ''CWA-equivalent treatment'' is defined in 268.37(a) to mean ''biological treatment for organics, alkaline chlorination or ferrous sulfate precipitation/sedimentation for metals, reduction of hexavalent chromium, or other treatment technology that can be demonstrated to perform equally or greater than these technologies''.

E. Implementation

1. Where Permits Contain Standards for Hazardous Constituents

If a direct discharger subject to the rule (i.e. generating a characteristic waste containing underlying hazardous constituents at concentrations exceeding the treatment standard at the point the waste is generated, and is treating those decharacterized wastes in surface impoundments) has an NPDES permit containing a limitation for that hazardous constituent based on BAT, NSPS, BPJ, or a water quality standard, then there are no independent RCRA requirements beyond documenting in the facility's records that this is the facility's mode of compliance.

EPA notes further that if the Agency (or authorized State), as part of the CWA decisionmaking process for setting the limitations, affirmatively decided that such hazardous constituents need not be regulated due to low toxicity, low bioavailability or other environmental factors and that fact is reflected in the rulemaking record, permit or permit record, no additional RCRA standards would apply. If the rulemaking or permit and permit record do not contain such a finding, the permitting authority should reexamine the NPDES permit upon reissuance in order to clarify whether such hazardous constituents need not be regulated. During the time between the date this rule becomes effective and the date the permit is reissued, however, the RCRA Universal Treatment Standards for those constituents must be met.

In addition, if EPA (or an authorized State) affirmatively decided either in the rulemaking or in the permitting process that a particular hazardous constituent is controlled through controls on an indicator pollutant, then again, no additional RCRA standards would apply. For this purpose, however, the Agency would only accept as a valid indicator situations where a toxic pollutant parameter is used as an indicator for another toxic pollutant. The Agency does not believe that use of conventional pollutants (such as BOD or COD) as indicators for toxic constituents guarantees the type of equivalent treatment of hazardous constituents, which EPA feels is necessary to implement the equivalence requirement. 976 F. 2d at 23 n. 8.[2]

[2] In making this statement, EPA is of course not calling into question the use of conventional pollutants as valid indicators to satisfy Clean Water Act requirements. The language in the text is directed solely at implementing the court's mandate for purposes of RCRA.

2. Where Permits Do Not Contain a Limitation for a Hazardous Constituent

If the CWA permit either does not contain a limitation for the pollutant or does not regulate the pollutant through an indicator, or in cases when this rule becomes effective before the reissuance of a facility's permit, the RCRA universal treatment standards would apply as they do for any other RCRA hazardous wastestream. In this situation, the owner or operator of a facility has several choices. The owner/operator could do nothing, in which case the hazardous constituent would be subject to the UTS. These standards would be implemented by rule, and thus would not be embodied in a CWA permit. Enforcement consequently would be solely under RCRA. As noted earlier, the point of compliance could, but need not be, at the end-of-pipe point of discharge.

In the alternative, a facility could seek amendment of its NPDES permit pursuant to § 122.62(a)(3), requesting that the applicable permitting authority modify the permit at reissuance, or sooner, to add limits for the underlying hazardous constituents reflecting BAT for that pollutant at the facility.[3] Assuming proper design and operation of the wastewater treatment technology, a permit writer in such a case could modify the permit to add a limitation for the pollutant based on Best Professional Judgement reflecting actual BAT treatment (40 CFR 125.3(c)). Modification requests would be processed pursuant to the procedures found at § 124.5. The modified permit limitation would be a CWA requirement and enforceable solely under that statute, but would be deemed by the Agency to satisfy RCRA 3004(m), so that meeting UTS per se would not be required.

A final alternative is for the facility to seek a RCRA treatability variance. EPA is amending the grounds for granting such a variance to include situations where a facility is treating decharacterized wastes by treatment identified as BAT or NSPS (New Source Performance Standards), the technology is designed and operated properly, but is not achieving the UTS (see § 268.44(a)).

3. Indirect Dischargers

The same alternatives exist for indirect dischargers. If an underlying hazardous constituent is regulated by a categorical PSES, PSNS, or by a local limit in a control mechanism reflecting PSES or PSNS—level treatment, then that standard satisfies both RCRA and the CWA. In addition, if there is no pretreatment standard (i.e., PSES/PSNS) for an underlying hazardous constituent, because the Agency determined that there was no pass through, then section 3004(m) is satisfied and the RCRA standard for that underlying hazardous constituents does not apply.

If an underlying hazardous constituent is not regulated nationally by a PSES or PSNS, or by a local limit, it becomes subject to the UTS for that constituent. That UTS would be enforced as a RCRA standard. However, in cases where an underlying hazardous constituent is not already subject to categorical PSES, categorical PSNS, or to a local limit in a control mechanism reflecting PSES or PSNS-level treatment, water quality, or pass through, the control mechanism between the indirect discharger and the applicable control authority would have to be modified in order to avoid application of the UTS by rule. EPA is amending § 403.5(c)(1) and § 403.5(c)(2) of the pretreatment rules to specifically authorize control authorities to make such determinations.

The final option is for a facility to obtain a RCRA treatability variance. Thus, the amendment to the treatability variance rules also applies to indirect dischargers properly operating technology identified as the basis for their PSES or their PSNS standard.

4. Zero Dischargers Performing CWA-Equivalent Treatment

The implementation options for zero dischargers performing CWA-equivalent treatment are similar. Some of these facilities may have CWA permits authorizing specified levels of discharge. If these permit limitations apply to underlying hazardous constituents present in the RCRA-prohibited portion of the discharge, the CWA permit limit satisfies RCRA as well. The facility also could seek to amend the CWA permit to add limitations for the hazardous constituent. Enforcement then would be exclusively pursuant to the CWA.

If the zero discharger has no CWA permit, or the permit does not contain limitations for underlying hazardous constituents and is not amended to do so, then the facility would have to meet the RCRA UTS or an alternative standard established by treatability variance either at the point of discharge[4] or at an earlier point of its choosing (assuming, of course, that a valid demonstration of bona fide treatment can be made at an earlier point).

5. Implementation When CWA Standards and Limitations Will Not Be the Exclusive Standard

If the facility treats to UTS and does not modify its CWA permit or control mechanism to include a CWA standard/limitation for an underlying hazardous constituent, EPA is finalizing minimal recordkeeping requirements, under RCRA authority. Generators can use their knowledge to identify the underlying hazardous constituents reasonably expected to be present at the point of generation of the ICRT wastes which are not covered by a CWA limitation or standard and hence must be treated to meet UTS (assuming no permit modification). EPA is requiring that this information be kept on-site in files at the facility. The facility will then monitor compliance with the UTS standard for each of these constituents at the point of ultimate discharge or alternative compliance point, on a quarterly basis, and results of this monitoring must be kept in the facility's on-site files. An exceedence of the RCRA UTS standard must be documented in the facility's on site records.

These same requirements apply to facilities without NPDES permits documenting compliance as zero dischargers with CWA-equivalent treatment who are affected by this rule. The absence of a permit necessitates some alternative means of documenting compliance, and the scheme outlined above seems to be the least burdensome scheme which would still provide a reasonable means of enforcing this rule.

6. RCRA Controls Over Point Source Discharges and Domestic Sewage

Both RCRA and the implementing regulations provide that point source discharges and domestic sewage (including mixtures of domestic sewage with other wastes) are not subject to

[3] EPA is interpreting the language in § 122.62(a)(2) to indicate that the D.C. Circuit's opinion in the Third Third case is new information warranting reopening a permit.

[4] The point of compliance for a zero discharger choosing the point of discharge as a compliance point would be at the point of ultimate disposal. For those zero dischargers who discharge to a dry river bed (common in the western U.S.) not considered a ''water of the U.S.'' under the CWA, the point of compliance would be at the end-of-pipe. For those zero dischargers who spray irrigate, or otherwise place the wastewaters on the land after treatment in the surface impoundment, the point of compliance would be at the point just prior to the land placement. Furthermore, zero dischargers treating wastewaters in a tank system followed by spray irrigation or another form of land placement are also subject to this rule. For those zero dischargers who use evaporation ponds, the point of compliance is before the wastewater enters the surface impoundment, as this is the ultimate disposal point.

RCRA subtitle C jurisdiction. RCRA section 1004(27) and § 261.4(a) (1) and (2). Some commenters questioned whether by allowing CWA limitations and standards to satisfy the RCRA treatment standard requirement, EPA were somehow imposing RCRA controls where it lacks authority to do so.

This is not the case. EPA is creating here a mechanism for evaluating whether RCRA-equivalent treatment has occurred for purposes of determining whether surface impoundments (i.e. RCRA land disposal units) can permissibly be used as part of that treatment process. 976 F. 2d at 22–24. The effect, for RCRA purposes, of failing to satisfy the limitations or standards is that the facility has engaged in illegal land disposal by virtue of not performing equivalent treatment. Id. Thus, the effect of the rule is on activity upstream of the discharge point, and these activities are within RCRA's jurisdictional purview.

7. Applicability to the Pulp and Paper Industry

The concerns about integration of CWA and RCRA standards are particularly acute with respect to the pulp and paper industry. EPA is at a critical stage in developing comprehensive multi-media rules for this industry (to control both hazardous air emissions and wastewater discharges). These rules were proposed at 58 FR 66078 (Dec. 17, 1993) and are slated for promulgation by mid-1996. The rules should fundamentally affect (for the better) the types of wastewaters managed at pulp and paper facilities and the potential releases of hazardous constituents from such wastes. The Agency believes that it would be putting the cart before the horse, and would fail to properly integrating RCRA with the CWA (and potentially CAA in this case) by proceeding with implementation of the court's decision for this industry in advance of completion of this rulemaking. Cf. *Edison Electric Inst.* v. *EPA*, 2 F. 3d 438, 453 (D.C. Cir. 1993) noting when temporary deferrals of action to allow better integration of overlapping statutes is permissible. The Agency will revisit the question of how to implement the court's decision for the pulp and paper industry upon completion of the existing multi-media rulemaking.

IV. Treatment Standards for Class I Nonhazardous Injection Wells and Response to Comments

A. Introduction

Generally, Class I nonhazardous injection well owners/operators injecting decharacterized ICRT wastes do not substantially treat their waste beyond removing the characteristic by aggregating and diluting wastestreams, plus filtering of solids in order to facilitate injection. There are as many as 100 such nonhazardous facilities in addition to the approximately 54 hazardous facilities injecting ICRT wastes. As discussed in the Phase III proposed rule, EPA estimates that the average flow of a ''typical'' Class I nonhazardous well is 107,000 gallons/day. Typically, the volume of hazardous wastes comprises 25% or less of the aggregated injected wastestream.

In the Third rule, EPA proposed that characteristic wastes were not prohibited from injection into these deep wells provided they no longer exhibited a characteristic at the point they are injected.e. land disposed. 60 JR at 11704–11705. The D.C. Circuit rejected this portion of the rule, holding, in EPA's reading of the opinion, that the statutory requirements could not be satisfied absent treatment that addressed both short term and long term threats posed by land disposal of the waste, and hence that hazardous constituents in the waste had to be destroyed, removed or immobilized before injection, not merely diluted. 60 JR at 11706–11708. EPA is implementing that mandate in this rule. (However, EPA reiterates, as it did at proposal, that EPA is taking this action to implement the court's mandate, not because it is an environmental priority, or prudent use of the Agency's or the regulated community's resources. The Administration is in fact pursuing a legislative change which would restore EPA's original policy determination reflected in the 1990 Third rule.)

The effect of today's final rule is to prohibit the land disposal of characteristic waste streams at the point they are generated. If those wastes contain underlying hazardous constituents at levels exceeding the Universal Treatment Standards and (as explained further below) at levels and volumes greater than designated *de minims* amounts, those constituents would have to be destroyed, removed, or immobilized before the waste is injected. This could be accomplished either by segregating the characteristic portion of the injectate for treatment, or by treating the commingled injectate before disposal (i.e. before injection). The rule further provides that if a facility removes an equivalent mass of the hazardous constituent through source reduction, or waste treatment, that the treatment standard is satisfied. The final, alternative means of compliance is for the unit to have received a no-migration determination.

A number of commenters believed that aggregation or dilution of wastes to remove the hazardous characteristic of the waste stream prior to injection was sufficient and that the requirement to treat underlying constituents was legally unnecessary and onerous. EPA's reading of the Third Third opinion and section 3004(m) is that treatment that destroys, immobilizes, or removes hazardous constituents is required, and that this requirement is not satisfied merely by dilution. The statutory findings of the inherent uncertainty of land disposal of hazardous wastes, the propensity to bioaccumulate these same constituents, the statutory goals of waste minimization and proper waste management, plus the legislative history documenting Congressional intent not to permit treatment by dilution supports the Agency in rejecting these comments. 60 FR at 11706–708. Therefore, the Agency has decided not to allow Class I nonhazardous wells to dilute or aggregate their waste streams in order to fulfill, substitute, or avoid treatment levels or methods established in the LDRs. See the dilution prohibition added in § 148.3 of today's final rule.

Furthermore, the Agency, as proposed, is expanding the applicability of 40 CFR Part 148 to now require owners/operators of Class I nonhazardous wells to determine whether LDRs apply to their facilities.

Commenters likewise sharply questioned the Agency's determinations as to when land disposal prohibitions should attach, and state, correctly in the Agency's view, that the opinion did not compel a determination that prohibitions must attach at the initial point of waste generation or when underlying hazardous constituents are present at that point in concentrations exceeding the UTS. EPA is in fact pursuing alternatives on both of these fronts. The Agency proposed alternatives to the strictest point of generation approach, 60 FR at 11715–716, and expects to take final action on this proposal well before the effective date of the Phase III prohibitions for Class I non-hazardous UIC wells. The source reduction compliance option in this rule is a related means of dealing with this issue, since it can be conceptualized as allowing the requisite hazardous constituent reductions to be achieved by means other than downstream treatment notwithstanding presence of hazardous constituents above UTS at what is technically point of waste generation.

With regard to whether presence of hazardous constituents above UTS

would be the trigger level for the LDR prohibition, EPA has recently proposed risk-based hazardous constituent concentration levels which would implement the ''minimize threat'' requirement in section 3004(m), and would cap the technology-based treatment standards whenever the technology-based standards are lower (60 FR 66344, December 21, 1995). The *de minimis* feature of today's rule further addresses situations where EPA believes that prohibitions need not apply due to the low concentrations and volumes of hazardous constituents in the decharacterized portion of the injectate.

B. Compliance Options for Class I Nonhazardous Wells

In the proposed rule, the Agency indicated that facilities could segregate their hazardous wastes, and treat just that volume of the total waste stream to UTS levels in order to conform to the treatment requirement. A number of commenters maintained that the Agency oversimplified this approach and that such segregation was impractical from both a technical and economic standpoint. EPA acknowledges that many facilities may not practically be able to segregate streams. These facilities may utilize of other LDR compliance options as discussed below.

One option would be to apply for an exemption from treatment standards via the no-migration petition variance. EPA is promulgating a clarifying revision to 40 CFR 148.20 which allows facilities to seek a no-migration variance for their Class I nonhazardous wells, and has long indicated that this compliance option is available (see pp. 25–27, Supplemental Information Report prepared for the Notice of Data Availability, January 19, 1993, 58 FR 4972). If these facilities demonstrate to EPA that their formerly characteristic wastes (including any hazardous constituents) will not migrate out of the injection zone for 10,000 years, or no longer pose a threat to human health and the environment because the wastes are attenuated, transformed, or immobilized by natural processes, then they may continue to inject without further treatment.

A significant number of commenters responded to the proposed rule's discussion on the Agency's position on granting no-migration petitions. Comments included that petitions were a too costly option, took too much time to be processed, generic petitions for Class I non-hazardous wells should be granted, and existing no-migration exemptions should not require modification to include Phase III wastes. These comments, among others, will be discussed in detail in the ''Response to Comments'' background document for this rule, but basically many had partial merit.

First, although the Agency has estimated earlier that the average petition costs an operator $343,000, several individual petition reviews have far exceeded that amount. The Agency will examine the possibility of revising petition cost data in future LDR rules. Second, although a petition may take up to 3 years to process, the Agency (as noted above) indicated as early as 1992 (after the Third Third opinion) that it would begin review of Class I nonhazardous injection well no-migration petitions if submitted (58 FR 4972, January 19, 1993). Although time and resource restraints on the Agency are real, the Agency will continue to work with affected Class I operators in order to facilitate the no-migration petition review process. Third, although EPA has established a reasonable knowledge base on the review process for Class I hazardous facilities, it cannot automatically infer that all Class I nonhazardous facilities will successfully make a no-migration demonstration. Well site geology, hydrogeology, abandoned well area of review, and the specific characteristics of the injectate and receiving formation are site specific factors which, as a factual matter, must be evaluated individually in order to demonstrate ''to a reasonable degree of certainty'' (RCRA section 3004(g)(5)) that the no migration standard has been satisfied. See Supplemental Report to Notice of Data Availability, January 19, 1993, at 25–26 9. It must be remembered that not every Class I injection well applying for the variance has been able to make the demonstration, and that one salutary effect of the no migration process has been to identify certain (albeit a limited number of) wells that would not be capable of adequately containing injectate over the long term.

EPA agrees completely with commenters, however, that wells that already have approved no migration exemptions are not affected by the Third Third opinion and thus are not affected by land disposal restrictions affecting decharacterized wastes. (In fact, EPA does not read the proposal to suggest otherwise.) Absent a change in the waste being injected, there is no reason to reopen no migration determinations that have already evaluated the entire injected waste stream. 57 FR at 31963 (July 20, 1992).

EPA is also promulgating additional means for Class I nonhazardous facilities to comply with the LDR requirements. Revisions to 40 CFR 148.1(c)(1) and 148.4 will allow Class I nonhazardous owners and operators to apply for a case-by-case extension of the capacity variance for up to one year (renewable for up to an additional year) in order to acquire or construct alternative treatment capacity. Based on experience, EPA believes that the availability of the case-by-case extension coupled with national capacity variance(s) should allow operators more than adequate time to acquire alternative treatment or complete the no-migration petition process. Two other options include the pollution prevention option and the de minimis volume exclusion.

C. Pollution Prevention Compliance Option

The final rule provides an alternative means of obtaining the reductions in mass loadings of hazardous constituents mandated by the Third Third opinion. Under this alternative, mass reductions can be achieved by removing hazardous constituents from any of the wastestreams that are going to be injected, and these reductions in mass loadings can be accomplished by means of source reduction (i.e. equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control), recycling, or conventional treatment. As an example, if a facility can make process changes that reduce the mass of cadmium by the same amount that would be removed if the prohibited wastestream was treated to satisfy UTS, the facility would satisfy LDR requirements. The facility could also remove cadmium from any of the streams (prohibited or non-prohibited) which are going to be injected, or could find a means of recycling some portion of the injectate to reduce injected mass loadings of cadmium. In all cases, the result would be that the mass loading of hazardous constituents into the injection unit would be reduced by the same amount as it would be reduced by treatment of the prohibited, characteristic portion of the injectate. 976 F. 2d at 23 n. 8; see also *Specialty Steel Inst.* v. *EPA*, 27 F. 3d 642, 649 (D.C. Cir. 1994) (treatment standards that result in lower volume of waste to be disposed—precisely what the alternative standard here can achieve—are a permissible means of complying with RCRA section 3004 (m)).

Commenters further requested that this alternative be available on a hazardous constituent by hazardous constituent basis. EPA agrees that this is

reasonable since it still results in the requisite reduction of hazardous constituent mass loading and provides desirable compliance flexibility. Of course, if the pollution prevention alternative is used partially, there must still be compliance by some alternative means for the remaining hazardous constituents subject to the prohibition.

The Agency is not, however, adopting any type of hazardous constituent trading provision as part of this rule. It first is not clear that such a provision would satisfy the equivalency test enunciated by the court. In addition, given the narrow time frame available to the Agency to develop this rule, the Agency lacks the time and resources to properly evaluate the ramifications of the idea in this proceeding.

As a means of implementing this alternative, EPA is adopting the method proposed. The mass/day reduction of a particular underlying hazardous constituents is to be calculated by comparing the injected baseline with the allowance. The injected baseline is determined by multiplying the volume/day of prohibited hazardous waste generated and subsequently injected times the concentration of hazardous constituents before the pollution prevention measure. The allowance is determined by multiplying the volume/day of a hazardous constituent generated/injected times the UTS for that constituent. The difference between the injected baseline and the allowance is the required mass/day reduction.

EPA proposed, and is adopting the requirement that after successful employment of a pollution prevention measure, the facility must demonstrate that the injected mass achieves the required mass/day reduction. Because the amount of an underlying hazardous constituent in the injectate is dependent upon the level of production, a correction factor for production is needed. In the example given in the proposal (60 FR 11714), the calculation for the injected baseline was corrected by a production variability factor based on volume. The Agency had solicited comment on whether there are production parameters other than volume (e.g., mass, square footage, etc.). One commenter gave a specific example where square footage would be a more appropriate parameter. Therefore, the Agency is promulgating today that any appropriate parameter may be used to calculate the production variability factor. Another commenter was concerned that in the example the baseline used after pollution prevention seemed to be based on the production rate, whereas the baseline before pollution prevention was not. The commenter misunderstood the purpose of the production variability factor. In the example the post-pollution prevention injectate was adjusted by the production variability factor; however, the example could have been reorganized such that the initial baseline was adjusted for production variability. It was not necessary to adjust both the pre- and post-pollution prevention baselines for production variabilty; in fact, doing so would cause the variability factor to cancel out.

Several commenters were concerned that there are other factors besides rate of production which could cause variability in the level of an underlying hazardous constituent. One commenter mentioned variations in operation of specific source unit operations such as distillation and/or stripping trains feeding the injection unit. Another commenter stated that since they do not actually produce anything, they have no production rates to use, and suggested basing production on man-hours worked or total water consumed by a facility. The Agency agrees with all these suggestions. The mass/day of an underlying hazardous constituent after pollution prevention is based on the flowrate multiplied by the concentration of the constituent, and must be less than or equal to the calculated mass/day allowance for that underlying hazardous constituent. Beyond this basic formula, the facility can adjust for any factors which would cause a variation in the concentration of the underlying hazardous constituent, provided the variation(s) are part of a normal operating procedure.

Under this approach, a facility would make a one-time change in operating practice. Because the mass loading reductions resulting from the practice are obtained from the time of the change forward, it obviously is not necessary (and neither practical or likely feasible) for the facility to make on-going (potentially daily) changes to qualify under the provision.

A number of commenters, although supporting the Agency's proposal, argued that it should apply to facilities that already have implemented source reduction or other pollution prevention practices before the effective date of the rule, not just those making the change prospectively (as EPA proposed). Their point is that facilities that have already implemented source reduction, and as a result may now have fewer opportunities to do so, should not be on a worse footing than facilities who have been laxer and thus now have a wider range of possible means of reduction. This argument certainly has equitable force. At the same time, however, there has to be some objectively defined baseline period for the rule to be enforceable, and for there to be some nexus between the pollution prevention measure and the reduced mass loadings in current injectate. Balancing these considerations, the Agency is establishing 1990 as the base year for establishing a baseline. This was the year EPA adopted (per Congressional schedule) the prohibitions for characteristic hazardous waste and (coincidentally) the year of the Pollution Prevention Act.

EPA is sensitive to other comments regarding the need for this alternative to be objectively verifiable. The Agency is therefore requiring that facilities must monitor the underlying hazardous constituent concentration and the volume of the prohibited hazardous waste stream (i.e. all characteristic streams subject to LDR treatment standard requirements that will be decharacterized before injection), both on the day before and the day after successful implementation of pollution prevention. Results of this monitoring must be reported to the EPA Region or authorized State on a one-time basis. The Agency had solicited comment on whether more than one day is needed for monitoring. Several commenters were concerned that certain pollution prevention methods would take several weeks, not one day, to show results. It should be noted that the Agency did not intend for the pollution prevention method to show results in one day. Results should be achieved by the effective date of the rule for the facility to be in compliance, and the pollution prevention method should have been employed no earlier than 1990. The facility must also include a description of the pollution prevention method used (including any recycling alternative). In addition, the facility will monitor and keep on-site records of the results on a quarterly basis (this time period is selected to match the quarterly monitoring already required under SDWA regulations at 40 CFR 146.13 (b)). If the facility changes its means of complying with this alternative, it must renotify the EPA Region or authorized State, and again document the basis for its compliance by monitoring.

D. De Minimis Volume Exemption

EPA is finalizing the *de minimis* exemption proposed. 60 FR at 11714–11715. The terms of the exemption are that if decharacterized wastewaters comprise no more than 1% of the total injectate, if the total volume of the characteristic streams do not exceed 10,000 gallons per day, and if underlying hazardous constituents are

present in the characteristic wastes at concentrations less than 10 times UTS at the point of generation, then the wastes are not prohibited from injection in a Class I non-hazardous deepwell (assuming the injectate is not hazardous at the point of injection). The Agency continues to believe that under these circumstances, the relatively small decharacterized hazardous waste streams would not appreciably alter the risks posed by the injection practice.

Generally, the proposed approach was well received. Some commenters stated, however, that the *de minimis* volume exemption, as proposed, would allow excessively large volumes of routinely generated characteristic wastes to go untreated to disposal in deep wells, while others believe that the specific quantifying parameters are overly restrictive. The Agency analyzed potential risks associated with concentrations of 5 contaminants detected in Class I facility waste streams at 10, 20, and 50 times UTS. (This analysis was conducted in conjunction with revising the Regulatory Impact Analysis For Underground Injected Wastes for this rule. See 60 FR 11715.) In brief, risk estimates for 4 geologic settings and 2 well malfunction scenarios were found to be below levels of regulatory concern at 10 and 20 times UTS. However, at 50 times UTS, risk estimates for cancer and hazard index were above regulatory concern for a waste stream containing carbon tetrachloride, assuming an abandoned borehole failure within 500 feet of the injection well. Taking into account the statutorily enumerated ''long-term uncertainties associated with land disposal'' (RCRA section 3004(d)(1)(A)), EPA believes the 10 × UTS level to be well within the zone of reasonable values it could select as *de minimis*. The one percent volumetric requirement is consistent with other longstanding *de minimis* exemptions for wastewater management systems in the subtitle C rules (see § 261.3(a)(2)(iv) (A) and (E)), and would normally cap the total volume of characteristic injectate at approximately 1100 gallons per day, given average Class I UIC non-hazardous injection rates.

At a rate of 1100 gallons per day, 10×UTS for carbon tetrachloride would mean a mass loading of approximately 165 mg of the constituents being injected each day. Mass loadings for the other hazardous constituents would similarly be modest. EPA again believes that these small mass loadings would have *de minimis* effect on the risk potential posed by the injection practice and consequently should be exempted from the prohibition.

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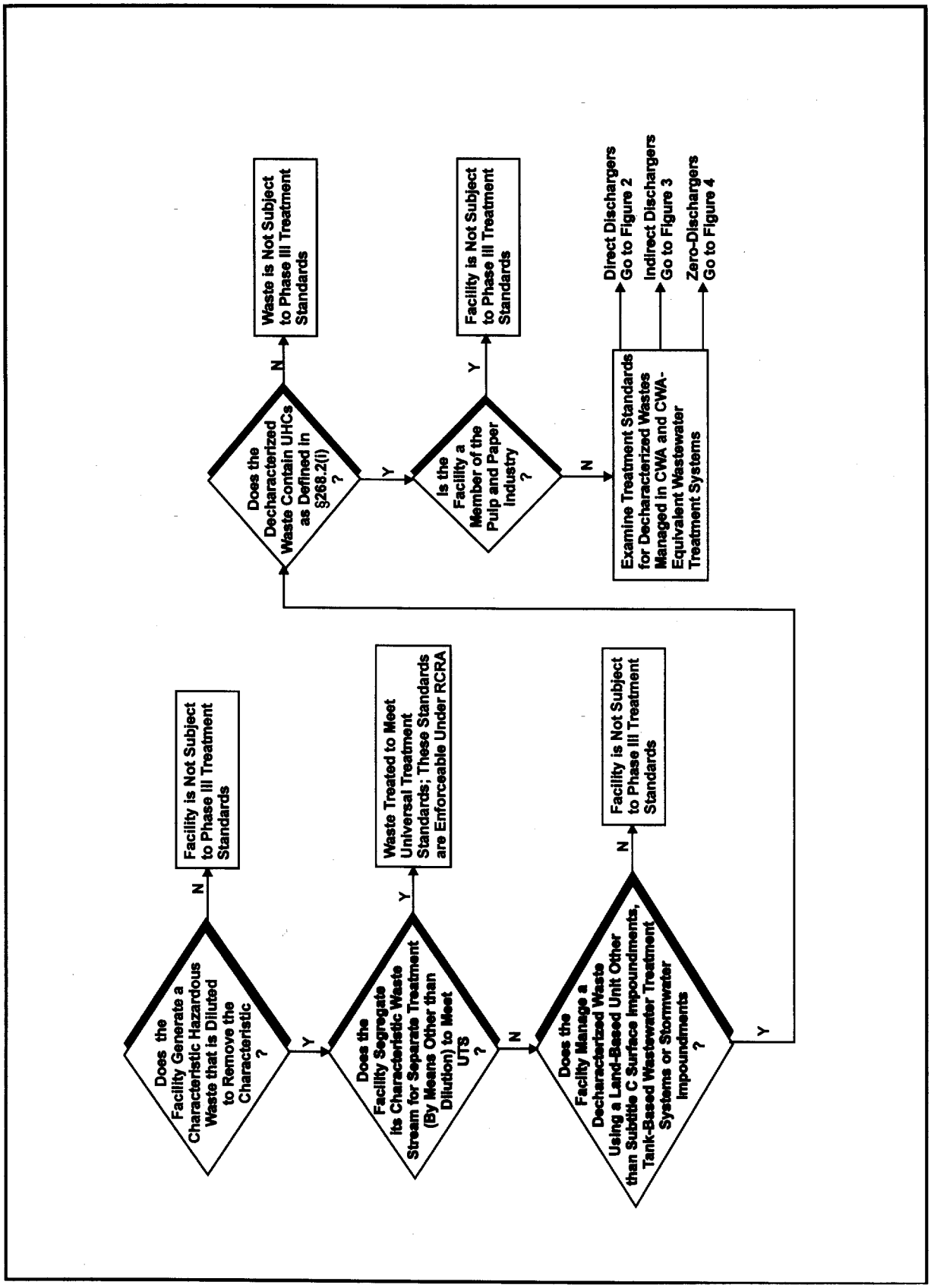


Figure 1. General Applicability Criteria for Treatment Standards for Clean Water Act (CWA) and CWA-Equivalent Wastewater Treatment Systems

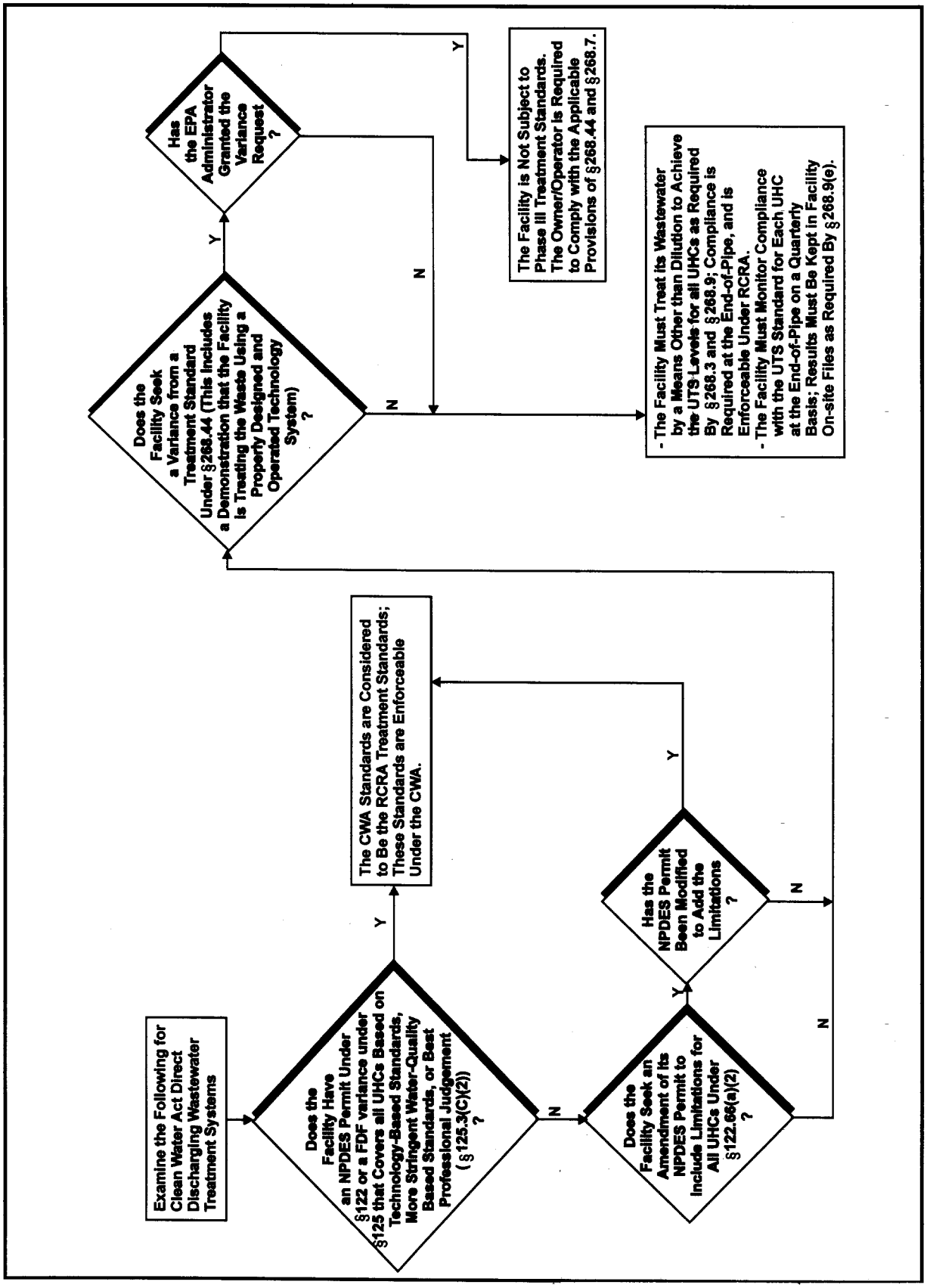


Figure 2. Applicability Criteria and Treatment Standards for Decharacterized Wastes Managed in Clean Water Act Direct Discharging Wastewater Treatment Systems

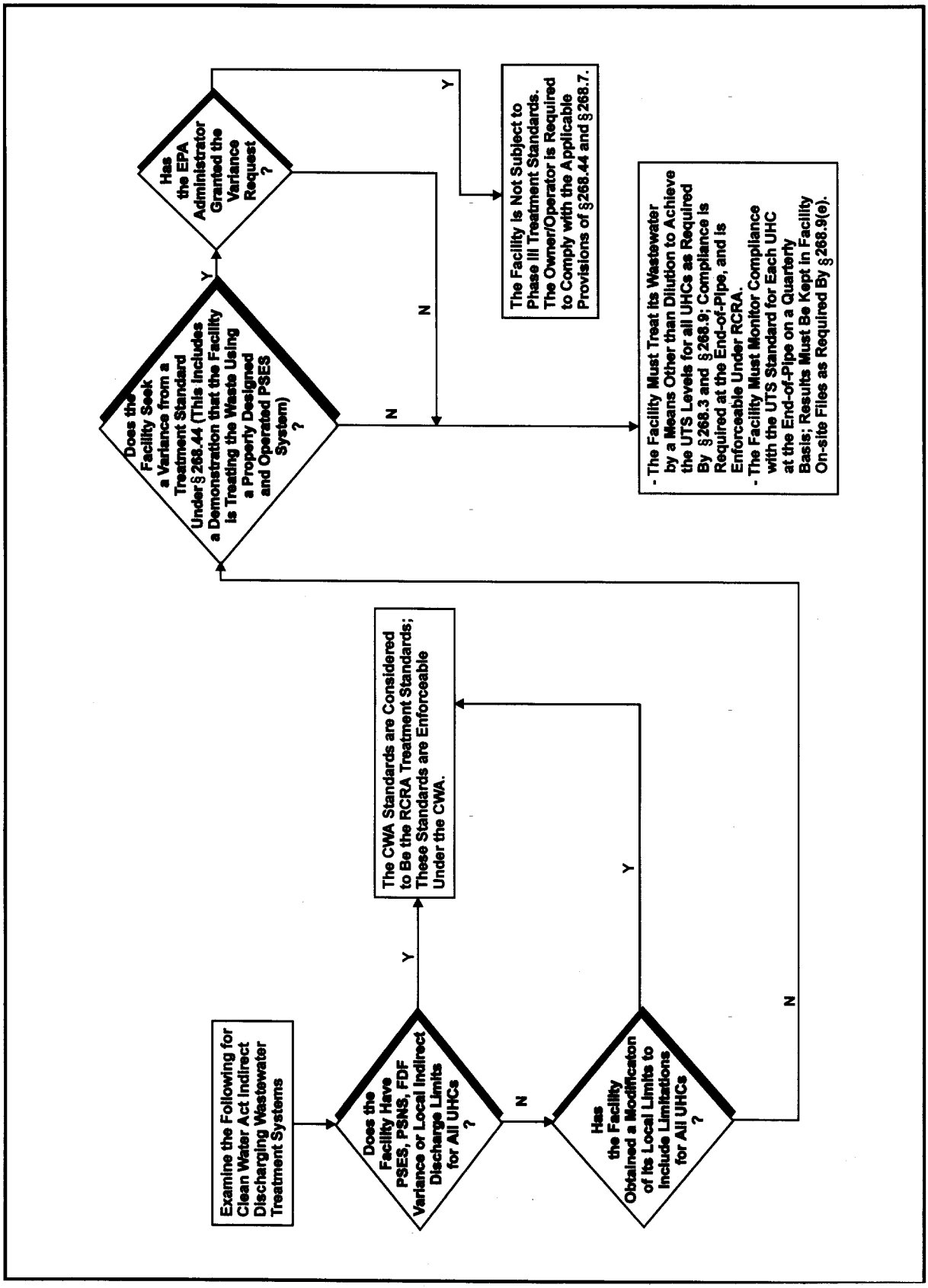


Figure 3. Applicability Criteria and Treatment Standards for Decharacterized Wastes Managed in Clean Water Act Indirect Discharging Wastewater Treatment Systems

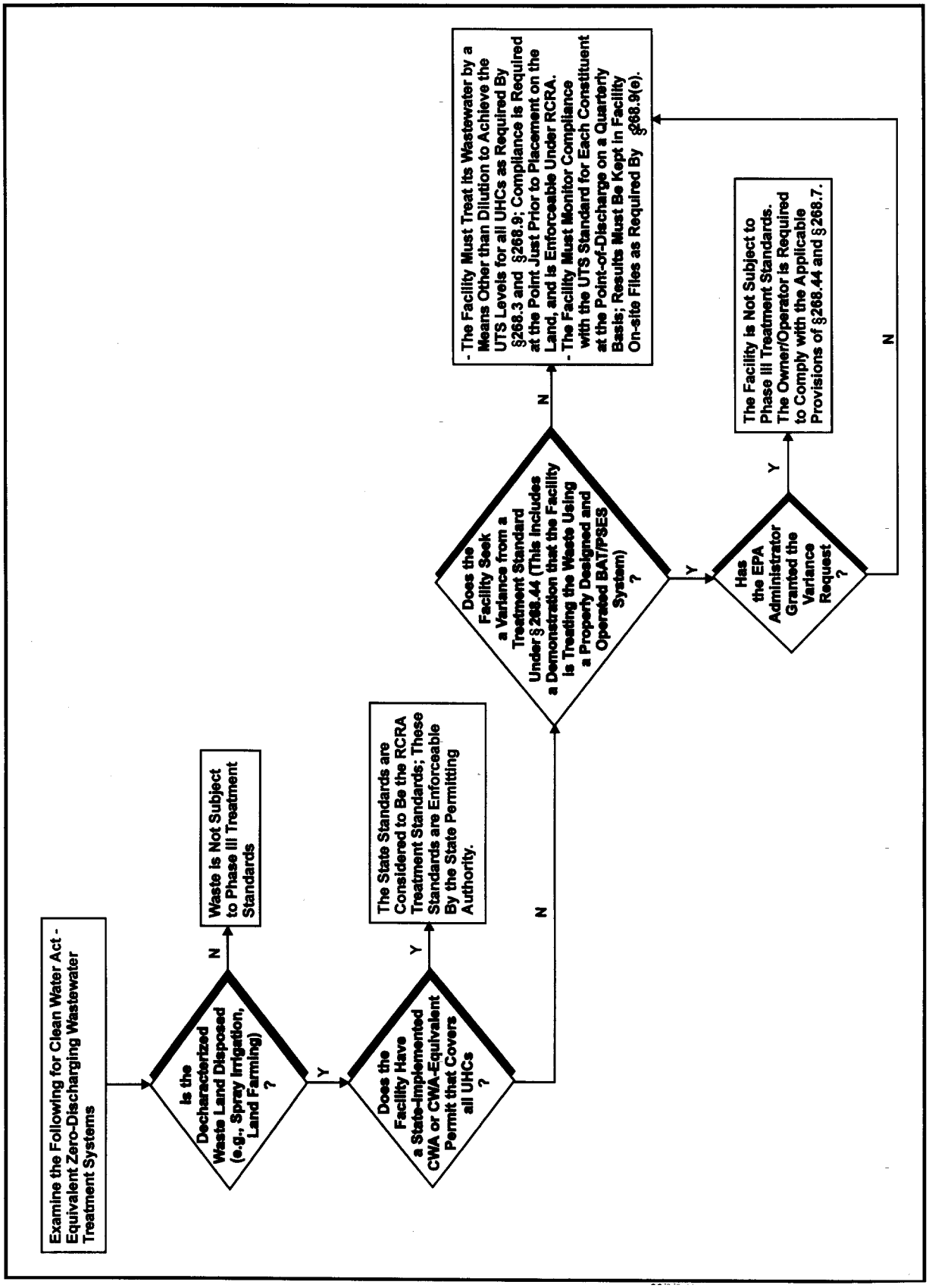


Figure 4. Applicability Criteria and Treatment Standards for Decharacterized Wastes Managed in Clean Water Act - Equivalent Zero-Discharging Wastewater Treatment Systems

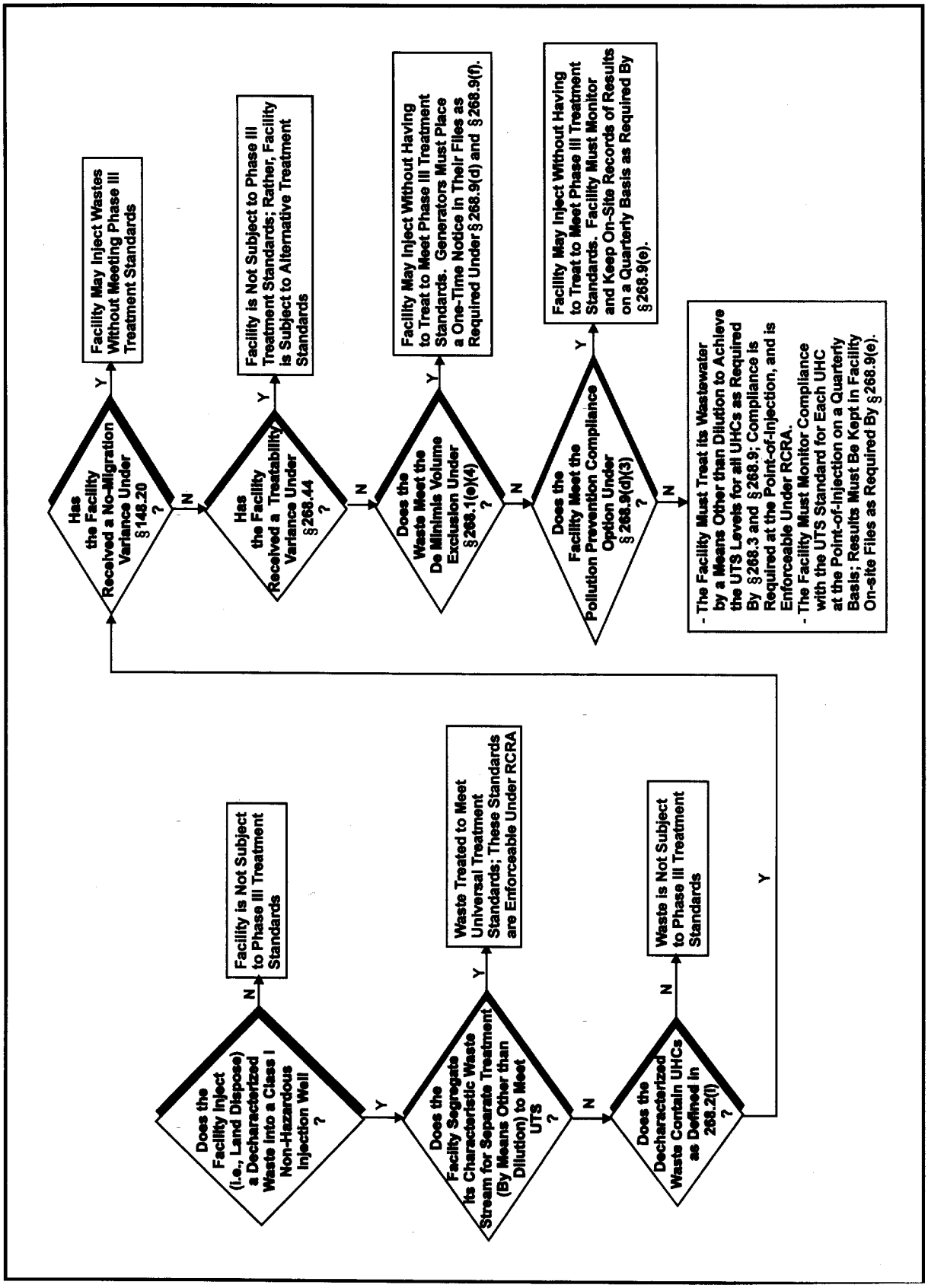


Figure 5. General Applicability Criteria and Treatment Standards for SDWA-Regulated Facilities Discharging Decharacterized Waste Into Class I Non-Hazardous Injection Wells

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V. Treatment Standards for Newly Listed Wastes

A. Carbamates

Hazardous Wastes From Specific Sources (K Waste Codes)

K156—Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes.
K157—Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes.
K158—Bag house dust, and filter/separation solids from the production of carbamates and carbamoyl oximes.
K159—Organics from the treatment of thiocarbamate wastes.
K160—Solids (including filter wastes, separation solids, and spent catalysts) from the production of thiocarbamates and solids from the treatment of thiocarbamate wastes.
K161—Purification solids (including filtration, evaporation, and centrifugation solids), baghouse dust, and floor sweepings from the production of dithiocarbamate acids and their salts. (This listing does not include K125 or K126.)

Acute Hazardous Wastes (P Waste Codes)

P203 Aldicarb sulfone
P127 Carbofuran
P189 Carbosulfan
P202 m-Cumenyl methylcarbamate
P191 Dimetilan
P198 Formetanate hydrochloride
P197 Formparanate
P192 Isolan
P196 Manganese dimethyldithiocarbamate
P199 Methiocarb
P190 Metolcarb
P128 Mexacarbate
P194 Oxamyl
P204 Physostigmine
P188 Physostigmine salicylate
P201 Promecarb
P185 Tirpate
P205 Ziram

Toxic Hazardous Wastes

U394 A2213
U280 Barban
U278 Bendiocarb
U364 Bendiocarb phenol
U271 Benomyl
U400 Bis(pentamethylene)thiuram tetrasulfide
U392 Butylate
U279 Carbaryl
U372 Carbendazim
U367 Carbofuran phenol
U393 Copper dimethyldithiocarbamate
U386 Cycloate
U366 Dazomet
U395 Diethylene glycol, dicarbamate
U403 Disulfiram
U390 EPTC
U407 Ethyl Ziram
U396 Ferbam
U375 3–Iodo-2-propynyl n-butylcarbamate
U384 Metam Sodium
U365 Molinate
U391 Pebulate
U383 Potassium dimethyl dithiocarbamate
U378 Potassium n-hydroxymethyl-n-methyldithiocarbamate
U377 Potassium n-methyldithiocarbamate
U373 Propham
U411 Propoxur
U387 Prosulfocarb
U376 Selenium, tetrakis (dimethyldithiocarbamate)
U379 Sodium dibutyldithiocarbamate
U381 Sodium diethyldithiocarbamate
U382 Sodium dimethyldithiocarbamate
U277 Sulfallate
U402 Tetrabutylthiuram disulfide
U401 Tetramethylthiuram monosulfide
U410 Thiodicarb
U409 Thiophanate-methyl
U389 Triallate
U404 Triethylamine
U385 Vernolate

EPA is promulgating the treatment standards that were proposed for wastes from the carbamate industry specified above.

The preamble of the proposed rule described the basis for these treatment standards in greater detail (60 FR 11720). For background information on waste characterization data, data gathering efforts, and applicable technologies, see the Best Demonstrated Available Technology (BDAT) Background Document for Newly Listed or Identified Wastes from the Production of Carbamates.

The concentration-based treatment standards being promulgated today for carbamate wastewaters and nonwastewaters are at UTS levels for certain constituents, and at newly-established levels for other constituents that are today being added to the UTS list. The UTS standards have already been promulgated for 21 of the constituents of concern (16 organic constituents and 5 metals). The Agency is promulgating new UTS for 42 constituents associated with carbamate wastes. Forty of these constituents are chemicals produced by the carbamate industry which may be grouped into the following categories: carbamates and carbamate intermediates, carbamoyl oximes, thiocarbamates, and dithiocarbamates. Please refer to the Background Document for definitions of these chemical groups and the categorization of these 40 chemicals. The other 2 constituents for which new UTS are being promulgated (triethylamine, and o-phenylene diamine) are not carbamate products, but are hazardous constituents present at levels of regulatory concern in carbamate wastes.

One commenter requested clarification on the applicability of the carbamate treatment standards, stating that the summary section of the proposed treatment standards said that treatment standards were being proposed for certain hazardous wastes ''including those from the production of carbamate pesticides'', whereas the section of the rule that directly addressed carbamate wastes referred to carbamates without the pesticide limitation. EPA points out in response that the final listing rule which defined the new waste codes does not limit the definition to pesticides only. The treatment standards being promulgated apply to all wastes which fit the definitions of the waste codes established in the final listing rule.

One commenter stated that EPA exceeded its authority under RCRA section 3004 and violated the Administrative Procedure Act by preparing the proposed treatment standards and sending this rule to OMB well before the final listing had been promulgated. EPA points out that the proposed treatment standards were actually published after publication of the final listing rule. The proposed treatment standards were modified to conform with the changes that appeared in the final listing; thus, treatment standards were only proposed for those carbamate wastes whose listing had been promulgated in final form. Proposed standards for wastes whose listings were not finalized were eliminated from the proposed treatment standards rule. Given the statutory requirement described above (i.e., the requirement to finalize LDR treatment standards six months after the listing is finalized), Congress must have envisioned that the two rulemaking activities would occur in close proximity.

One commenter had several objections to the proposed standards for thiocarbamate wastes, stating that 1) nonwastewater standards should not have been based on detection limits compiled from sampling and analysis performed as part of the listing process

because the Agency made errors in the sampling and analysis; 2) that EPA has no data to support the assertion that the proposed UTS limits can be met by thermal destruction technologies and that the source of the detection limit used to develop the nonwastewater standard was not clearly identified; and, 3) that no document was found in the record to support the proposed wastewater limit of 0.003 mg/l for thiocarbamate constituents (A2213, Butylate, Cycloate, EPTC, Molinate, Pebulate, Prosulfocarb, Triallate, Vernolate), based on granular activated carbon absorption, giving the commenter no basis to evaluate the achievability of this treatment standard.

To respond, the nonwastewater limit for thiocarbamate wastes was actually based on a detection limit of 0.5 mg/kg by GC/NPD, identified in a general characterization report addressing the newly regulated constituents, rather than on the limit of 0.125 mg/kg by SW–846 8270B, identified in the sampling and analysis reports. The commenter has not yet provided any data to indicate that the proposed treatment standards for nonwastewaters cannot be met.

The Agency has decided to promulgate a treatment standard of 0.042 mg/l in wastewaters for the thiocarbamate constituents identified above. This standard is based on an analytical detection limit of 0.015 mg/l for Butylate, identified in an activated carbon isotherm test performed by the Office of Water to support development of effluent guideline limitations. The Agency had proposed a wastewater limit of 0.003 mg/l, based on data taken from the PEST (Pesticide Treatability Database) database containing treatability data for pesticides, prepared and maintained by RREL (Risk Reduction Engineering Laboratory) in Cincinnati, Ohio. However, upon review of the available data, the Agency has decided that the Office of Water data is more accurately representative of available wastewater treatment than the pilot-scale data from the PEST database, and has decided to change the final treatment standard accordingly.

EPA is today clarifying that the LDRs do not apply to waste streams which were specifically exempted from the definition of hazardous waste in the final listing rule for carbamates. These waste streams include sludges from the biological treatment of K156 and K157 and streams which satisfy the concentration-based exemption from the definition of K156 and K157 codified at § 261.3(a)(2)(iv)(G).

The promulgation of treatment standards for carbamate wastes has greatly expanded the number of constituents covered by the Universal Treatment Standards at Section 268.48. The Agency wishes to clarify that only a very limited number of generators or treaters, such as manufacturers or users of carbamate products, are expected to have these new constituents present in their wastes. Therefore, affected parties may rely on process knowledge to determine if it is necessary to analyze for these constituents.

The commenter has not yet provided any data to indicate that the proposed treatment standards cannot be met. The commenter did indicate an intention to submit biological treatment data for thiocarbamate wastes. This commenter was instructed to submit this data quickly (by the end of August) to allow the Agency time to give consideration to this data prior to issuing the final rule.

B. Spent Aluminum Potliners (K088)

K088—Spent potliners from primary aluminum reduction.

EPA proposed to establish treatment standards for K088 expressed as numerical concentration limits (see 60 FR 11722) for the following constituents: acenapthene, anthracene, benz(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(g,h,i)perylene, chrysene, dibenz(a,h)-anthracene, fluoranthene, indeno(1,2,3-cd)pyrene, phenanthrene, pyrene, antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, nickel, selenium, silver, cyanide and fluoride. Today, EPA is promulgating these treatment standards as proposed. The nonwastewater treatment standards for cyanide, and the organic constituents, are based on a total composition concentration analysis. The nonwastewater treatment standards for fluoride, and the metal constituents, are based on analysis using the TCLP. All wastewater treatment standards are based on total composition concentration analysis.

1. Comments Received on the ''Inherently Waste-Like'' Determination

The majority of the comments received on the issue of declaring K088 ''inherently waste-like'' opposed such a determination. As discussed in the proposal, declaring K088 inherently waste-like would require that all K088 treaters/recyclers obtain a RCRA Part B permit regardless of whether the K088 is recycled, reused, used as a feedstock in a process, or conventionally treated. The commenters asserted that this designation would discourage recycling/reuse and development of innovative technologies, and would be overly burdensome for many of the small companies pursuing recycling technologies.

The Agency was persuaded by commenters that a determination of ''inherently waste-like'' is unnecessary at this time. Instead, any determination of whether a particular K088 processing technology is a type of excluded recycling activity would need to be made on a case-by-case basis by EPA Regions or authorized states. EPA was persuaded by commenters that allowing individual flexibility in making such a determination is desirable here.

Criteria that are typically relevant in making any such determinations are set out (among other places) at 50 FR at 638 (Jan. 4, 1985); 53 FR at 522 (Jan. 8, 1988); and 56 FR at 7159 and 7185 (Feb. 21, 1991). EPA also repeats the concerns voiced in the proposed rule that spent aluminum potliners contain high concentrations of cyanides and polyaromatic hydrocarbons which may be conventionally treated by thermal recovery processes, and that these and other hazardous constituents are present in the potliners in concentrations well exceeding those found in the raw materials or products for which the spent potliners would be substituting. 60 FR at 11723 n. 11. Other concerns are that the thermal recovery processes appear to pose the same potential risks of harmful air emissions as processing hazardous wastes in industrial furnaces, that the residues of recovery processes may not be adequately treated, and that storage of spent potliners can (and indeed has) posed significant risk. Id. at 11723–24. EPA also repeats that many of these units may already be subject to the rules for industrial furnaces burning hazardous wastes, since those rules apply to industrial furnaces that burn hazardous wastes for energy recovery, material recovery, or destruction. Id. at 11722 and n. 10; 56 FR at 7142; 50 FR at 49171–49174 (Nov. 29, 1985); 40 CFR 266.100.

A consequence of EPA's decision to allow for individualized determinations is that it is also unnecessary (and indeed, not factually justified) to make a general determination of ''substantial confusion'' pursuant to 270.10(e)(2) which could establish an opportunity for interim status eligibility. That finding would have been premised on the generic inherently wastelike determination (see 60 FR at 11723), which the Agency is not making. EPA is also not pursuing in this proceeding the idea of toxic air emission standards under section 112(d)(1) of the Clean Air Act for these sources. These sources could be subject to these standards if they are major (or, in some cases, area)

sources under section 112, but that determination need not be part of the present rulemaking.

2. Comments Received on Regulated Constituents

EPA requested comment on regulating the phthalates: bis (2-ethylhexyl) phthalate, di-n-butyl phthalate and di-n-octyl phthalate. These constituents have seemingly been detected in the untreated potliner and the treated residue; however, EPA believes that their presence may simply be due to lab contamination. Commenters overwhelmingly requested that these phthalates not be regulated. The Agency agrees and is not including any phthalates in the list of regulated constituents for K088.

A number of commenters requested that benzo(a)pyrene be used as a surrogate for analyzing organics. The commenters were concerned that analytical costs for other PAHs would be excessive. EPA is not convinced that analyzing benzo(a)pyrene would be sufficient for determining proper treatment of all organics. The concentration of one constituent does not always reflect the concentration of similar constituents in a waste. Surrogate analyses assume that all PAHs are present at similar concentrations which may or may not be true. Because of the variability of concentrations found in K088 wastes, benzo(a)pyrene may not be present while other PAHs may be present. Analyzing only for benzo(a)pyrene or any other potential surrogate does not ensure the treatment to UTS concentrations of other PAHs. In addition, the Agency believes that since all of the PAHs are analyzed by a single method the cost increase for additional PAHs should not be significant. Therefore, the Agency does not believe the organic constituents monitored in K088 wastes should be limited to a surrogate indicator. EPA is allowing, however, flexibility in the waste analysis plans developed by the companies with their permit writers to analyze only for those constituents expected to be present in the generated K088.

The Agency proposed to regulate fluoride in K088. While fluoride is not a ''hazardous constituent'', i.e., listed in Appendix VIII of part 261, it is present in very high concentrations in K088 and is capable of causing substantial harm in the form of groundwater degradation, adverse ecological effects and potential adverse human health effects. The Agency's view thus is that, unless fluoride in this waste is treated, the legal standard in section 3004(m) would not be satisfied. That is, treatment would not ''substantially diminish the toxicity of the waste * * * so that short-term and long-term threats to human health and the environment are minimized.'' RCRA section 3004(m)(1). In addition, as discussed in the proposed rule, EPA reads the language in section 3004 (d)(1), (e)(1), and (g)(5) to require that land disposal may still be prohibited after treatment of hazardous constituents if the waste might still pose substantial hazards due to presence of other constituents or properties. 56 FR at 41168 (August 19, 1991); *NRDC* v. *EPA*, 907 F. 2d 1146, 1171–72 (D.C. Cir. 1990) (dissenting opinion). These hazards could be posed due to lack of treatment of other constituents in the waste, in this case, fluoride.

The Agency requested comment on whether fluoride should be added to Appendix VIII, as well. The overwhelming response of the commenters is that fluoride should not be added to Appendix VIII. The Agency agrees that fluoride does not pose the same risks in other wastes because it does not occur in such high concentrations. Furthermore, adding fluoride to Appendix VIII has associated potential analytical costs which would be unwarranted. Therefore, even though the Agency is regulating fluoride in K088, it is not adding it to Appendix VIII at this time.

3. Comments Received on Data

Several comments were received regarding EPA's use of data on K088. One comment in particular suggested that EPA ignored relevant data gathered by the Aluminum Association. The Agency did not ignore these data. They were submitted after the proposal and are currently in the docket for this final rule. The Agency has reviewed these data and found that they do not support any changes to the proposed treatment standards that are being finalized in this rule. This issue is discussed in greater detail in the Response to Comments background document.

4. Comments Received on Technical Basis for BDAT

There were a number of comments submitted on the technical basis for the numerical treatment standards. As described in the preamble to the proposed rule, most of the treatment standards are taken from the universal treatment standards (UTS) (59 FR 47988, September 19, 1994) which were developed for each constituent by evaluating all existing Agency data from various technologies. The exception to the UTS for K088 constituents is the fluoride treatment standard, which was taken from the Reynolds delisting petition. While K088 is a unique waste, available data indicate that these UTS levels can be routinely achieved.

There seemed to be some confusion in that some commenters believed that EPA was proposing a required technology for the treatment of K088. This is not the case. The longstanding position of the Agency is when numerical treatment levels are established under the LDR program, any treatment technology (other than impermissible dilution) can be used to achieve those levels.

Additional K088 comments along with EPA's responses are provided in the Response to Comments Background Document located in the docket for this rule.

VI. Improvements to the Existing Land Disposal Restrictions Program

A. Completion of Universal Treatment Standards

1. Addition of Constituents to Table 268.48

As discussed in the section on carbamate wastes, EPA is today adding 42 new constituents to the table of universal treatment standards (Table 268.48), for which treatment standards are being promulgated today.

2. Wastewater Standard for 1,4-Dioxane

EPA proposed on March 2, 1995 (60 FR 11702), to establish a wastewater treatment standard for 1,4-dioxane. 1,4-Dioxane was the only UTS constituent for which EPA had promulgated a nonwastewater treatment standard but not a wastewater standard. At that time, the Agency proposed a wastewater UTS for 1,4-dioxane of 0.22 mg/l. This proposed standard was based on the maximum daily limit for 1,4-dioxane that had been developed as part of the proposed effluent guidelines for the pharmaceutical industry (60 FR 21592, May 2, 1995). This standard was based on a transfer of distillation performance data from methanol to 1,4-dioxane.

Today, the Agency is promulgating a revised treatment standard for wastewater forms of 1,4-dioxane based on 5 data points. This data was submitted by one of the commenters and represents actual treatment of wastewaters containing 1,4-dioxane. The Agency prefers to use actual treatment data in lieu of a data transfer whenever possible. These data show that wastewaters containing between 2265–7365 mg/l of 1,4-dioxane can be treated by distillation to levels between 3–7 mg/l, representing a 99.9% removal rate for the dioxane. As a result of this data submittal, the Agency is today promulgating a UTS of 12.0 mg/l for 1,4-

dioxane wastewaters based on the performance of distillation. The standard was calculated following the standard methodology employed by EPA in developing all BDAT treatment standards.

Comments received on the wastewater treatment standard for 1,4-dioxane focused on three major points: (1) The unavailability, at the time of proposal, of data from the effluent guidelines proposed rule for the pharmaceutical industry, from which the proposed standard had been derived; (2) the inappropriateness of transferring distillation data from methanol to 1,4-dioxane (based on the effluent guidelines data); and (3) analytical difficulties inherent in analyzing for 1,4 dioxane in wastewater.

In the proposed rule, EPA referenced effluent guidelines data that would be made available to support the proposed wastewater treatment standard for 1,4-dioxane (60 FR 11727, footnote 13). Although the Agency believed that these data would be available for public inspection shortly after signature of the proposed rule, this was not the case. The data were available one day following the close of the comment period on the Phase III proposed rule. As a result, many comments were received that criticized the Agency for not providing appropriate pubic review of data that was used to develop a treatment standard.

In light of the delayed release of the effluent guidelines data, the Agency decided to accept comments on these data and the proposed 1,4-dioxane treatment standard for 30 additional days. In addition, the Agency provided notice of this extension to all commenters of the proposed rule. Several comments were received in response to this memo. Most of the commenters who had raised issue with the proposed standard commented on the EPA memo.

In response to the second concern raised by commenters, the Agency has received actual wastewater treatment data on 1,4-dioxane and as such has developed a UTS based on that data. As stated earlier, the Agency prefers to use actual constituency data from available treatment technology in lieu of transferred data from other constituents whenever feasible.

Finally, several commenters raised concerns regarding the analytical difficulties of reliably detecting and quantifying 1,4-dioxane in wastewater. CMA, in particular, stated that any UTS under 20 mg/l for 1,4-dioxane would be impractical. Other commenters noted extreme variability and difficulty in testing for the presence of 1,4-dioxane in wastewaters. While the analytical results provided by one of the commenters did show some irregularities, a comprehensive analytical protocol was not provided by the any of the comments which would be needed to fully assess their concerns regarding 1,4-dioxane. As such, the Agency believes that there should be no difficulty in analyzing for 1,4-dioxane in wastewater. Analysis can be accomplished by either direct injection into a GCFID (SW 846, Method 8015B) or a more sensitive analysis involving the injection of an azeotropic distillate preparation into a GCFID (SW–846, Method 5031).

3. Revision to the Acetonitrile Standard

EPA proposed to raise the UTS for the nonwastewater form of acetonitrile from 1.8 mg/kg to 38 mg/kg. Commenters generally supported this revision for the reasons given in the proposed rule. Therefore the Agency is promulgating this revised treatment standard in this rule for the reasons stated at 60 FR 11729.

Related to this, EPA also proposed revoking the special wastewater/nonwastewater definition for acrylonitrile wastes (K011/13/14), recognizing that these nonwastewaters could consist of over 90% water, and that wastewater treatment is an appropriate means of treating these wastes. Commenters agreed with this, and the Agency is finalizing this today.

B. Aggressive Biological Treatment as BDAT for Petroleum Refinery Wastes

EPA had solicited comment on whether to specify aggressive biological treatment (ABT) as the treatment standard for decharacterized petroleum refining wastewaters. The Agency is not establishing such a treatment standard in this final rule, but is instead promulgating a reduction in the frequency of monitoring required for those facilities using ABT to treat their wastes. The reasons for this are discussed below.

This issue was raised by the American Petroleum Institute (API), which had submitted data to the Agency on ten of its facilities that used aggressive biological treatment. Along with the data, API requested that EPA specify aggressive biological treatment as the treatment standard for their wastes. Such a standard, which would operate in lieu of UTS, would, in API's view, provide adequate treatment and could reduce their monitoring burden. In a similar vein, CMA commented that EPA should specify an optional treatment method (biological treatment) as an alternative to meeting UTS for underlying hazardous constituents reasonably expected to be present in characteristic wastes.

The Environmental Technology Council (ETC) opposed setting ABT as a new technology-specific treatment standard. They argued that biological treatment only partially destroys underlying hazardous constituents. They also felt that reducing the monitoring burden is inadequate justification for creating a new technology-specific standard.

As discussed in the preamble to the proposed rule (60 FR at 11719), biotreatment systems vary in performance both in general and as to specific constituents; the Agency is therefore reluctant to designate ABT as BDAT based on data from only ten facilities. The main reason given by both API and CMA for having a treatment method as the treatment standard was the elimination of the compliance monitoring burden. Although we agree with ETC that reducing monitoring burden is not an adequate justification for creating a new technology-specific treatment standard, EPA is certainly willing to consider more efficient means of ensuring compliance with LDR requirements.

Therefore, EPA is not designating ABT as BDAT, but is, however, requiring that decharacterized wastes affected by today's rule, which are managed in a wastewater treatment system involving ABT, must be monitored annually to ensure compliance with the treatment standards for underlying hazardous constituents. Other decharacterized wastes affected by today's rule must be monitored quarterly. EPA has been reviewing the paperwork burden posed by the LDR program; this was discussed in the supplemental notice to the LDR Phase IV proposed rule (61 FR 2338, January 25, 1996). As part of this paperwork burden reduction effort, the Agency is considering reducing the monitoring burden for all facilities complying with LDRs. The Agency considers reducing the monitoring burden for facilities treating wastewater with ABT to be a positive step towards this goal, and therefore believes it is justified. Reductions of this type for other types of treatment will be explored in future rulemakings.

C. Dilution Prohibition

Under the existing LDR dilution prohibition (40 CFR 268.3), burning inorganic metal-bearing hazardous wastes can be a form of impermissible dilution. On May 27, 1994, the Assistant Administrator for the Office of Solid Waste and Emergency Response issued

a Statement of Policy which clarified this point (59 FR 27546–27547). Today the Agency is codifying and quantifying these principles.

As discussed in the proposed rule, impermissible dilution may occur when wastes not amenable to treatment by a certain method (i.e., treated very ineffectively by that treatment method) are nevertheless 'treated' by that method (55 FR 22666, June 1, 1990; 52 FR at 25778–25779, July 8, 1987). Today's rule provides a general distinction between ''adequate treatment'' and potential violations of the dilution prohibition.

1. Inorganic Metal-Bearing Wastes

The Agency has evaluated the hazardous wastes and has determined that 43 of the RCRA listed wastes (as set forth in 40 CFR part 261) typically appear to be inorganic hazardous wastes that do not contain organics, or contain only insignificant amounts of organics, and are not regulated for organics. BDAT for these inorganic, metal-bearing listed wastes is metal recovery or stabilization. Thus, impermissible dilution may result when these wastes are combusted. When an inorganic metal-bearing hazardous waste with insignificant concentrations of organics is placed in a combustion unit, legitimate treatment for purposes of LDR ordinarily is not occurring. No treatment of the inorganic component occurs during combustion, and therefore, metals are not destroyed, removed, or immobilized. Since there are no significant concentrations of organic compounds in inorganic metal-bearing hazardous wastes, it cannot be maintained that the waste is being properly or effectively treated via combustion (i.e., thermally treated or otherwise destroyed, removed, or immobilized). For this reason, combustion of inorganic wastes is not a ''metho[d] of treatment * * * which substantially diminish[es] the toxicity of the waste or substantially reduce[s] the likelihood of migration of hazardous constituents from the waste * * *'' (RCRA § 3004(m)) and so is not a permissible method of treatment under that provision.

In terms of the dilution prohibition, if combustion is allowed as a method to achieve a treatment standard for these wastes, metals in these wastes will be dispersed to the ambient air and will be diluted by being mixed in with combustion ash from other waste streams. Adequate treatment (stabilization or metal recovery to meet LDR treatment standards) has not been performed and dilution has occurred. It is also inappropriate to regard eventual stabilizing of such combustion ash as providing adequate treatment for purposes of the LDRs. Simply meeting the numerical BDAT standards for the ash fails to account for metals in the original waste stream that were emitted to the air and for reductions achieved by dilution with other materials in the ash. (In most cases, of course, the metal-bearing wastes will have been mixed with other wastes before combustion, which mixing itself could be viewed as impermissible dilution).

These inorganic, metal-bearing hazardous wastes should be—and are usually—treated by metal recovery or stabilization technologies. These technologies remove hazardous constituents through recovery in products, or through immobilization, and are therefore permissible BDAT treatment methods.

There are eight characteristic metal wastes; however, only wastes that exhibit the TC as measured by both the TCLP and the EP for D004–D011 are presently prohibited (see 55 FR 22660–22662, June 1, 1990). EPA recently proposed prohibition and treatment standards for wastes identified as hazardous solely because they exhibit the TC (60 FR at 43682, August, 22, 1995). Characteristic wastes, of course, cannot be generically characterized as easily as listed wastes because they can be generated from many different types of processes. For example, although some characteristic metal wastes do not contain organics or cyanide or contain only insignificant amounts, others may have organics or cyanide present which justify combustion, such as a used oil exhibiting the TC characteristic for a metal. Thus, it is difficult to say which D004–D011 wastes would be impermissibly diluted when combusted, beyond stating that as a general matter, impermissible dilution would occur if the D004–D011 waste does not have significant organic or cyanide content but is nevertheless combusted.

An ''inorganic metal-bearing waste'' is one for which EPA has established treatment standards for metal hazardous constituents, and which does not otherwise contain significant organic or cyanide content. The table being promulgated in 40 CFR part 268, Appendix XI is the list of waste codes for which EPA regulates only metals that are affected by this rule.

2. Inorganic Metal-Bearing Wastes Not Prohibited Under the LDR Dilution Prohibition

Combustion of the following inorganic metal-bearing wastes is not prohibited under the LDR dilution prohibition: (1) wastes that, at the point of generation, or after any bona fide treatment such as cyanide destruction prior to combustion, contain hazardous organic constituents or cyanide at levels exceeding the constituent-specific treatment standard for UTS; (2) organic, debris-like materials (e.g., wood, paper, plastic, or cloth) contaminated with an inorganic metal-bearing hazardous waste; (3) wastes that, at point of generation, have reasonable heating value such as greater than or equal to 5000 Btu/lb (see 48 FR 11157, March 16, 1983); (4) wastes co-generated with wastes that specify combustion as a required method of treatment; (5) wastes, including soil, subject to Federal and/or State requirements necessitating reduction of organics (including biological agents); and (6) wastes with greater than 1% Total Organic Carbon (TOC).

Several commenters want EPA to add additional criteria. One commenter recommended adding a seventh criterion, i.e., combustion that results in a significant reduction in volume. Several commenters recommended adding a seventh criterion to allow combustion of lab packs. The Agency is not persuaded that a seventh criterion is necessary. It has determined that volume reduction is not a sufficient reason to allow the combustion of inorganic metal-bearing wastes because metals are neither destroyed nor immobilized, and it is possible that a significant amount of metal is being transferred to another media. As for lab packs, in the Phase II final rule (59 FR 47982, September 19, 1994), the Agency specifically addressed lab pack issues when it revised 268 Appendix IV to specify those wastes that are prohibited from inclusion in lab packs destined for combustion. Today's dilution prohibition does not supersede the streamlined treatment standards promulgated in the Phase II final rule. Therefore, metal-bearing inorganic wastes may be included in a lab pack unless it is prohibited under the list of wastes in 268 Appendix IV.

3. Cyanide-Bearing Wastes

A commenter questioned why EPA allows the presence of cyanide to justify combustion when there are adequate alternative treatment methods for that waste constituent. This approach was adopted because cyanide is destroyed—i.e., effectively treated and not diluted—by combustion. Existing LDR rules, in many cases, identify combustion as an appropriate BDAT for destruction of cyanide-bearing wastes. See, e.g., treatment standards for F009, F010, and F011. The LDR Phase III proposal solicited comments on whether the

cyanide criterion should be dropped. Several commenters strongly supported the continued use of combustion as a treatment method for cyanide-bearing wastes, stating that combustion is the most efficient and effective method for treating cyanide wastes. One commenter, ETC, supported dropping the cyanide criterion because of the existence of alternative non-combustion technologies to treat inorganic cyanide-bearing wastes without dispersing metals. The Agency disagrees; combustion, when properly conducted, can effectively destroy all the cyanide in a waste. In the Agency's view, this indicates that cyanide wastes which are treated by combustion are not being diluted impermissibly. This issue of whether metals are being dispersed would be addressed through substantive controls on the combustion unit.

4. Table of Inorganic Metal Bearing Wastes

The table being promulgated in 40 CFR part 268, Appendix XI today indicates the list of waste codes for which EPA regulates only metals and/or cyanides that would be affected by this proposed rule. Except for P122, this list is identical to the list originally published in the aforementioned Policy Statement on this subject. The Agency is removing P122 (Zinc Phosphide greater than 10%) from the list of restricted inorganic metal-bearing wastes, because the Agency has previously promulgated a treatment standard of INCIN for the nonwastewater forms of this waste. See 40 CFR 268.40. The policy memo was in error on this point. EPA wishes to clarify that this dilution prohibition is limited to the 51 waste codes in this table. In addition, if an Appendix IX waste meets any of the six criteria discussed above, it would be permissible to combust the waste despite the fact that it is an Appendix IX waste.

D. Expansion of Treatment Options That Will Meet the LDR Treatment Standard ''CMBST''

EPA is modifying the treatment standard expressed as INCIN, which specifies hazardous waste incineration, to CMBST, which allows combustion in incinerators, boilers and industrial furnaces. EPA also solicited comment on whether the Catalytic Extraction Process, for which Molten Metal Technology received a determination of equivalent treatment under § 268.42(b), should also be allowed for all wastes which have a treatment standard of CMBST, and whether there are other technologies which are equivalent to CMBST. Commenters supported the inclusion of the Catalytic Extraction Process (CEP), and since the Agency has determined that (properly operated) it performs in a manner equivalent to other combustion technologies, is adding it to the CMBST standard. Molten Metal Technology commented that the CEP is not in fact a combustion technology, and the Agency has attempted to reflect this in the definition. One commenter, Exide Corporation, requested that their plasma arc process for the recovery of lead also be added to the definition of CMBST. The Exide plasma arc process is in fact an industrial furnace under § 260.10, and is therefore already considered part of the definition of CMBST.

EPA also notes that the new CMBST standard requires that wastes be thermally treated in units that either are subject to subtitle C standards, or, in cases where non-hazardous but prohibited wastes are being thermally treated, in accordance with applicable technical operating requirements. This situation could arise, for example, if a decharacterized waste were then being thermally treated. Such a waste need not be managed in a hazardous waste combustion unit. The regulatory language makes clear that non-hazardous waste combustion units can be utilized. In fact, the predecessor to the CMBST standard—INCIN—allowed nonhazardous incinerators to be an eligible type of unit because the INCIN standard allowed burning in units subject to applicable emissions standards, which standards did not necessarily have to include subtitle C standards (59 FR 48002, Sept. 19, 1994, and 60 FR 242, June 3, 1995). This language was omitted inadvertently from the CMBST standard, and is being restored in today's rule.

E. Clean Up of 40 CFR Part 268

EPA is finalizing changes to the LDR program to achieve the goal of simplified regulations.

1. Section 268.8

Because treatment standards for all scheduled wastes were promulgated in the Third Third rule in 1990, the § 268.8 ''soft hammer'' requirements are no longer necessary. Therefore, § 268.8 is removed from part 268.

2. Sections 268.10–268.12

The purpose of Subpart B of 268 was to set out a schedule for hazardous wastes by the date when treatment standards were to be established. Deadlines in all three of these sections were met on time, and the wastes are subject to treatment standards. Therefore, these three sections are no longer necessary, and are removed.

3. Section 268.2(f)

With the promulgation of UTS in the LDR Phase II final rule (59 FR 47982, September 19, 1994), distinctions in the definitions of wastewaters are unnecessary. The Agency is therefore removing paragraphs (1)–(3) from § 268.2(f).

4. Corrections to Proposed Rule Language

A number of commenters pointed out properly that EPA had proposed an amendment to § 268.9 of the rules which would have the effect of subjecting all listed wastes which also exhibit a characteristic of hazardous waste to evaluate whether the waste contains underlying hazardous constituents not covered by the treatment standard for the listed waste, and if so, to treat for them. See 60 FR at 11741. EPA agrees with the commenters that this provision is unnecessary and is not adopting it. (In fact, the Agency did not intend any far-reaching change in proposing the revised language.) The provision is unnecessary because EPA already evaluated which hazardous constituents are present in listed wastes at the time of developing the treatment standards (any of the Background Documents supporting the treatment standards indicates the sampling done, and that the sampling encompassed the whole range of hazardous constituents potentially present). There is no need to duplicate this effort. Consequently, the Agency is not amending § 268.9(b).

Other commenters pointed out that the proposed changes to the de minimis exemption in § 268.1(e)(4)(i) (see 60 FR 11740) inadvertently omitted the language which states that de minimis losses are not prohibited. That language has been put back into the final rule language.

VII. Capacity Determinations

A. Introduction

This section summarizes the results of the capacity analysis for the wastes covered by this rule. For background information on data sources, methodology, and a summary of each analysis, see the Background Document for Capacity Analysis for Land Disposal Restrictions, Phase III—Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners, found in the docket for today's rule. For EPA's responses to capacity-related comments, see the Response to Capacity-Related Comments Received on the Phase III

Land Disposal Restrictions Rulemaking, also found in the docket for today's rule.

In general, EPA's capacity analysis methodologies focus on the amount of waste to be restricted from land disposal that is currently managed in land-based units and that will require alternative treatment as a result of the LDRs. The quantity of wastes that are not managed in land-based units (e.g., wastewaters managed only in RCRA exempt tanks, with direct discharge to a POTW) is not included in the quantities requiring alternative treatment as a result of the LDRs. Also, wastes that do not require alternative treatment (e.g., those that are currently treated using an appropriate treatment technology) are not included in these quantity estimates.

EPA's decisions on whether to grant a national capacity variance are based on the availability of alternative treatment or recovery technologies. Consequently, the methodology focuses on deriving estimates of the quantities of waste that will require either commercial treatment or the construction of new on-site treatment systems as a result of the LDRs—quantities of waste that will be treated adequately either on site in existing systems or off site by facilities owned by the same company as the generator (i.e., captive facilities) are omitted from the required capacity estimates.

B. Capacity Analysis Results Summary

For the decharacterized ICR and TC wastes managed in CWA, CWA-equivalent, and Class I injection well systems, EPA estimates that between 85 and 500 million tons per year (estimated at end-of-pipe) will be affected as a result of today's rule. EPA believes that many affected facilities need time to build treatment capacity for these wastes, as wastewater volumes generally make off-site treatment impractical. Thus, EPA has determined that sufficient alternative treatment capacity is not available, and today is granting a two-year national capacity variance for decharacterized wastewaters.

Commenters to the rule generally supported EPA's decision to grant a national capacity variance for decharacterized wastes managed in CWA, CWA-equivalent, and Class I injection well systems. Numerous other comments were received on issues such as those associated with the definition of point of generation for ICR and TC wastewaters and the applicability of today's rule to wastewater management units other than surface impoundments, such as stormwater impoundments, sumps, sewers, and trenches. The Response to Capacity-Related Comments Received on the Phase III Land Disposal Restrictions Rulemaking background document provides a detailed discussion of the capacity-related comments on decharacterized wastewaters and EPA's response to them.

To assess the quantity of D003 wastes that could be affected by the rule other than those wastes managed in CWA and CWA-equivalent systems, EPA extracted information from the 1993 Biennial Reporting System (BRS) on the generation and management of D003 wastes. According to the BRS, approximately 2.2 million tons of D003 wastewaters are currently deepwell injected, 650 tons of D003 nonwastewaters are managed through land application, and 17,600 tons of D003 nonwastewaters are managed in ''other'' disposal units (not specified in the BRS). These wastes may require additional treatment in order to meet the LDRs. In addition, some D003 waste that may be affected by the rule may not be reported in the BRS, because these wastes may not be considered hazardous by the generator once they have been decharacterized. Although EPA believes that in general there is adequate treatment capacity for these wastes, such capacity may not be immediately available. Therefore, EPA is granting a 90-day capacity variance for D003 wastes that are impacted by the rule and are not managed in CWA and CWA-equivalent systems in order to allow facilities time to determine whether their wastes are affected by this rule, and identify and locate alternative treatment capacity if necessary.

EPA estimates that approximately 105,000—130,000 tons of newly listed wastes included in today's rule will require alternative treatment. In particular, approximately 4,500 tons of carbamate wastes (K156–K161, P127, P128, P185, P188–P192, P194, P196–P199, P201–P205, U271, U277–U280, U364–U367, U372, U373, U375–U379, U381–U387, U389–U396, U400–U404, U407, U409–U411) will require alternative treatment. In addition, 100,000—125,000 tons (not including contaminated media) of spent aluminum potliners (K088) will require alternative treatment capacity.

EPA received a number of comments on its capacity analysis for K088 wastes. Most commenters disagreed with EPA's proposal not to grant a capacity variance for K088 wastes. Specifically, these commenters believe that EPA overestimated the quantity of available capacity and underestimated the quantity of required capacity. In performing the capacity analysis for the final rule, EPA considered all of the issues raised by the commenters and reexamined its estimates of both available and required capacity. EPA found that adequate treatment capacity does exist for K088 wastes, although the amount of treatment capacity appears to be just adequate to accommodate demand. However, some of the facilities capable of treating these wastes may require pretreatment such as grinding or crushing prior to accepting the waste. In order to allow facilities generating K088 adequate time to work out logistics such as transportation, pretreatment capacity, and contracting for treatment capacity, EPA has decided to grant a nine-month national capacity variance for these wastes—the time at which EPA estimates existing treatment capacity will be available as a practical matter. A detailed discussion of the final capacity analysis is provided in the Background Document for Capacity Analysis for Land Disposal Restrictions, Phase III—Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners and EPA's responses to the individual comments on the K088 capacity analysis are provided in the Response to Capacity-Related Comments Received on the Phase III Land Disposal Restrictions Rulemaking, both of which are in the docket for today's rule.

EPA has determined that there is adequate alternative treatment capacity available for the 4,500 tons of carbamate wastes generated each year and is therefore not granting a national capacity variance for these wastes.

The quantities of radioactive wastes mixed with wastes included in today's rule are generated primarily by the U.S. Department of Energy (DOE). EPA estimates that 820 tons of high-level waste and 360 tons of mixed low-level waste that may be affected by this proposal will be generated annually by DOE. In addition, there are currently 7,000 tons of high-level waste, 10 tons of mixed transuranic waste, and 2,700 tons of mixed low-level waste in storage that may be affected by this rule. DOE currently faces treatment capacity shortfalls for high-level wastes and mixed transuranic wastes. Although DOE does have some available treatment capacity for mixed low-level wastes, most of this capacity is limited to treatment of wastewaters with less than one percent total suspended solids and is not readily adaptable for other waste forms. DOE has indicated that it will generally give treatment priority to mixed wastes that are already restricted under previous LDR rules. Therefore, EPA is granting a two-year national capacity variance to radioactive wastes mixed with the hazardous wastes affected by today's rule. Commenters to the proposed rule supported EPA's

decision to grant a national capacity variance for these wastes.

Table 1 lists each RCRA hazardous waste code for which EPA is today promulgating LDR standards. For each code, this table indicates whether EPA is granting a national capacity variance for land-disposed wastes. Also, EPA is granting a three-month national capacity variance for all wastes in this rule to handle logistical problems associated with complying with the new standards.

TABLE 1.—VARIANCES FOR NEWLY LISTED AND IDENTIFIED WASTES

Waste description[1]	Surface-disposed wastes	Deepwell-injected wastes
Ignitable and corrosive wastes managed in CWA or CWA-equivalent systems, or SDWA (D001 and D002)	2 Years	2 Years.
Reactive wastes managed in CWA or CWA-equivalent systems, or SDWA (D003)	2 Years	2 Years.
Reactive wastes not managed in CWA or CWA-equivalent systems, or SDWA (D003)	3 Months	3 Months.
Newly identified pesticide wastes managed in CWA or CWA-equivalent systems, or SDWA (D012–D017)	2 Years	2 Years.
Newly identified TC organic wastewaters managed in CWA or CWA-equivalent systems, or SDWA (D018–D043)	2 Years	2 Years.
Spent aluminum potliners (K088)	9 Months	3 Months.
Carbamate production wastes (K156–K161, P127, P128, P185, P188–P192, P194, P196–P199, P201–P205, U271, U277–U280, U364–U367, U372, U373, U375–U379, U381–U387, U389–U396, U400–U404, U407, U409–U411) mixed radioactive wastes[2].	3 Months	3 Months.

[1] Includes soil and debris contaminated with each waste.

[2] The variance determinations listed apply only to radioactive wastes mixed with decharacterized D001–D003 or newly identified D012–D017 wastes managed in CWA and CWA-equivalent systems; to radioactive wastes mixed with newly identified TC organic wastewaters; and to radioactive wastes mixed with spent aluminum potliners, or carbamate production wastes.

VIII. State Authority

A. Applicability of Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. Following authorization, EPA retains enforcement authority under sections 3008, 3013, and 7003 of RCRA, although authorized States have primary enforcement responsibility. The standards and requirements for authorization are found in 40 CFR Part 271.

Prior to HSWA, a State with final authorization administered its hazardous waste program in lieu of EPA administering the Federal program in that State. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities that the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obliged to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under RCRA section 3006(g) (42 U.S.C. 6926(g)), new requirements and prohibitions imposed by HSWA take effect in authorized States at the same time that they take effect in unauthorized States. EPA is directed to carry out these requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so.

Today's rule is being promulgated pursuant to sections 3004(d) through (k), and 3004(m), of RCRA (42 U.S.C. 6924(d) through (k), and 6924(m)). Therefore, the Agency is adding today's rule to Table 1 in 40 CFR 271.1(j), which identifies the Federal program requirements that are promulgated pursuant to HSWA. States may apply for final authorization for the HSWA provisions in Table 1, as discussed in the following section of this preamble. Table 2 in 40 CFR 271.1(j) is also modified to indicate that this rule is a self-implementing provision of HSWA.

B. Abbreviated Authorization Procedures for Specified Portions of Today's Rule

On August 22, 1995, EPA proposed in the Phase IV LDR notice an abbreviated authorization procedure that would also be used for certain parts of the Phase III LDR rule that are minor in nature (EPA also proposed to use this procedure for the Universal Treatment Standards (UTS) in the Phase II rule). This procedure is designed to expedite the authorization process by reducing the scope of a State's submittal, for authorization to a State certification and copies of applicable regulations and statutes. EPA would then conduct a short review of the State's request, primarily consisting of a completeness check (see 60 FR 43686 for a full description of the proposed procedures). The parts of the Phase III rule to which the streamlined authorization procedures would be applicable are: (1) treatment standards for newly listed wastes, (2) improvements to the existing land disposal restrictions program, and (3) revisions and corrections to the treatment standards in §§ 268.40 and 268.48. (Further discussion of this issue also is found in the supplemental proposal to the LDR Phase IV rule (61 FR 2358, 2365, January 25, 1996)).

Although EPA is firmly committed to streamlining the RCRA State authorization procedures, the Agency has decided not to finalize the proposed Category 1 authorization procedures for parts of the Phase III rule today's notice. EPA believes that public comments from both the August 22 proposal and comments submitted for the recent HWIR-contaminated media proposal should be considered before finalizing new procedures for authorization. This full consideration will enable EPA to make the best decision regarding how the authorization process should work. EPA intends to finalize both the Category 1 and Category 2 procedures at the same time.

C. Effect on State Authorization

Because today's Phase III LDR rule is being promulgated under HSWA authority, those sections of today's rule that expand the coverage of the LDR program (e.g., to newly identified wastes) would be implemented by EPA on the effective date of today's rule in authorized States until their programs are modified to adopt these rules and the modification is approved by EPA.

However, some of today's regulatory amendments are neither more or less stringent than the existing Federal requirements. EPA clarified in a December 19, 1994, memorandum (which is in the docket for today's rule) that EPA would not implement the Universal Treatment Standards (promulgated under HSWA authority in the Phase II LDR rule) separately for those States for which the State has received LDR authorization. EPA views any changes from the existing limits to

be neither more or less stringent since the technology basis of the standards has not changed. Accordingly, EPA will not implement the amendments to the UTS in today's LDR Phase III rule for those states with LDR authorization.

Because today's rule is promulgated pursuant to HSWA, a State submitting a program modification may apply to receive interim or final authorization under RCRA section 3006(g)(2) or 3006(b), respectively, on the basis of requirements that are substantially equivalent or equivalent to EPA's. The procedures and schedule for State program modifications for final authorization are described in 40 CFR 271.21. It should be noted that all HSWA interim authorizations will expire January 1, 2003. (See § 271.24 and 57 FR 60132, December 18, 1992.)

Section 271.21(e)(2) requires that States with final authorization must modify their programs to reflect Federal program changes and to subsequently submit the modification to EPA for approval. The deadline by which the State would have to modify its program to adopt these regulations is specified in § 271.21(e). This deadline can be extended in certain cases (see § 271.21(e)(3)). Once EPA approves the modification, the State requirements become Subtitle C RCRA requirements.

States with authorized RCRA programs may already have requirements similar to those in today's rule. These State regulations have not been assessed against the Federal regulations being proposed today to determine whether they meet the tests for authorization. Thus, a State is not authorized to implement these requirements in lieu of EPA until the State program modifications are approved. Of course, states with existing standards could continue to administer and enforce their standards as a matter of State law. In implementing the Federal program, EPA will work with States under agreements to minimize duplication of efforts. In most cases, EPA expects that it will be able to defer to the States in their efforts to implement their programs rather than take separate actions under Federal authority.

States that submit official applications for final authorization less than 12 months after the effective date of these regulations are not required to include standards equivalent to these regulations in their application. However, the State must modify its program by the deadline set forth in § 271.21(e). States that submit official applications for final authorization 12 months after the effective date of these regulations must include standards equivalent to these regulations in their application. The requirements a State must meet when submitting its final authorization application are set forth in 40 CFR 271.3.

IX. Regulatory Requirements

A. Regulatory Impact Analysis Pursuant to Executive Order 12866

Executive Order No. 12866 requires agencies to determine whether a regulatory action is ''significant.'' The Order defines a ''significant'' regulatory action as one that ''is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.''

The Agency estimated the costs of today's rule to determine if it is a significant regulation as defined by the Executive Order. The analysis considers compliance cost and economic impacts for both characteristic wastes and newly listed wastes affected by this rule. For characteristic wastes, the potential cost impacts of this rule depend on whether facilities' current wastewater treatment systems will meet the UTS levels or if additional treatment will be required. If current treatments are adequate, facilities will only incur administrative costs to have their permits revised as well as on-going monitoring costs. In general, the Agency expects that facilities will seek permit modifications, treatability variances, or certification of adequate POTW treatment because these compliance options can be implemented at much lower cost than the option requiring treatment to UTS levels. EPA estimates the total annualized costs of the rule for these wastes would range from approximately $197,000 to $598,000, of which $154,000 to $425,000 would be incurred at the 28 to 73 potentially affected facilities in the organic chemical industry, and approximately $43,000 to $173,000 would be incurred at the 8 to 30 potentially affected facilities in the petroleum refining industry. However, at the high end, if current wastewater treatment systems need to be augmented with additional treatment steps, the incremental compliance costs for today's rule could be as high as $1 million per affected facility. The Agency does not have adequate data to estimate how many, if any, facilities may require modification to their treatment facilities. The Agency did conduct a sensitivity analysis, considering the costs of the rule under two scenarios: (1) Assuming that 80 percent of the facilities comply with the rule by obtaining permit modifications and 20 percent comply by treating their wastes, and, (2) assuming that 60 percent comply by obtaining permit modifications and 40 percent comply by treating their wastes. Based on the first scenario, the estimated annualized costs of the rule would range from $6.6 million to $18.2 million. Based on the second scenario, the estimated annualized costs would range from $12.9 million to $35.7 million. For newly listed wastes, the costs are substantially higher and will be incurred each year. These costs range from approximately $11.9 million to $47.3 million and are attributable to thermal treatment of aluminum potliner wastes (K088). Therefore, today's rule may be considered an economically significant rule. Because today's rule is significant, the Agency analyzed the costs, economic impacts, and benefits.

This section of the preamble for today's rule provides a discussion of the methodology used for estimating the costs, economic impacts and the benefits attributable to today's rule, followed by a presentation of the cost, economic impact and benefit results. More detailed discussions of the methodology and results may be found in the background document, ''Regulatory Impact Analysis of the Land Disposal Restrictions Final Rule for the LDR Phase III Newly Listed and Identified Wastes,'' which has been placed in the docket for today's rule.

1. Methodology Section

In today's rule, the Agency is establishing treatment standards for the following wastes: end-of-pipe standards for ignitable, corrosive, and reactive (ICR) wastewaters managed in CWA, CWA-equivalent systems, and UIC wells; Toxicity Characteristic pesticide (D012–17) and organic (D018–43) wastewaters managed in CWA, CWA-equivalent systems, and UIC wells; and newly listed wastes from two industries—spent aluminum potliners and carbamates.

a. Methodology for Estimating the Affected Universe. In determining the costs, economic impacts, and benefits associated with today's rule, the Agency

estimated the volumes of waste affected by today's rule. The procedure for estimating the volumes of ICR waste and TC organic and pesticide waste, and newly listed wastes affected by today's rule is summarized below.

First, the Agency examined all industries which might be likely to produce wastes covered under today's standards. Through reviewing comments to the Supplemental Notice of Data Availability published by the Agency in 1993, reviewing runs from the Biennial Reporting System (BRS) of volumes generated from particular industry sectors, as well as discussions with industry, and discussions with the Office of Water at EPA HQ, the Agency narrowed it down to 16 industries which would potentially have significant volumes of wastewater affected by today's rule.

Using a host of databases and/or sources, the Agency collected data on the quantities, constituents, and concentrations of the volumes affected from each of the 16 industries. In addition, the Agency gathered any data on current management practices, plant design, etc. The following sources were used: Toxic Release Inventory (TRI), Section 308 data from the Office of Water, Industrial Studies Database (ISDB), 1991 Biennial Reporting System (BRS), primary summary and development documents data from effluent guidelines, TCRIA documents, data gathered in the capacity analysis performed for today's rule, as well as comments from potentially affected industries.

The Agency obtained volume information for the newly listed wastes—spent aluminum potliners (K088) and carbamate wastes (K156–161)—from the listing documents prepared for these wastes during the listing procedure.

b. Cost Methodology. The cost analysis estimates the national level incremental costs which will be incurred as a result of today's rule. The cost estimates for both the baseline and post-regulatory scenarios are calculated employing: (i) the facility wastestream volume, (ii) the management practice (baseline or post-regulatory) assigned to that wastestream, and (iii) the unit cost associated with that practice. Summing the costs for all facilities produces the total costs for the given waste and scenario. Subtracting the baseline cost from the post-regulatory cost produces the national incremental cost associated with today's rule for the given waste.

The cost methodology section includes three sub-sections: (i) ICR and TC Pesticide and Organic Wastes Managed in CWA and CWA-Equivalent Systems, (ii) Newly Listed Wastes, (iii) Testing and Recordkeeping Costs.

i. ICR and TC Pesticide and Organic Wastes Managed in CWA and CWA-Equivalent Systems. The Agency employed the following approach to estimate the incremental costs for the ICR and TC wastes. First, using information available on the affected industries, the Agency created average-sized model facilities for each industry. Second, for a given model facility in an affected industry, the Agency used available unit cost data to develop costs for the baseline management practices (usually treatment in surface impoundments followed by discharge into receiving waters through a NPDES permit). Third, the Agency used data on the constituents and waste quantities for each industry, where applicable, to determine the necessary treatment required to reduce to UTS levels the constituents present. Fourth, the Agency used unit costs to develop costs for the post-regulatory management practices for the treatment requirements determined in the third step. Fifth, subtracting the baseline from the post-regulatory costs for an average facility in an industry sector and using the data available on the number of facilities affected within each industry, the Agency was able calculate the incremental cost for a given industry. Sixth, summing costs across affected industries, the Agency determined the incremental cost for the rule for the end-of-pipe treatment standards.

ii. Newly Listed Wastes. The costs for treatment of spent aluminum potliners (K088) and carbamate wastes (K156–161) will be determined using data from the listings on baseline management practices, judgment on the technology(s) required to meet the UTS standards for these wastes, and available unit cost data.

iii. Testing and Recordkeeping Costs. Testing and recordkeeping costs, including costs that facilities will incur for ensuring that hazardous constituents in characteristic waste are meeting new treatment standards and costs associated with permit modifications will be based upon an average, one-time testing cost, on-going monitoring costs, and an Information Collection Request, respectively.

c. Economic Impact Methodology. The economic effects of today's rule are defined as the difference between the industrial activity under post-regulatory conditions and the industrial activity in the absence of regulation (i.e., baseline conditions).

The Agency used (1) historic average capital expenditures for each industry, (2) historic average operating expenditures for each industry, (3) historic revenues, and (4) historic average pollution abatement and control expenditures (PACE) to determine the economic impacts. However, the Agency was unable to examine the impacts on a facility-specific basis due to lack of data. Therefore, the impacts are assessed on an industry-specific basis.

d. Benefits Methodology. The approach for estimating benefits associated with today's rule involves three components: (i) estimation of pollutant loadings reductions, (ii) estimation of reductions in exceedances of health-based levels, and, (iii) qualitative description of the potential benefits. The benefits assessment is based upon the waste quantity and concentration data collected for the cost analysis. This incremental assessment focuses upon reductions in toxic concentrations at the point of discharge and does not consider any potential benefits resulting from reductions in air emissions or impacts on impoundment leaks and sludges which may occur as part of treating wastes to comply with the LDRs. It is expected that additional treatment to comply with the LDRs may result in risk reductions from air emissions, leaks, and sludges.

EPA has conducted an assessment of the benefits related to the effects of the rule on newly listed spent aluminum potliners. These benefits depend on the incremental risk reductions that may result from treatment of the wastes. In conducting the risk assessment for spent aluminum potliners, EPA improved upon the fate and transport modeling approach used in the RIA. Specifically, in the RIA, EPA applied generic dilution/attenuation factors (DAFs) (which did not reflect constituent-specific fate and transport processes, site-specific hydrogeological conditions, or waste characterization data) to relate the concentration of contaminants in the leachate to their concentration in a down-gradient well. Instead, EPA used its Composite Model for Leachate Migration and Transformation Products (EPACMTP) to perform constituent-specific fate and transport modeling. A summary of the analysis can be found in the Addendum to the RIA placed in the docket for this rule. EPA data indicate that approximately 120,000 metric tons of spent aluminum potliners are generated annually. EPA has not conducted an assessment of the benefits related to the effects of the rule on newly listed carbamate wastes. Because the Agency expects facilities to comply with LDRs through permit modifications, and because the quantity of waste is very small, benefits for

newly listed carbamate wastes are expected to be minimal.

i. Estimation of Pollutant Loadings Reductions. An incremental approach was used to estimate reductions in pollutant loadings. For the baseline scenario, contaminant concentrations were based upon data or estimates of current effluent discharge concentration levels. For the post-regulatory scenario, concentration levels were assumed to equal UTS levels.

ii. Estimation of Reductions in Exceedances of Health-Based Levels. The methods used for evaluating the benefits associated with cancer and noncancer risk reductions resulting from the rule entail comparing constituent concentration levels to health-based standards to evaluate whether implementation of the rule reduces concentration levels below levels that pose risk to human health.

To estimate benefits from cancer risk reductions resulting from the rule, a simple screening analysis was performed. This analysis compared contaminant concentrations for the baseline and post-regulatory scenario to health-based levels for carcinogens. Further analysis may be undertaken to quantify benefits associated with facility/ wastestream combinations identified in the contaminant concentration comparisons.

Benefits associated with reductions in non-cancer exceedances are estimated based upon comparisons of contaminant concentration levels in effluent discharges of the affected wastestreams to the reference health levels. These benefits are expressed in terms of the number of exceedances of health-based levels under the baseline scenario compared to the number of exceedances under the rule.

iii. Qualitative Description of the Potential Benefits. A qualitative assessment of potential benefits likely to result from the rule is used where data are limited. The Agency acknowledges limited data availability in developing waste volumes affected, constituents, concentrations, cost estimates, economic impacts, and benefits estimates for the LDR Phase III rulemaking. The Agency continues to request comment from industry regarding constituents, concentrations, waste volumes, and current management practices.

2. Results

a. Volume Results. The Agency has estimated the volumes of formerly characteristic wastes potentially affected by today's rule to total in the range of 33.5 to 500 million metric tons. The Agency requests comment on waste volumes affected by the LDR Phase III rule. For newly listed wastes, the analyses supporting the listing determination showed about 4,500 metric tons of carbamate wastes and 118,000 metric tons of spent aluminum potliners are potentially affected by this rule.

b. Cost Results. For characteristic wastes, the potential cost impacts of this rule depend on whether facilities' current wastewater treatment systems will meet the UTS levels or if additional treatment will be required. If current treatments are adequate, facilities will only incur administrative costs to have their permits revised. EPA estimates the total annualized costs of the rule for these wastes would range from approximately $197,000 to $598,000, of which $154,000 to $425,000 would be incurred at the 28 to 73 potentially affected facilities in the organic chemical industry, and approximately $43,000 to $173,000 would be incurred at the 8 to 30 potentially affected facilities in the petroleum refining industry. However, at the high end, if current wastewater treatment systems need to be augmented with additional treatment steps, the incremental compliance costs could be as high as $1 million per affected facility. The Agency does not have adequate data to estimate how many, if any, facilities may require modification to their treatment facilities. The Agency continues to request comment and data on how often additional treatment may be required.

For newly listed wastes, the costs are substantially higher and will be incurred each year. These costs range from approximately $11.9 million to $47.3 million and are attributable to thermal treatment of aluminum potliner wastes (K088). The Agency requests comment on where industry falls within this range.

c. Economic Impact Results. The Agency has estimated the economic impacts of today's rule to represent less than one percent of historic pollution control and operating costs for the organic chemical and petroleum refining industries. However, for those facilities that may need to treat to UTS to comply with today's rule, costs could be more significant. The estimated compliance costs for treating newly listed spent aluminum potliners represents 40 percent of pollution control operating costs for aluminum reducers; however, treatment costs represent only one percent of total historic operating costs.

d. Benefit Estimate Results. The Agency expects facilities to comply with the LDRs through permit modifications. As a result, the Agency has estimated the benefits associated with today's rule to be small. Assuming facilities comply with the rule by treating their affected wastestreams, loadings reductions estimates range between 1,527 to 21,322 metric tons per year at 129 to 291 facilities (direct and indirect dischargers) involving 175 to 647 constituent/wastestream combinations. Ninety-eight percent of the reductions occur at organic chemicals facilities, with the remainder occurring at petroleum refiners. Estimated loadings reductions for direct dischargers range between 36 and 267 tons per year, representing between 0.03 and 0.2 percent of total Toxic Release Inventory (TRI) chemical loadings to surface waters. For indirect dischargers, estimated loadings reductions range between 1,491 and 21,055 metric tons per year, representing between 0.8 and 11.0 percent of total TRI chemical loadings transferred to POTWs. Based upon the results of the screening and more detailed risk assessments, the estimated baseline risks associated with nine to twenty wastestreams (out of the 155 to 404 constituent/wastestream combinations potentially affected by the rule) exceed 10^{-6} under baseline conditions and three to six wastestreams with noncancer risk levels exceeding reference doses. These 12 to 26 wastestreams contain one of five constituents: aniline (9 to 19 wastestreams), acrylamide (0 to 1 wastestream), pyridine (2 waststreams), barium compounds (1 wastestream), and acetonitrile (0 to 2 wastestreams). For these 12 to 26 wastestreams, EPA conducted a more detailed risk assessment, using site-specific data. Results of the more detailed risk assessment indicate that the benefits from the rule are small. EPA identified four wastestreams potentially posing cancer risk exceeding the threshold risk levels. Three wastestreams pose baseline cancer risk ranging from 1×10^{-5} to 1×10^{-4} (due to exposure to aniline) which potentially would be reduced to between 8×10^{-8} and 3×10^{-6} under the LDR Phase III rule. A fourth wastestream containing acrylamide poses baseline cancer risk at a level of 2×10^{-3}. The rule is estimated to reduce this risk to between 2×10^{-4} and 4×10^{-36}. All four of these wastestreams are discharged to POTWs; if POTW treatment removes these constituents from the wastewater prior to discharge to surface water and/or if no drinking water intake is located downstream from the POTW's outfall, baseline risks will be lower. The Agency expects facilities to comply with the LDRs through permit modifications;

however, additional treatment may result in potentially significant risk reduction.

EPA performed constituent-specific fate and transport modeling using its EPACMTP to further assess cancer and noncancer risks of spent aluminum potliners. Using these additional data, EPA assessment of baseline risks indicates that individual lifetime cancer risks increase to about 10^{-6} under central tendency assumptions and 10^{-3} under high-end assumptions. In addition, the new estimates suggest that under high-end assumptions, baseline concentrations in drinking water may be high enough to present noncancer risks; previously, noncancer risks were estimated to be negligible. Consequently, the benefits of regulating spent aluminum potliners are higher than previously estimated. Under central tendency assumptions, individual lifetime cancer risks resulting from current waste management practices are slightly higher than post-regulatory risks (10^{-6} versus less than 10^{-6}); some incremental benefits may therefore be realized as a result of the LDRs. Under high-end assumptions, however, the regulation could reduce cancer risks by one or two order of magnitude, while noncancer risks could be eliminated. Although population risks would also be reduced correspondingly, EPA is unable to specify the magnitude of the exposed population.

B. Regulatory Impact Analysis for Underground Injected Wastes

The Agency has completed a separate regulatory impact analysis for underground injected wastes affected by the LDR Phase III final rule. This analysis describes the regulatory impacts only to the Class I injection well universe. The new Phase III LDRs cover decharacterized ICR and TC organic wastes, and other newly-identified hazardous wastes that are distinctly industrial wastes injected by owners and operators of only Class I hazardous and non-hazardous injection wells.

According to the available data outlined in the RIA, our best estimate indicates that of the 223 Class I injection facilities in the nation, up to 154 facilities will be affected by the new Phase III LDRs. Of these facilities, 100 inject nonhazardous waste and 54 inject hazardous waste. Combined, these facilities inject approximately 18 billion gallons of waste annually into Class I wells. These Class I injection wells will now be required to either treat wastes onsite, segregate and ship affected wastes offsite for treatment and disposal, or file no migration petitions as outlined in the UIC regulations in 40 CFR Part 148 (See 53 FR 28118, July 26, 1988, preamble for a mote thorough discussion of the no migration petition review process). Additional options for compliance with the final Phase III LDRs, including a *de minimis* exemption and a pollution prevention option discussed in detail elsewhere in this rule and in the final UIC RIA.

Of the newly affected Class I facilities, 38 already have no migration exemptions approved by EPA, but they may be required to submit a petition modification to EPA due to the Phase III rule unless their original petition already addressed affected Phase III wastes, including underlying hazardous constituents in decharacterized wastes. In the cases where the petition already covers all hazardous wastes and underlying hazardous constituents in the injected waste stream (i.e., the injectate that was evaluated during the no migration petition process has not changed), no further Agency review of these petitions is necessary. For the facilities which do not have approved no migration exemptions, the rule will add compliance costs to those incurred as a result of previous rulemakings. The Agency analyzed costs and benefits for the final Phase III rule using the same approach and methodology developed in the Regulatory Impact Analysis of the Underground Injection Control Program: Proposed Hazardous Waste Disposal Injection Restriction (53 FR 28118) and subsequent LDR rulemaking. An analysis was performed to assess the economic effect of associated compliance costs for the additional volumes of injected wastes attributable to this rule.

In general, Class I injection facilities affected by the LDR Phase III rule have several options. As previously outlined, some facilities will modify existing no migration petitions already approved by the Agency, others may submit entirely new petitions, and still others may accept the prohibitions and either continue to inject treated wastes or cease injection operations altogether. And some facilities with approved petitions already addressing Phase III wastes will have no or little additional compliance costs. EPA assessed compliance costs for Class I facilities submitting no migration petitions, employing alternative treatment, and/or implementing pollution prevention measures. Although facilities using pollution prevention/waste minimization to comply with the Phase III LDRs will likely lower overall regulatory compliance costs, these situations are site-specific and, therefore, EPA cannot estimate these costs savings at this time.

For Class I facilities opting to use alternative treatment, the Agency derived costs for both treating wastes on-site, and/or shipping wastes and treating them off-site at a commercial facility. However, EPA believes that the segregation and transportation of large volumes of liquid wastes off-site is not very practical or cost-effective. This makes the off-site treatment scenario, at best, a highly conservative analysis and in actuality, a least likely and therefore discountable scenario. EPA expects that all injection facilities will opt for the most cost-effective approach in complying with the Phase III final rule and they will either submit a no migration petition or treat their wastes on-site. EPA also assumes that non-commercial facilities will segregate wastes for treatment on-site, whereas commercial facilities will find it more cost effective to not segregate LDR Phase III wastes. For the final rule, EPA estimates that the total annual compliance cost for petitions and alternative on-site treatment to industry affected by the new LDR Phase III prohibitions will range between $32.91 million to $34.08 million per year. The average annual compliance costs per affected facility employing on-site alternative treatment were $217,500. The range of costs for alternative treatment is the result of applying a sensitivity analysis. Only the incremental treatment costs for the new waste listings are calculated in this RIA. All of these costs will be incurred by Class I injection well owners and operators. The average annual compliance costs per affected facility employing on-site alternative treatment were $217,500. The total annual compliance costs for the 154 potentially affected facilities would therefore be $33.4 million. These figures were derived by applying the probability of certain outcomes occurring, via the decision tree methodology described in the RIA, to the costs associated with those outcomes for each affected facility.

Additionally, as part of the RIA analysis, the costs associated with three differing scenarios also were derived. These scenarios are represented by (1) a minimum case, where all facilities incur only petition costs, (2) a mid-line case, where all facilities incur treatment costs (commercial facilities treat on-site with no waste segregation while non-commercial facilities chose the least cost treatment option), and a maximum case, where all facilities incur both petition and treatment costs. Costs associated with these scenarios range

from $3.67 million per year for all facilities incurring only petition costs to $132.62 million per year for all facilities incurring both petition and treatment costs. Based on past EPA experience, there is little probability that all facilities will arrive at each of these possible outcomes. However, this indicated range provides an extreme lower and upper bound estimate for national compliance costs purposes.

The benefits to human health and the environment in the RIA are generally defined as reduced human health risk resulting from fewer instances of ground water contamination. In general, potential health risks from Class I injection wells are extremely low.

EPA conducted a quantitative assessment of the potential human health risks associated with two well malfunction scenarios. EPA developed a methodology described in the RIA to measure health risks of five Phase III contaminants: benzene, carbon tetrachloride, chloroform, phenol, and toluene. The results of these analyses show that most of the cancer risks calculated are below the 1×10^{-4} to 1×10^{-6} risk range generally used by EPA to regulate exposure to carcinogens. Virtually all of the non-cancer risks are below a hazard index (HI) of 1, which represents a ratio used to compare the relative health risks posed by contaminants. Therefore, these cancer and non-cancer risks calculated are below any levels of regulatory concern. Only two cancer risk estimates in the high end scenarios, those calculated for benzene and carbon tetrachloride, slightly exceeded the risk range to regulate exposure to carcinogens. Only one hazard index calculated for carbon tetrachloride exceeded EPA's level of concern of a ratio greater than 1. However, these results were derived from a scenario where an abandoned borehole (i.e. the ''failure pathway'') was in very close proximity to the injection well, substantial pumping of a drinking water well was occurring, and the local geology was typical of the highly transmissive East Gulf Coast Region. The assumptions used in deriving these results were based on conservative, upper-bound estimates, therefore the cancer and non-cancer risks represent worst-case estimates. Considering the limitations imposed by the failure scenarios, and the documented low probability of Class I failures, the overall risks from failure of Class I injection wells would be below regulatory concern.

There also is a potential qualitative benefit to the no-migration process for Class I nonhazardous wells. It is possible that the process would uncover certain wells that cannot satisfy the no-migration standard and indeed may not be suitable for Class I injection in any case. This proved to be true for Class I hazardous wells. However, notwithstanding this potential benefit, as noted in the early part of this preamble, the Agency does not regard this regulatory effort as deserving of the priority afforded it, due to the litigation-driven schedule and the D.C. Circuit's mandate, and would not be undertaking the effort at this time were it not for that mandate and schedule.

The economic analysis of LDR Phase III compliance costs suggests that publicly traded companies probably will not be significantly affected. The limited data available for privately-held companies suggests, however, that they may face significant costs due to the proportionally larger expenses they may face due to the LDR Phase III rule.

C. Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 et seq., when an agency publishes a notice of rulemaking, for a rule that will have a significant effect on a substantial number of small entities, the agency must prepare and make available for public comment a regulatory flexibility analysis that considers the effect of the rule on small entities (i.e.: small businesses, small organizations, and small governmental jurisdictions). Under the Agency's Revised Guidelines for Implementing The Regulatory Flexibility Act, dated May 4, 1992, the Agency committed to considering regulatory alternatives in rulemakings when there were any economic impacts estimated on any small entities. (See RCRA sections 3004 (d), (e), and (g)(5), which apply uniformly to all hazardous wastes.) Previous guidance required regulatory alternatives to be examined only when significant economic effects were estimated on a substantial number of small entities.

In assessing the regulatory approach for dealing with small entities in today's rule, for both surface disposal of wastes, the Agency considered two factors. First, data on potentially affected small entities are unavailable. Second, due to the statutory requirements of the RCRA LDR program, no legal avenues exist for the Agency to provide relief from the LDR's for small entities. The only relief available for small entities is the existing small quantity generator provisions and conditionally exempt small quantity generator exemptions found in 40 CFR 262.11–12, and 261.5, respectively. These exemptions basically prescribe 100 kilograms (kg) per calendar month generation of hazardous waste as the limit below which one is exempted from complying with the RCRA standards.

Given these two factors, the Agency was unable to frame a series of small entity options from which to select the lowest cost approach; rather, the Agency was legally bound to regulate the land disposal of the hazardous wastes covered in today's rule without regard to the size of the entity being regulated.

The Agency has, however, included an exemption covering injection facilities where the decharacterized portion of the injectate is minimal in absolute terms, as a percentage of the total injectate, and in hazardous constituent mass loadings. This *de minimis* exemption provides a measure of relief to both small and larger entities satisfying its terms.

D. Paperwork Reduction Act

The information collection requirements in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Four Information Collection Request (ICR) documents have been prepared by EPA, as follows. OSWER ICR No. 1442.12 would amend the existing ICR approved under OMB Control No. 2050–0085. The additional information requirements for the Underground Injection Control (UIC) Program were submitted to OMB under ICR No. 0370.14; this will amend the existing UIC approval under OMB Control No. 2040–0042. OSWER ICR No. 1442.12 and UIC ICR No. 0370.14 have not been approved by OMB and the information collection requirements in those ICRs are not enforceable until OMB approves them. EPA will publish a document in the Federal Register when OMB approves the information collection requirements. Until EPA publishes a document displaying the valid OMB control number, persons are not required to respond to collections of information in these two ICRs. Two amendments to National Pollutant Discharge Elimination System (NPDES) ICRs were approved at proposal. These are ICR 0229.10 for the Discharge Monitoring Report, approved under OMB Control No. 2040–0004, and ICR 0226.11 for NPDES Applications, approved under OMB Control No. 2040–0086.

Copies of these ICRs may be obtained from Sandy Farmer, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2136); 401 M St., S.W.; Washington, D.C. 20460 or by calling (202) 260–2740. Include the ICR numbers in any request. The information requirements for the

OSWER ICR and the UIC ICR are not effective until OMB approves them.

The additional burden associated with the OSWER ICR 1442.12 is as follows. The overall annual burden for the recordkeeping and reporting requirements is 4,202 hours. It is expected that approximately 125 respondents will be affected, therefore, the annual recordkeeping and reporting burden averages 33 hours per respondent. This time is necessary to collect data, submit notifications and certifications to waste treaters and disposers, and to maintain records of this information. The annual cost burden for this rule is approximately $177,045. Of this amount, it is estimated that facilities will incur annual operation and maintainence capital costs of approximately $8,375.

The additional burden associated with the UIC Program, explained in ICR 0370.14, is as follows. The estimated annual reporting burden averages 3845 hours per respondent (i.e., inclusive of incremental reporting burdens associated with all affected Class I facilities and Primacy States). The average incremental annual reporting and recordkeeping burdens are about 4,442 hours per each affected Class I nonhazardous facility and about 2,700 hours per each affected Class I hazardous facility. For efforts associated with implementing the rule amendments, the annual incremental State burden equals about 22 hours for each Class I respondent.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection of techniques to the Director, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2136); 401 M St., S.W.; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., N.W., Washington, D.C. 20503, marked ''Attention: Desk Officer for EPA.'' Include the ICR numbers in any correspondence.

X. Unfunded Mandates Reform Act

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

EPA has completed an analysis of the costs and benefits from the LDR Phase III rule and has determined that this rule does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local or tribal governments in the aggregate. As stated above, the private sector may incur costs exceeding $100 million per year depending upon the option chosen in the final rulemaking. EPA has fulfilled the requirement for analysis under the Unfunded Mandates Reform Act, and results of this analysis have been included in the background document ''Regulatory Impact Analysis of the Final Phase III Land Disposal Restrictions Rule,'' which was placed in the docket for today's rule.

List of Subjects

40 CFR Part 148

Environmental protection, Administrative practice and procedure, Hazardous waste, Reporting and recordkeeping requirements, Water supply.

40 CFR Part 268

Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 271

Administrative practice and procedure, Hazardous materials transportation, Hazardous waste, Penalties, Reporting and recordkeeping requirements.

40 CFR Part 403

Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: February 16, 1996.

Carol M. Browner,

Administrator.

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

PART 148—HAZARDOUS WASTE INJECTION RESTRICTIONS

1. The authority citation for part 148 continues to read as follows:

Authority: Secs. 3004, Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*

2. Section 148.1 is amended by revising paragraphs (a), (b) and (d) to read as follows:

§ 148.1 Purpose, scope and applicability.

(a) This part identifies wastes that are restricted from disposal into Class I wells and defines those circumstances under which a waste, otherwise prohibited from injection, may be injected.

(b) The requirements of this part apply to owners or operators of Class I hazardous waste injection wells used to inject hazardous waste; and, owners or operators of Class I injection wells used to inject wastes which once exhibited a prohibited characteristic of hazardous waste identified in 40 CFR part 261, subpart C, at the point of generation, and no longer exhibit the characteristic at the point of injection.

* * * * *

(d) Wastes that are only hazardous because they display a characteristic of ignitability, corrosivity, reactivity, or toxicity that are otherwise prohibited, are not prohibited:

(1) If the wastes are disposed into a nonhazardous waste injection well defined under 40 CFR 144.6(a); and

(2) Do not exhibit any prohibited characteristic of hazardous waste identified in 40 CFR part 261, subpart C, and either:

(i) Do not contain any hazardous constituents identified in 40 CFR 268.48 at levels greater than the 40 CFR 268.48 Universal Treatment Standard levels at the point of generation;

(ii) Are de minimis in volume and hazardous constituent concentration levels, as defined in 40 CFR 268.1(e)(4)(ii). (Recordkeeping requirements for this alternative are found at 40 CFR 268.9(d)(4).); or

(iii)(A) The facility removes an equivalent mass of hazardous

constituents as would be removed by treating the characteristic hazardous wastestream pursuant to the treatment standards in 40 CFR 268.48. This mass reduction can come from:

(*1*) Treating nonhazardous portions of the injectate;

(*2*) Recycling before ultimate injection; or

(*3*) Engaging in pollution prevention practices (such as equipment or technology modifications, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control).

(B) The compliance alternative in paragraph (d)(2)(iii)(A) of this section is demonstrated by comparing the injected baseline (determined by multiplying the volume/day of characteristically hazardous waste generated and injected) times the concentration of hazardous constituents before the treatment/recycling/pollution prevention measure, with the mass allowance obtained by multiplying the volume/day of a hazardous constituent generated and injected times the universal treatment standard for that constituent. The baseline cannot include practices initiated before the year 1990. (Recordkeeping requirements for this alternative are found at 40 CFR 268.9(d)(3).)

3. Section 148.3 is revised to read as follows:

§ 148.3 Dilution prohibited as a substitute for treatment.

(a) The provisions of 40 CFR 268.3 shall apply to owners or operators of Class I wells used to inject a waste which is hazardous at the point of generation whether or not the waste is hazardous at the point of injection.

(b) Owners or operators of Class I nonhazardous waste injection wells which inject waste formerly exhibiting a hazardous characteristic which has been removed by dilution, may address underlying hazardous constituents by treating the hazardous waste, obtaining an exemption pursuant to a petition filed under § 148.20, or complying with the provisions set forth in 40 CFR 268.9.

4. Section 148.4 is revised to read as follows:

§ 148.4 Procedures for case-by-case extensions to an effective date.

The owner or operator of a Class I hazardous or nonhazardous waste injection well may submit an application to the Administrator for an extension of the effective date of any applicable prohibition established under subpart B of this part according to the procedures of 40 CFR 268.5.

5. Section 148.18 is added to subpart B to read as follows:

§ 148.18 Waste specific prohibitions—Newly Identified Wastes.

(a) On July 8, 1996, the wastes specified in 40 CFR 261.32 as EPA Hazardous waste numbers K156–K161, P127, P128, P185, P188–P192, P194, P196–P199, P201–P205, U271, U277–U280, U364–U367, U372, U373, U375–U379, U381–387, U389–U396, U400–U404, U407, and U409–U411 are prohibited from underground injection.

(b) On January 8, 1997, the wastes specified in 40 CFR 261.32 as EPA Hazardous waste number K088 is prohibited from underground injection.

(c) On April 8, 1998, the wastes specified in 40 CFR part 261 as EPA Hazardous waste numbers D018–043, and Mixed TC/Radioactive wastes, are prohibited from underground injection.

(d) On April 8, 1998, the wastes specified in 40 CFR part 261 as EPA Hazardous waste numbers D001–D003 are prohibited from underground injection.

6. Section 148.20 is amended by revising paragraph (a) introductory text to read as follows:

§ 148.20 Petitions to allow injection of a waste prohibited under subpart B.

(a) Any person seeking an exemption from a prohibition under subpart B of this part for the injection of a restricted hazardous waste, including a hazardous waste exhibiting a characteristic and containing underlying hazardous constituents at the point of generation, but no longer exhibiting a characteristic when injected into a Class I injection well or wells, shall submit a petition to the Director demonstrating that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This demonstration requires a showing that:

* * * * *

PART 268—LAND DISPOSAL RESTRICTIONS

7. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

Subpart A—General

8. Section 268.1 is amended in paragraph (e)(3) by removing the period at the end of the paragraph and adding ''; or'' in its place, by revising paragraph (e)(4) and by removing paragraph (e)(5) to read as follows:

§ 268.1 Purpose, scope and applicability.

* * * * *

(e) * * *

(4) *De minimis* losses of characteristic wastes to wastewaters are not considered to be prohibited wastes and are defined as:

(i) Losses from normal material handling operations (e.g. spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves or other devices used to transfer materials); minor leaks of process equipment, storage tanks or containers; leaks from well-maintained pump packings and seals; sample purgings; and relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; rinsate from empty containers or from containers that are rendered empty by that rinsing; and laboratory wastes not exceeding one per cent of the total flow of wastewater into the facility's headworks on an annual basis, or with a combined annualized average concentration not exceeding one part per million in the headworks of the facility's wastewater treatment or pretreatment facility; or

(ii) Decharacterized wastes which are injected into Class I nonhazardous wells which wastes combined volume is less than one per cent of the total flow at the wellhead on an annualized basis, is no greater than 10,000 gallons per day, and in which any underlying hazardous constituents in the characteristic wastes are present at the point of generation at levels less than ten times the treatment standards found at § 268.48.

* * * * *

9. Section 268.2 is amended by revising paragraphs (f) and (i), and by adding paragraphs (j), (k), and (l) to read as follows:

§ 268.2 Definitions applicable in this part.

* * * * *

(f) *Wastewaters* are wastes that contain less than 1% by weight total organic carbon (TOC) and less than 1% by weight total suspended solids (TSS).

* * * * *

(i) *Underlying hazardous constituent* means any constituent listed in § 268.48, Table UTS—Universal Treatment Standards, except fluoride, vanadium, and zinc, which can reasonably be expected to be present at the point of generation of the hazardous waste, at a concentration above the constituent-specific UTS treatment standards.

(j) *Inorganic metal-bearing waste* is one for which EPA has established treatment standards for metal hazardous constituents, and which does not otherwise contain significant organic or cyanide content as described in § 268.3(b)(1), and is specifically listed in appendix XI of this part.

(k) *End-of-pipe* refers to the point where effluent is discharged to the environment.

(l) *Stormwater impoundments* are surface impoundments which receive wet weather flow, and only receive process waste during wet weather events.

10. Section 268.3 is revised to read as follows:

§ 268.3 Dilution prohibited as a substitute for treatment.

(a) No generator, transporter, handler, or owner or operator of a treatment, storage, or disposal facility shall in any way dilute a restricted waste or the residual from treatment of a restricted waste as a substitute for adequate treatment to achieve compliance with subpart D of this part, to circumvent the effective date of a prohibition in subpart C of this part, to otherwise avoid a prohibition in subpart C of this part, or to circumvent a land disposal prohibition imposed by RCRA section 3004.

(b) Dilution of wastes that are hazardous only because they exhibit a hazardous characteristic in a treatment system which treats wastes subsequently discharged to a water of the United States pursuant to a permit issued under section 402 of the Clean Water Act (CWA), or which treats wastes for the purposes of pretreatment requirements under section 307 of the CWA, or zero discharge systems with wastewater treatment equivalent to these systems, is not impermissible dilution, so long as the § 268.48 universal treatment standards are met at the point of discharge, or at a prior point of compliance specified under a CWA permit, for all underlying hazardous constituents reasonably expected to be present at the point of generation of the hazardous waste.

(c) Combustion of the hazardous waste codes listed in Appendix XI of this part is prohibited, unless the waste, at the point of generation, or after any bona fide treatment such as cyanide destruction prior to combustion, can be demonstrated to comply with one or more of the following criteria (unless otherwise specifically prohibited from combustion):

(1) the waste contains hazardous organic constituents or cyanide at levels exceeding the constituent-specific treatment standard found in § 268.48;

(2) The waste consists of organic, debris-like materials (e.g., wood, paper, plastic, or cloth) contaminated with an inorganic metal-bearing hazardous waste;

(3) The waste, at point of generation, has reasonable heating value such as greater than or equal to 5000 BTU per pound;

(4) The waste is co-generated with wastes for which combustion is a required method of treatment;

(5) The waste is subject to Federal and/or State requirements necessitating reduction of organics (including biological agents); or

(6) The waste contains greater than 1% Total Organic Carbon (TOC).

11. Section 268.7 is amended by revising the last sentence of paragraph (a) introductory text, paragraphs (a)(1)(ii), (a)(2)(i)(B), (a)(3)(ii), (b)(4)(ii), (b)(5)(iv), by removing ''268.45′;'' at the end of paragraph (a)(1)(iv) and adding ''268.45′; and'' in its place, by removing ''; and,'' at the end of paragraph (a)(1)(v) and adding a period in its place, by removing paragraph (a)(1)(vi), and by adding paragraph (b)(5)(v) to read as follows:

§ 268.7 Waste analysis and recordkeeping.

(a) * * * If the generator determines that his waste exhibits the characteristic of ignitability (D001) (and is not in the High TOC Ignitable Liquids Subcategory or is not treated by CMBST or RORGS of § 268.42, Table 1), and/or the characteristic of corrosivity (D002), and/or reactivity (D003), and/or the characteristic of organic toxicity (D012–D043), and is prohibited under § 268.37, § 268.38, and § 268.39, the generator must determine the underlying hazardous constituents (as defined in § 268.2, in the D001, D002, D003, or D012–D043 wastes.

(1) * * *

(ii) The waste constituents that the treater will monitor, if monitoring will not include all regulated constituents, for wastes F001–F005, F039, D001, D002, D003, and D012–D043. Generators must also include whether the waste is a nonwastewater or wastewater (as defined in § 268.2 (d) and (f), and indicate the subcategory of the waste (such as ''D003 reactive cyanide''), if applicable;

* * * * *

(2) * * *

(i) * * *

(B) The waste constituents that the treater will monitor, if monitoring will not include all regulated constituents, for wastes F001–F005, F039, D001, D002, D003, and D012–D043. Generators must also include whether the waste is a nonwastewater or wastewater (as defined in § 268.2(d) and (f)) and indicate the subcategory of the waste (such as ''D003 reactive cyanide''), if applicable;

* * * * *

(3) * * *

(ii) The waste constituents that the treater will monitor, if monitoring will not include all regulated constituents, for wastes F001–F005, F039, D001, D002, D003, and D012–D043. Generators must also include whether the waste is a nonwastewater or wastewater (as defined in § 268.2(d) and (f)), and indicate the subcategory of the waste (such as ''D003 reactive cyanide''), if applicable;

* * * * *

(b) * * *

(4) * * *

(ii) The waste constituents to be monitored, if monitoring will not include all regulated constituents, for wastes F001–F005, F039, D001, D002, D003, and D012–D043. Generators must also include whether the waste is a nonwastewater or wastewater (as defined in § 268.2(d) and (f), and indicate the subcategory of the waste (such as D003 reactive cyanide), if applicable;

* * * * *

(5) * * *

(iv) For characteristic wastes D001, D002, D003, and D012–D043 that are: subject to the treatment standards in § 268.40 (other than those expressed as a required method of treatment); that are reasonably expected to contain underlying hazardous constituents as defined in § 268.2(i); are treated on-site to remove the hazardous characteristic; and are then sent off-site for treatment of underlying hazardous constituents, the certification must state the following:

I certify under penalty of law that the waste has been treated in accordance with the requirements of 40 CFR 268.40 to remove the hazardous characteristic. This decharacterized waste contains underlying hazardous constituents that require further treatment to meet universal treatment standards. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

(v) For characteristic wastes D001, D002, D003 and D012–D043 that contain underlying hazardous constituents as defined in § 268.2(i) that are treated on-site to remove the hazardous characteristic and to treat underlying hazardous constituents to levels in § 268.48 Universal Treatment Standards, the certification must state the following:

I certify under penalty of law that the waste has been treated in accordance with the requirements of 40 CFR 268.40 to remove the hazardous characteristic, and that underlying hazardous constituents, as defined in § 268.2, have been treated on-site to meet the § 268.48 Universal Treatment Standards. I am aware that there are

significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

* * * * *

§ 268.8 [Removed and reserved]

12. Section 268.8 is removed and reserved.

13. Section 268.9 is amended by revising paragraphs (a), (d) introductory text, (d)(1)(i), and (d)(1)(ii), and by adding paragraphs (d)(3), (e), (f), and (g) to read as follows:

§ 268.9 Special rules regarding wastes that exhibit a characteristic.

(a) The initial generator of a solid waste must determine each EPA Hazardous Waste Number (waste code) applicable to the waste in order to determine the applicable treatment standards under subpart D of this part. For purposes of this part 268, the waste will carry the waste code for any applicable listing under 40 CFR part 261, subpart D. In addition, the waste will carry one or more of the waste codes under 40 CFR part 261, subpart C, where the waste exhibits a characteristic, except in the case when the treatment standard for the waste code listed in 40 CFR part 261, subpart D operates in lieu of the standard for the waste code under 40 CFR part 261, subpart C, as specified in paragraph (b) of this section. If the generator determines that his waste displays a hazardous characteristic (and the waste is not a D004—D011 waste, a High TOC D001, or is not treated by CMBST, or RORGS of § 268.42, Table 1), the generator must determine what underlying hazardous constituents (as defined in § 268.2), are reasonably expected to be present above the universal treatment standards found in § 268.48.

* * * * *

(d) Wastes that exhibit a characteristic are also subject to § 268.7 requirements, except that once the waste is no longer hazardous, a one-time notification and certification must be placed in the generators or treaters files and sent to the EPA region or authorized state, except for those facilities discussed in paragraph (f) of this section. The notification and certification that is placed in the generators or treaters files must be updated if the process or operation generating the waste changes and/or if the Subtitle D facility receiving the waste changes. However, the generator or treater need only notify the EPA region or an authorized state on an annual basis if such changes occur. Such notification and certification should be sent to the EPA region or authorized state by the end of the calendar year, but no later than December 31.

(1) * * *

(i) For characteristic wastes other than those managed on site in a wastewater treatment system subject to the Clean Water Act (CWA), zero-dischargers engaged in CWA-equivalent treatment, or Class I nonhazardous injection wells, the name and address of the Subtitle D facility receiving the waste shipment; and

(ii) For all characteristic wastes, a description of the waste as initially generated, including the applicable EPA Hazardous Waste Number(s), treatability group(s), and underlying hazardous constituents.

* * * * *

(3) For characteristic wastes whose ultimate disposal will be into a Class I nonhazardous injection well, and compliance with the treatment standards found in § 268.48 for underlying hazardous constituents is achieved through pollution prevention that meets the criteria set out at 40 CFR 148.1(d), the following information must also be included:

(i) A description of the pollution prevention mechanism and when it was implemented if already complete;

(ii) The mass of each underlying hazardous constituent before pollution prevention;

(iii) The mass of each underlying hazardous constituent that must be removed, adjusted to reflect variations in mass due to normal operating conditions; and

(iv) The mass reduction of each underlying hazardous constituent that is achieved.

(e) For decharacterized wastes managed on-site in a wastewater treatment system subject to the Clean Water Act (CWA) or zero-dischargers engaged in CWA-equivalent treatment, compliance with the treatment standards found at § 268.48 must be monitored quarterly, unless the treatment is aggressive biological treatment, in which case compliance must be monitored annually. Monitoring results must be kept in on-site files for 5 years.

(f) For decharacterized wastes managed on-site in a wastewater treatment system subject to the Clean Water Act (CWA) for which all underlying hazardous constituents (as defined in § 268.2), are addressed by a CWA permit, this compliance must be documented and this documentation must be kept in on-site files.

(g) For characteristic wastes whose ultimate disposal will be into a Class I nonhazardous injection well which qualifies for the *de minimis* exclusion described in § 268.1, information supporting that qualification must be kept in on-site files.

§§ 268.10–268.12 [Removed and Reserved]

14. Sections 268.10 through 268.12 are removed and reserved.

15. Section 268.39 is added to subpart C to read as follows:

§ 268.39 Waste specific prohibitions—End-of-pipe CWA, CWA-equivalent, and Class I nonhazardous injection well treatment standards; spent aluminum potliners; and carbamate wastes.

(a) On July 8, 1996, the wastes specified in 40 CFR 261.32 as EPA Hazardous Waste numbers K156–K161; and in 40 CFR 261.33 as EPA Hazardous Waste numbers P127, P128, P185, P188–P192, P194, P196–P199, P201–P205, U271, U277–U280, U364–U367, U372, U373, U375–U379, U381–U387, U389–U396, U400–U404, U407, and U409–U411 are prohibited from land disposal. In addition, soil and debris contaminated with these wastes are prohibited from land disposal.

(b) On July 8, 1996 the wastes identified in 40 CFR 261.23 as D003 that are managed in systems other than those whose discharge is regulated under the Clean Water Act (CWA), or that inject in Class I deep wells regulated under the Safe Drinking Water Act (SDWA), or that are zero dischargers that engage in CWA-equivalent treatment before ultimate land disposal, are prohibited from land disposal. This prohibition does not apply to unexploded ordnance and other explosive devices which have been the subject of an emergency response (such D003 wastes are prohibited unless they meet the treatment standard of DEACT before land disposal (see § 268.40)).

(c) On July 8, 1996, the wastes specified in 40 CFR 261.32 as EPA Hazardous Waste number K088 are prohibited from land disposal. In addition, soil and debris contaminated with these wastes are prohibited from land disposal.

(d) On April 8, 1998, decharacterized wastes managed in surface impoundments whose discharge is regulated under the Clean Water Act (CWA), or decharacterized wastes managed by zero dischargers in surface impoundments or tanks that engage in CWA-equivalent treatment before ultimate land disposal are prohibited from land disposal. The following are exceptions to this requirement:

(1) Surface impoundments which are permitted under subtitle C of RCRA;

(2) Storm water impoundments as defined in § 268.2;

(3) Surface impoundments which are part of facilities in the pulp, paper, and paperboard industrial category.

(e) On April 8, 1998, Radioactive wastes mixed with K088, K156–K161, P127, P128, P185, P188–P192, P194, P196–P199, P201–P205, U271, U277–U280, U364–U367, U372, U373, U375–U379, U381–U387, U389–U396, U400–U404, and U407, U409–U411 are also prohibited from land disposal. In addition, soil and debris contaminated with these radioactive mixed wastes are prohibited from land disposal.

(f) Between July 8, 1996 and April 8, 1998, the wastes included in paragraphs (a), (b), (c), and (e) of this section may be disposed in a landfill or surface impoundment, only if such unit is in compliance with the requirements specified in § 268.5(h)(2).

(g) The requirements of paragraphs (a), (b), (c), (d), and (e) of this section do not apply if:

(1) The wastes meet the applicable treatment standards specified in Subpart D of this part;

(2) Persons have been granted an exemption from a prohibition pursuant to a petition under § 268.6, with respect to those wastes and units covered by the petition;

(3) The wastes meet the applicable alternate treatment standards established pursuant to a petition granted under § 268.44;

(4) Persons have been granted an extension to the effective date of a prohibition pursuant to § 268.5, with respect to these wastes covered by the extension.

(h) To determine whether a hazardous waste identified in this section exceeds the applicable treatment standards specified in § 268.40, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains constituents in excess of the applicable Subpart D levels, the waste is prohibited from land disposal, and all requirements of this part 268 are applicable, except as otherwise specified.

16. Section 268.40 is amended by revising paragraph (e) and the table at the end of § 268.40 to read as follows:

§ 268.40 Applicability of treatment standards.

* * * * *

(e) For characteristic wastes (D001–D043) that are subject to treatment standards in the following table ''Treatment Standards for Hazardous Wastes,'' all underlying hazardous constituents (as defined in § 268.2(i)) must meet Universal Treatment Standards, found in § 268.48, ''Table UTS,'' prior to land disposal.

(1) When these wastes are managed in wastewater treatment systems regulated by the Clean Water Act (CWA), compliance with the treatment standards must be achieved no later than ''end-of-pipe'' as defined in § 268.2(k); or

(2) When these wastes are managed in CWA-equivalent treatment systems and tank-based systems that discharge onto the land, compliance with the treatment standards must be achieved no later than the point the wastewater is released to the land (e.g., spray irrigation, discharge to dry river beds, placed into evaporation ponds); or

(3) When these wastes are managed in Class I nonhazardous injection wells, compliance with the treatment standards must be achieved no later than the well head; or

(4) For all other, compliance with the treatment standard must be met prior to land disposal as defined in § 268.2(c).

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Treatment Standards for Hazardous Wastes

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TREATMENT STANDARDS FOR HAZARDOUS WASTES

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
D001	Ignitable Characteristic Wastes, except for the §261.21(a)(1) High TOC Subcategory.	NA	NA	DEACT and meet §268.48 standards; or RORGS; or CMBST[8]	DEACT and meet §268.48 standards; or RORGS; or CMBST[8]
	High TOC Ignitable Characteristic Liquids Subcategory based on 40 CFR 261.21(a)(1)—Greater than or equal to 10% total organic carbon. (Note: This subcategory consists of nonwastewaters only).	NA	NA	NA	RORGS; or CMBST
D002	Corrosive Characteristic Wastes.	NA	NA	DEACT and meet §268.48 standards[8]	DEACT and meet §268.48 standards[8]
D002, D004, D005, D006, D007, D008, D009, D010, D011.	Radioactive high level wastes generated during the reprocessing of fuel rods. (Note: This subcategory consists of nonwastewaters only).	Corrosivity (pH)	NA	NA	HLVIT
		Arsenic	7440–38–2	NA	HLVIT
		Barium	7440–39–3	NA	HLVIT
		Cadmium	7440–43–9	NA	HLVIT
		Chromium (Total)	7440–47–3	NA	HLVIT
		Lead	7439–92–1	NA	HLVIT
		Mercury	7439–97–6	NA	HLVIT
		Selenium	7782–49–2	NA	HLVIT
		Silver	7440–22–4	NA	HLVIT
D003	Reactive Sulfides Subcategory based on 261.23(a)(5).	NA	NA	DEACT and meet §268.48 standards[8]	DEACT and meet §268.48 standards[8]
	Explosives Subcategory based on 261.23(a) (6), (7) and (8).	NA	NA	DEACT and meet §268.48 standards[8]	DEACT and meet §268.48 standards[8]
	Unexploded ordnance and other explosive devices which have been the subject of an emergency response.	NA	NA	DEACT	DEACT
	Other Reactives Subcategory based on 261.23(a)(1).	NA	NA	DEACT and meet §268.48 standards[8]	DEACT and meet §268.48 standards[8]
	Water Reactive Subcategory based on 261.23(a)(2), (3), and (4). (Note: This subcategory consists of nonwastewaters only).	NA	NA	NA	DEACT and meet §268.48 standards[8]
	Reactive Cyanides Subcategory based on 261.23(a)(5).	Cyanides (Total)[7]	57–12–5	Reserved	590
		Cyanides (Amendable)[7]	57–12–5	0.86	30
D004	Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for arsenic based on the extraction procedure (EP) in SW846 Methods 1310.	Arsenic	7440–38–2	5.0	5.0 mg/l EP

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
		Arsenic; alternate[6] standard for nonwastewaters only.	7440–38–2	NA	5.0 mg/l TCLP
D005	Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for barium based on the extraction procedure (EP) in SW846 Method 1310.	Barium	7440–39–3	100	100 mg/l TCLP
D006	Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for cadmium based on the extraction procedure (EP) in SW846 Method 1310.	Cadmium	7440–43–9	1.0	1.0 mg/l TCLP
	Cadmium Containing Batteries Subcategory. (Note: This subcategory consists of nonwastewaters only).	Cadmium	7440–43–9	NA	RTHRM
D007	Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for chromium based on the extraction procedure (EP) in SW846 Method 1310.	Chromium (Total)	7440–47–3	5.0	5.0 mg/l TCLP
D008	Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for lead based on the extraction procedure (EP) in SW846 Method 1310.	Lead	7439–92–1	5.0	5.0 mg/l EP
		Lead; alternate[6] standard for nonwastewaters only.	7439–92–1	NA	5.0 mg/l TCLP
	Lead Acid Batteries Subcategory (Note: This standard only applies to lead acid batteries that are identified as RCRA hazardous wastes and that are not excluded elsewhere from regulation under the land disposal restrictions of 40 CFR 268 or exempted under other EPA regulations (see 40 CFR 266.80). This subcategory consists of nonwastewaters only.).	Lead	7439–92–1	NA	RLEAD
	Radioactive Lead Solids Subcategory (Note: these lead solids include, but are not limited to, all forms of lead shielding and other elemental forms of lead. These lead solids do not include treatment residuals such as hydroxide sludges, other wastewater treatment residuals, or incinerator ashes that can undergo conventional pozzolanic stabilization, nor do they include organo-lead materials that can be incinerated and stabilized as ash. This subcategory consists of nonwastewaters only).	Lead	7439–92–1	NA	MACRO

D009	Nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the extraction procedure (EP) in SW846 Method 1310; and contain greater than or equal to 260 mg/kg total mercury that also contain organics and are not incinerator residues. (High Mercury-Organic Subcategory.).	Mercury	7439–97–6	NA	IMERC; OR RMERC
	Nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the extraction procedure (EP) in SW846 Method 1310; and contain greater than or equal to 260 mg/kg total mercury that are inorganic, including incinerator residues and residues from RMERC. (High Mercury-Inorganic Subcategory.).	Mercury	7439–97–6	NA	RMERC
	Nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the extraction procedure (EP) in SW846 Method 1310; and contain less than 260 mg/kg total mercury. (Low Mercury Subcategory.).	Mercury	7439–97–6	NA	0.20 mg/l TCLP
	All D009 wastewaters	Mercury	7439–97–6	0.20	NA
	Elemental mercury contaminated with radioactive materials. (Note: This subcategory consists of nonwastewaters only.).	Mercury	7439–97–6	NA	AMLGM
	Hydraulic oil contaminated with Mercury Radioactive Materials Subcategory. (Note: This subcategory consists of nonwastewaters only.).	Mercury	7439–97–6	NA	IMERC
D010	Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for selenium based on the extraction procedure (EP) in SW846 Method 1310.	Selenium	7782–49–2	1.0	5.7 mg/l TCLP
D011	Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for silver based on the extraction procedure (EP) in SW846 Method 1310.	Silver	7440–22–4	5.0	5.0 mg/l TCLP
D012	Wastes that are TC for Endrin based on the TCLP in SW846 Method 1311.	Endrin	72–20–8	BIODG; or CMBST[8]	0.13 and meet § 268.48 standards[8]
		Endrin aldehyde	7421–93–4	BIODG; or CMBST[8]	0.13 and meet § 268.48 standards[8]
D013	Wastes that are TC for Lindane based on the TCLP in SW846 Method 1311.).	alpha-BHC	319–84–6	CARBN; or CMBST[8]	0.066 and meet § 268.48 standards[8]
		beta–BHC	319–85–7	CARBN; or CMBST[8]	0.066 and meet § 268.48 standards[8]
		delta-BHC	319–86–8	CARBN; or CMBST[8]	0.066 and meet § 268.48 standards[8]
		gamma-BHC (Lindane)	58–89–9	CARBN; or CMBST[8]	0.066 and meet § 268.48 standards[8]
D014	Wastes that are TC for Methoxychlor based on the TCLP in SW846 Method 1311.	Methoxychlor	72–43–5	WETOX or CMBST[8]	0.18 and meet § 268.48 standards[8]

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
D015	Wastes that are TC for Toxaphene based on the TCLP in SW846 Method 1311.	Toxaphene	8001–35–2	BIODG or CMBST[8]	2.6 and meet § 268.48 standards[8]
D016	Wastes that are TC for 2,4-D (2,4-Dichlorophenoxyacetic acid) based on the TCLP in SW846 Method 1311.	2,4-D (2,4-Dichlorophenoxyacetic acid).	94–75–7	CHOXD, BIODG, or CMBST[8]	10 and meet § 268.48 standards[8]
D017	Wastes that are TC for 2,4,5-TP (Silvex) based on the TCLP in SW846 Method 1311.	2,4,5-TP (Silvex)	93–72–1	CHOXD or CMBST[8]	7.9 and meet § 268.48 standards[8]
D018	Wastes that are TC for Benzene based on the TCLP in SW846 Method 1311.	Benzene	71–43–2	0.14 and meet § 268.48 standards[8]	10 and meet § 268.48 standards[8]
D019	Wastes that are TC for Carbon tetrachloride based on the TCLP in SW846 Method 1311.	Carbon tetrachloride	56–23–5	0.057 and meet § 268.48 standards[8]	6.0 and meet § 268.48 standards[8]
D020	Wastes that are TC for Chlordane based on the TCLP in SW846 Method 1311.	Chlordane (alpha and gamma isomers).	57–74–9	0.0033 and meet § 268.48 standards[8]	0.26 and meet § 268.48 standards[8]
D021	Wastes that are TC for Chlorobenzene based on the TCLP in SW846 Method 1311.	Chlorobenzene	108–90–7	0.057 and meet § 268.48 standards[8]	6.0 and meet § 268.48 standards[8]
D022	Wastes that are TC for Chloroform based on the TCLP in SW846 Method 1311.	Chloroform	67–66–3	0.046 and meet § 268.48 standards[8]	6.0 and meet § 268.48 standards[8]
D023	Wastes that are TC for o-Cresol based on the TCLP in SW846 Method 1311.	o-Cresol	95–48–7	0.11 and meet § 268.48 standards[8]	5.6 and meet § 268.48 standards[8]
D024	Wastes that are TC for m-Cresol based on the TCLP in SW846 Method 1311.	m-Cresol (difficult to distinguish from p-cresol).	108–39–4	0.77 and meet § 268.48 standards[8]	5.6 and meet § 268.48 standards[8]
D025	Wastes that are TC for p-Cresol based on the TCLP in SW846 Method 1311.	p-Cresol (difficult to distinguish from m-cresol).	106–44–5	0.77 and meet § 268.48 standards[8]	5.6 and meet § 268.48 standards[8]
D026	Wastes that are TC for Cresols (Total) based on the TCLP in SW846 Method 1311.	Cresol-mixed isomers (Cresylic acid)(sum of o-, m-, and p-cresol concentrations).	1319–77–3	0.88 and meet § 268.48 standards[8]	11.2 and meet § 268.48 standards[8]
D027	Wastes that are TC for p-Dichlorobenzene based on the TCLP in SW846 Method 1311.	p-Dichlorobenzene (1,4-Dichlorobenzene).	106–46–7	0.090 and meet § 268.48 standards[8]	6.0 and meet § 268.48 standards[8]
D028	Wastes that are TC for 1,2-Dichloroethane based on the TCLP in SW846 Method 1311.	1,2-Dichloroethane	107–06–2	0.21 and meet § 268.48 standards[8]	6.0 and meet § 268.48 standards[8]
D029	Wastes that are TC for 1,1-Dichloroethylene based on the TCLP in SW846 Method 1311.	1,1-Dichloroethylene	75–35–4	0.025 and meet § 268.48 standards[8]	6.0 and meet § 268.48 standards[8]

D030	Wastes that are TC for 2,4-Dinitrotoluene based on the TCLP in SW846 Method 1311.	2,4-Dinitrotoluene	121–14–2	0.32 and meet § 268.48 standards [8]	140 and meet § 268.48 standards [8]
D031	Wastes that are TC for Heptachlor based on the TCLP in SW846 Method 1311.	Heptachlor	76–44–8	0.0012 and meet § 268.48 standards [8]	0.066 and meet § 268.48 standards [8]
		Heptachlor epoxide	1024–57–3	0.016 and meet § 268.48 standards [8]	0.066 and meet § 268.48 standards [8]
D032	Wastes that are TC for Hexachlorobenzene based on the TCLP in SW846 Method 1311.	Hexachlorobenzene	118–74–1	0.055 and meet § 268.48 standards [8]	10 and meet § 268.48 standards [8]
D033	Wastes that are TC for Hexachlorobutadiene based on the TCLP in SW846 Method 1311.	Hexachlorobutadiene	87–68–3	0.055 and meet § 268.48 standards [8]	5.6 and meet § 268.48 standards [8]
D034	Wastes that are TC for Hexachloroethane based on the TCLP in SW846 Method 1311.	Hexachloroethane	67–72–1	0.055 and meet § 268.48 standards [8]	30 and meet § 268.48 standards [8]
D035	Wastes that are TC for Methyl ethyl ketone based on the TCLP in SW846 Method 1311.	Methyl ethyl ketone	78–93–3	0.28 and meet § 268.48 standards [8]	36 and meet § 268.48 standards [8]
D036	Wastes that are TC for Nitrobenzene based on the TCLP in SW846 Method 1311.	Nitrobenzene	98–95–3	0.068 and meet § 268.48 standards [8]	14 and meet § 268.48 standards [8]
D037	Wastes that are TC for Pentachlorophenol based on the TCLP in SW846 Method 1311.	Pentachlorophenol	87–86–5	0.089 and meet § 268.48 standards [8]	7.4 and meet § 268.48 standards [8]
D038	Wastes that are TC for Pyridine based on the TCLP in SW846 Method 1311.	Pyridine	110–86–1	0.014 and meet § 268.48 standards [8]	16 and meet § 268.48 standards [8]
D039	Wastes that are TC for Tetrachloroethylene based on the TCLP in SW846 Method 1311.	Tetrachloroethylene	127–18–4	0.056 and meet § 268.48 standards [8]	6.0 and meet § 268.48 standards [8]
D040	Wastes that are TC for Trichloroethylene based on the TCLP in SW846 Method 1311.	Trichloroethylene	79–01–6	0.054 and meet § 268.48 standards [8]	6.0 and meet § 268.48 standards [8]
D041	Wastes that are TC for 2,4,5-Trichlorophenol based on the TCLP in SW846 Method 1311.	2,4,5-Trichlorophenol	95–95–4	0.18 and meet § 268.48 standards [8]	7.4 and meet § 268.48 standards [8]
D042	Wastes that are TC for 2,4,6-Trichlorophenol based on the TCLP in SW846 Method 1311.	2,4,6-Trichlorophenol	88–06–2	0.035 and meet § 268.48 standards [8]	7.4 and meet § 268.48 standards [8]
D043	Wastes that are TC for Vinyl chloride based on the TCLP in SW846 Method 1311.	Vinyl chloride	75–01–4	0.27 and meet § 268.48 standards [8]	6.0 and meet § 268.48 standards [8]

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
F001, F002, F003, F004, & F005	F001, F002, F003, F004, and/or F005 solvent wastes that contain any combination of one or more of the following spent solvents: acetone, benzene, n-butyl alcohol, carbon disulfide, carbon tetrachloride, chlorinated fluorocarbons, chlorobenzene, o-cresol, m-cresol, p-cresol, cyclohexanone, o-dichlorobenzene, 2-ethoxyethanol, ethyl acetate, ethyl benzene, ethyl ether, isobutyl alcohol, methanol, methylene chloride, methyl ethyl ketone, methyl isobutyl ketone, nitrobenzene, 2-nitropropane, pyridine, tetrachloroethylene, toluene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, 1,1,2-trichloro-1,2,2-trifluorethane, trichloroethane, trichloromonofluouromethane, and/or xylenes [except as specifically noted in other subcategories]. See further details of these listings in § 261.31.	Acetone	67–64–1	0.28	160
		Benzene	71–42–2	0.14	10
		n-Butyl alcohol	71–36–3	5.6	2.6
		Carbon disulfide	75–15–0	3.8	NA
		Carbon tetrachloride	56–23–5	0.057	6.0
		Chlorobenzene	108–90–7	0.057	6.0
		o-Cresol	95–48–7	0.11	5.6
		m-Cresol (difficult to distinguish from p-cresol).	108–39–4	0.77	5.6
		p-Cresol (difficult to distinguish from m-cresol).	106–44–5	0.77	5.6
		Cresol-mixed isomers (Cresylic acid) (sum of o-, m-, and p-cresol concentrations.	1319–77–3	0.88	11.2
		Cyclohexanone	108–94–1	0.36	NA
		o-Dichlorobenzene	95–50–1	0.088	6.0
		Ethyl acetate	141–78–6	0.34	33
		Ethyl benzene	100–41–4	0.057	10
		Ethyl ether	60–29–7	0.12	160
		Isobutyl alcohol	78–83–1	5.6	170
		Methanol	67–56–1	5.6	NA
		Methylene chloride	75–9–2	0.089	30
		Methyl ethyl ketone	78–93–3	0.28	36
		Methyl isobutyl ketone	108–10–1	0.14	33
		Nitrobenzene	98–95–3	0.068	14
		Pyridine	110–86–1	0.014	16
		Tetrachloroethylene	127–18–4	0.056	6.0
		Toluene	108–88–3	0.080	10
		1,1,1-Trichlorethane	71–55–6	0.054	6.0
		1,1,2-Trichloroethane	79–00–5	0.054	6.0

		1,1,2-Trichloro-1,2,2-trifluoroethane.	76–13–1	0.057	30
		Trichloroethylene	79–01–6	0.054	6.0
		Trichloromonofluoromethane	75–69–4	0.020	30
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations.	1330–20–7	0.32	30
	F003 and/or F005 solvent wastes that contain any combination of one or more of the following three solvents as the only listed F001–5 solvents: carbon disulfide, cyclohexanone, and/or methanol. (formerly 268.41(c)).	Carbon disulfide	75–15–0	3.8	4.8 mg/1 TCLP
		Cyclohexanone	108–94–1	0.36	0.75 mg/l TCLP
		Methanol	67–56–1	5.6	0.75 mg/l TCLP
	F005 solvent waste containing 2-Nitropropane as the only listed F001–5 solvent..	2-Nitropropane	79–46–9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
	F005 solvent waste containing 2—Ethoxyethanol as the only listed F001–5 solvent..	2-Ethoxyethanol	110–80–5	BIODG; or CMBST	CMBST
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum..	Cadmium	7440–43–9	0.69	0.19 mg/l TCLP
		Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Cyanides (Total)[7]	57–12–5	1.2	590
		Cyanides (Amendable)[7]	57–12–5	0.86	30
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
		Nickel	7440–02–0	3.98	5.0 mg/l TCLP
		Silver	7440–22–4	0.43	0.30 mg/l TCLP
F007	Spent cyanide plating bath solutions from electroplating operations.	Cadmium	7440–43–9	0.69	0.19 mg/1 TCLP
		Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Cyanides (Total)[7]	57–12–5	1.2	590
		Cyanides (Amenable)[7]	57–12–5	0.86	30
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
		Nickel	7440–02–0	3.98	5.0 mg/l TCLP
		Silver	7440–22–4	NA	0.30 mg/l TCLP
F008	Plating bath residues from the bottom of plating baths from electroplating operations where cyanides are used in the process.	Cadmium	7440–43–9	NA	0.19 mg/l TCLP
		Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Cyanides (Total)[7]	57–12–5	1.2	590
		Cyanides (Amenable)[7]	57–12–5	0.86	30
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
		Nickel	7440–02–0	3.98	5.0 mg/l TCLP
		Silver	7440–22–4	NA	0.30 mg/l TCLP
F009	Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process.	Cadmium	7440–43–9	NA	0.19 mg/l TCLP
		Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Cyanides (Total)[7]	57–12–5	1.2	590
		Cyanides (Amenable)[7]	57–12–5	0.86	30
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
		Nickel	7440–02–0	3.98	5.0 mg/l TCLP
		Silver	7440–22–4	NA	0.30 mg/l TCLP

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
F010	Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process.	Cyanides (Total)[7]	57–12–5	1.2	590
		Cyanides (Amenable)[7]	57–12–5	0.86	30
F011	Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations.	Cadmium	7440–43–9	NA	0.19 mg/l TCLP
		Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Cyanides (Total)[7]	57–12–5	1.2	590
		Cyanides (Amenable)[7]	57–12–5	0.86	30
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
		Nickel	7440–02–0	3.98	5.0 mg/l TCLP
		Silver	7440–22–4	NA	0.30 mg/l TCLP
F012	Quenching wastewater treatment sludges from metal heat treating operations where cyanides are used in the process.	Cadmium	7440–43–9	NA	0.19 mg/l TCLP
		Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Cyanides (Total)[7]	57–12–5	1.2	590
		Cyanides (Amenable)[7]	57–12–5	0.86	30
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
		Nickel	7440–02–0	3.98	5.0 mg/l TCLP
		Silver	7440–22–4	NA	0.30 mg/l TCLP
F019	Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process.	Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Cyanides (Total)[7]	57–12–5	1.2	590
		Cyanides (Amenable)[7]	57–12–5	0.86	30

F020, F021, F022, F023, F026	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of: (1) tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives, excluding wastes from the production of Hexachlorophene from highly purified 2,4,5-trichlorophenol (F020); (2) pentachlorophenol, or of intermediates used to produce its derivatives (i.e., F021); (3) tetra-, penta-, or hexachlorobenzenes under alkaline conditions (i.e., F022); and from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of: (1) tri- or tetrachlorophenols, excluding wastes from equipment used only for the production of Hexachlorophene from highly purified 2,4,5-trichlorophenol (F023); (2) tetra-, penta-, or hexachlorobenzenes under alkaline conditions (i.e., F026).	HxCDDs (All Hexachlorodibenzo-p-dioxins).	NA	0.000063	0.001
		HxCDFs (All Hexachlorodibenzofurans).	NA	0.000063	0.001
		PeCDDs (All Pentachlorodibenzo-p-dioxins).	NA	0.000063	0.001
		PeCDFs (All Pentachlorodibenzofurans).	NA	0.000035	0.001
		Pentachlorophenol	87–86–5	0.089	7.4
		TCDDs (All Tetrachlorodibenzo-p-dioxins).	NA	0.000063	0.001
		TCDFs (All Tetrachlorodibenzofurans).	NA	0.000063	0.001
		2,4,5-Trichlorophenol	95–95–4	0.18	7.4
		2,4,6-Trichlorophenol	88–06–2	0.035	7.4
		2,3,4,6-Tetrachlorophenol	58–90–2	0.030	7.4
F024	Process wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor clean-out wastes, from the production of certain chlorinated aliphatic hydrocarbons by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. (This listing does not include wastewaters, wastewater treatment sludges, spent catalysts, and wastes listed in § 261.31 or § 261.32.).	All F024 wastes	NA	CMBST	CMBST
		2-Chloro-1,3-butadiene	126–99–8	0.057	0.28
		3-Chloropropylene	107–05–1	0.036	30
		1,1-Dichloroethane	75–34–3	0.059	6.0
		1,2-Dichloroethane	107–06–2	0.21	6.0
		1,2-Dichloropropane	78–87–5	0.85	18
		cis-1,3-Dichloropropylene	10061–01–5	0.036	18
		trans-1,3-Dichloropropylene	10061–02–6	0.036	18
		bis(2-Ethylhexyl) phthalate	117–81–7	0.28	28
		Hexachloroethane	67–72–1	0.055	30
		Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
		Nickel	7440–02–0	3.98	5.0 mg/l TCLP
F025	Condensed light ends from the production of certain chlorinated aliphatic hydrocarbons, by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution.	Carbon tetrachloride	56–23–5	0.057	6.0
		Chloroform	67–66–3	0.046	6.0
		1,2-Dichloroethane	107–06–2	0.21	6.0
		1,1-Dichloroethylene	75–35–4	0.025	6.0
		Methylene chloride	75–9–2	0.089	30
		1,1,2-Trichloroethane	79–00–5	0.054	6.0
		Trichloroethylene	79–01–6	0.054	6.0
		Vinyl chloride	75–01–4	0.27	6.0
	Spent filters and filter aids, and spent desiccant wastes from the production of certain chlorinated aliphatic hydrocarbons, by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. F025—Spent Filters/Aids and Desiccants Subcategory.	Carbon tetrachloride	56–23–5	0.057	6.0
		Chloroform	67–66–3	0.046	6.0
		Hexachlorobenzene	118–74–1	0.055	10
		Hexachlorobutadiene	87–68–3	0.055	5.6
		Hexachloroethane	67–72–1	0.055	30
		Methylene chloride	75–9–2	0.089	30
		1,1,2-Trichloroethane	79–00–5	0.054	6.0
		Trichloroethylene	79–01–6	0.054	6.0
		Vinyl chloride	75–01–4	0.27	6.0
F027	Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. (This listing does not include formulations containing hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component).	HxCDDs (All Hexachlorodibenzo-p-dioxins).	NA	0.059	NA
		HxCDFs (All Hexachlorodibenzofurans).	NA	0.059	3.4
		PeCDDs (All Pentachlorodibenzo-p-dioxins).	NA	0.14	10
		PeCDFs (All Pentachlorodibenzofurans).	NA	0.059	3.4
		Pentachlorophenol	87–86–5	0.061	3.4

		TCDDs (All Tetrachlorodibenzo-p-dioxins).	NA	0.28	28
		TCDFs (All Tetracholorodibenzofurans).	NA	0.059	3.4
		2,4,5-Trichlorophenol	95–95–4	0.057	28
		2,4,6-Trichlorophenol	88–06–2	0.057	10
		2,3,4,6-Tetrachlorophenol	58–90–2	0.059	NA
F028	Residues resulting from the incineration or thermal treatment of soil contaminated with EPA Hazardous Wastes Nos. F020, F021, F023, F026, and F027.	HxCDDs (All Hexachlorodibenzo-p-dioxins).	NA	0.059	5.6
		HxCDFs (All Hexachlorodibenzofurans).	NA	0.059	5.6
		PeCDDs (All Pentachlorodibenzo-p-dioxins).	NA	0.039	6.2
		PeCDFs (All Pentachlorodibenzofurans).	NA	0.067	8.2
		Pentachlorophenol	87–86–5	0.080	10
		TCDDs (All Tetrachlorodibenzo-p-dioxins).	NA	0.32	30
		TCDFs (All Tetrachlorodibenzofurans).	NA	2.77	0.86 mg/l TCLP
		2,4,5-Trichlorophenol	95–95–4	1.2	590
		2,4,6-Trichlorophenol	88–06–2	0.69	NA
		2,3,4,6-Tetrachlorophenol	58–90–2	3.98	5.0 mg/l TCLP
F037	Petroleum refinery primary oil/water/solids separation sludge—Any sludge generated from the gravitational separation of oil/water/solids during the storage or treatment of process wastewaters and oily cooling wastewaters from petroleum refineries. Such sludges include, but are not limited to, those generated in: oil/water/solids separators; tanks and impoundments; ditches and other conveyances; sumps; and stormwater units receiving dry weather flow. Sludge generated in stormwater units that do not receive dry weather flow, sludges generated from non-contact once-through cooling waters segregated for treatment from other process or oil cooling waters, sludges generated in aggressive biological treatment units as defined in §261.31(b)(2) (including sludges generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units) and K051 wastes are not included in this listing.	Acenaphthene	83–32–9	0.059	NA
		Anthracene	120–12–7	0.059	3.4
		Benzene	71–43–2	0.14	10
		Benz(a)anthracene	56–55–3	0.059	3.4
		Benzo(a)pyrene	50–32–8	0.061	3.4
		bis(2-Ethylhexyl) phthalate	117–81–7	0.28	28
		Chrysene	218–01–9	0.059	3.4
		Di-n-butyl phthalate	84–74–2	0.057	28
		Ethylbenzene	100–41–4	0.057	10
		Fluorene	86–73–7	0.059	NA
		Naphthalene	91–20–3	0.059	5.6
		Phenanthrene	85–01–8	0.059	5.6
		Phenol	108–95–2	0.039	6.2
		Pyrene	129–00–0	0.067	8.2

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
F038	Petroleum refinery secondary (emulsified) oil/water/solids separation sludge and/or float generated from the physical and/or chemical separation of oil/water/solids in process wastewaters and oily cooling wastewaters from petroleum refineries. Such wastes include, but are not limited to, all sludges and floats generated in: induced air floatation (IAF) units, tanks and impoundments, and all sludges generated in DAF units. Sludges generated in stormwater units that do not receive dry weather flow, sludges generated from non-contact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges and floats generated in aggressive biological treatment units as defined in § 261.31(b)(2) (including sludges and floats generated in one or more additional units after wastewaters have been treated in aggressive biological units) and F037, K048, and K051 are not included in this listing.	Toluene	108–88–3	0.080	10
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations).	1330–20–7	0.32	30
		Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Cyanides (Total)[7]	57–12–5	1.2	590
		Lead	7439–92–1	0.69	NA
		Nickel	7440–02–0	3.98	5.0 mg/l TCLP
		Benzene	71–43–2	0.14	10
		Benzo(a)pyrene	50–32–8	0.061	3.4
		bis(2-Ethylhexyl) phthalate	117–81–7	0.28	28
		Chrysene	218–01–9	0.059	3.4
		Di-n-butyl phthalate	84–74–2	0.057	28
		Ethylbenzene	100–41–4	0.057	10
		Fluorene	86–73–7	0.059	NA
		Naphthalene	91–20–3	0.059	5.6
		Phenanthrene	85–01–8	0.059	5.6
		Phenol	108–95–2	0.039	6.2
		Pyrene	129–00–0	0.067	8.2
		Toluene	108–88–3	0.080	10
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations).	1330–20–7	0.32	30
		Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Cyanides (Total)[7]	57–12–5	1.2	590
		Lead	7439–92–1	0.69	NA
		Nickel	7440–02–0	NA	5.0 mg/l TCLP

F039	Leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as hazardous under subpart D of this part. (Leachate resulting from the disposal of one or more of the following EPA Hazardous Wastes and no other Hazardous Wastes retains its EPA Hazardous Waste Number(s): F020, F021, F022, F026, F027, and/or F028.).	Acenaphthylene	208–96–8	0.059	3.4
		Acenaphthene	83–32–9	0.059	3.4
		Acetone	67–64–1	0.28	160
		Acetonitrile	75–05–8	5.6	38
		Acetophenone	96–86–2	0.010	9.7
		2-Acetylaminofluorene	53–96–3	0.059	140
		Acrolein	107–02–8	0.29	NA
		Acrylonitrile	107–13–1	0.24	84
		Aldrin	309–00–2	0.021	0.066
		4-Aminobiphenyl	92–67–1	0.13	NA
		Aniline	62–53–3	0.81	14
		Anthracene	120–12–7	0.059	3.4
		Aramite	140–57–8	0.36	NA
		alpha-BHC	319–84–6	0.00014	0.066
		beta-BHC	319–85–7	0.00014	0.066
		delta-BHC	319–86–8	0.023	0.066
		gamma-BHC	58–89–9	0.0017	0.066
		Benzene	71–43–2	0.14	10
		Benz(a)anthracene	56–55–3	0.059	3.4
		Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene.	205–99–2	0.11	6.8
		Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene.	207–08–9	0.11	6.8
		Benzo(g,h,i)perylene	191–24–2	0.0055	1.8
		Benzo(a)pyrene	50–32–8	0.061	3.4
		Bromodichloromethane	75–27–4	0.35	15
		Methyl bromide (Bromomethane)	74–83–9	0.11	15
		4-Bromophenyl phenyl ether	101–55–3	0.055	15
		n-Butyl alcohol	71–36–3	5.6	2.6
		Butyl benzyl phthalate	85–68–7	0.017	28
		2-sec-Butyl-4,6-dinitrophenol (Dinoseb).	88–85–7	0.066	2.5
		Carbon disulfide	75–15–0	3.8	4.8 mg/l TCLP
		Carbon tetrachloride	56–23–5	0.057	6.0
		Chlordane (alpha and gamma isomers).	57–74–9	0.0033	0.26
		p-Chloroaniline	106–47–8	0.46	16
		Chlorobenzene	108–90–7	0.057	6.0
		Chlorobenzilate	510–15–6	0.10	NA
		2-Chloro-1,3-butadiene	126–99–8	0.057	0.28
		Chlorodibromomethane	124–48–1	0.057	15
		Chloroethane	75–00–3	0.27	6.0
		bis(2-Chloroethoxy)methane	111–91–1	0.036	7.2
		bis(2-Chloroethyl)ether	111–44–4	0.033	6.0
		Chloroform	67–66–3	0.046	6.0
		bis(2-Chloroisopropyl)ether	39638–32–9	0.055	7.2
		p-Chloro-m-cresol	59–50–7	0.018	14
		Chloromethane (Methyl chlorida)	74–87–3	0.19	30
		2-Chloronaphthalene	91–58–7	0.055	5.6

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
		2-Chlorophenol	95–57–8	0.044	5.7
		3-Chloropropylene	107–05–1	0.036	30
		Chrysene	218–01–9	0.059	3.4
		o-Cresol	95–48–7	0.11	5.6
		m-Cresol (difficult to distinguish from p-cresol).	108–39–4	0.77	5.6
		p-Cresol (difficult to distinguish from m-cresol).	106–44–5	0.77	5.6
		Cyclohexanone	108–94–1	0.36	0.75 mg/l TCLP
		1,2-Dibromo-e-chloropropane	96–12–8	0.11	15
		Ethylene dibromide (1,2-Dibromoethane).	106–93–4	0.028	15
		Dibromomethane	74–95–3	0.11	15
		2,4-D (2,4-Dichlorophenoxyacetic acid).	94–75–7	0.72	10
		o,p′-DDD	53–19–0	0.023	0.87
		p,p′-DDD	72–54–8	0.023	0.087
		o,p′-DDE	3424–82–6	0.031	0.087
		p,p′-DDE	72–55–9	0.031	0.087
		o,p′-DDT	789–02–6	0.0039	0.087
		p,p′-DDT	50–29–3	0.0039	0.087
		Dibenz(a,h)anthracene	53–70–3	0.055	8.2
		Dibenz(a,e)pyrene	192–65–4	0.061	NA
		m-Dichlorobenzene	541–73–1	0.036	6.0
		o-Dichlorobenzene	95–50–1	0.088	6.0
		p-Dichlorobenzene	106–46–7	0.090	6.0
		Dichlorodifluoromethane	75–71–8	0.23	7.2
		1,1-Dichloroethane	75–34–3	0.059	6.0
		1,2-Dichloroethane	107–06–2	0.21	6.0
		1,1-Dichloroethylene	75–35–4	0.025	6.0
		trans-1,2-Dichloroethylene	156–60–5	0.054	30
		2,4-Dichlorophenol	120–83–2	0.044	14
		2,6-Dichlorophenol	87–65–0	0.044	14
		1,2-Dichloropropane	78–87–5	0.85	18
		cis-1,3-Dichloropropylene	10061–01–5	0.036	18
		trans-1,3-Dichloropropylene	10061–02–6	0.036	18
		Dieldrin	60–57–1	0.017	0.13
		Diethyl phthalate	84–66–2	0.20	28
		2-4-Dimethyl phenol	105–67–9	0.036	14
		Dimethyl phthalate	131–11–3	0.047	28
		Di-n-butyl phthalate	84–74–2	0.057	28
		1,4-Dinitrobenzene	100–25–4	0.32	2.3
		4,6-Dinitro-o-cresol	534–52–1	0.28	160
		2,4-Dinitrophenol	51–28–5	0.12	160
		2,4-Dinitrotoluene	121–14–2	0.32	140
		2,6-Dinitrotoluene	606–20–2	0.55	28
		Di-n-octyl phthalate	117–84–0	0.017	28
		Di-n-propylnitrosamine	621–64–7	0.40	14

1,4-Dioxane	123–91–1	0.22	170	
Diphenylamine (difficult to distinguish from diphenylnitrosamine).	122–39–4	0.92	13	
Diphenylnitrosamine (difficult to distinguish from diphenylamine).	86–30–6	0.92	13	
1,2-Diphenylhydrazine	122–66–7	0.087	1.5	
Disulfoton	298–04–4	0.017	6.2	
Endosulfan I	939–98–8	0.023	0.066	
Endosulfan II	33213–6–5	0.029	0.13	
Endosulfan sulfate	1–31–07–8	0.029	0.13	
Endrin	72–20–8	0.0028	0.13	
Endrin aldehyde	7421–93–4	0.025	0.13	
Ethyl acetate	141–78–6	0.34	33	
Ethyl cyanide (Propanenitrile)	107–12–0	0.24	360	
Ethyl benzene	100–41–4	0.057	10	
Ethyl ether	60–29–7	0.12	160	
bis(2-Ethylhexyl) phthalate	117–81–7	0.28	28	
Ethyl methacrylate	97–63–2	0.14	160	
Ethylene oxide	75–21–8	0.12	NA	
Famphur	52–85–7	0.017	15	
Fluoranthene	206–44–0	0.068	3.4	
Fluorene	86–73–7	0.059	3.4	
Heptachlor	76–44–8	0.0012	0.066	
Heptachlor epoxide	1024–57–3	0.016	0.066	
Hexachlorobenzene	118–74–1	0.055	10	
Hexachlorobutadiene	87–68–3	0.055	5.6	
Hexachlorocyclopentadiene	77–47–4	0.057	2.4	
HxCDDs (All Hexachlorodibenzo-p-dioxins).	NA	0.000063	0.001	
HxCDFs (All Hexachlorodibenzofurans).	NA	0.000063	0.001	
Hexachloroethane	67–72–1	0.055	30	
Hexachloropropylene	1888–71–7	0.035	30	
Indeno (1,2,3-c,d) pyrene	193–39–5	0.0055	3.4	
Iodomethane	74–88–4	0.19	65	
Isobutyl alcohol	78–83–1	5.6	170	
Isodrin	465–73–6	0.021	0.066	
Isosafrole	120–58–1	0.081	2.6	
Kepone	143–50–8	0.0011	0.13	
Methacrylonitrile	126–98–7	0.24	84	
Methanol	67–56–1	5.6	0.75 mg/l TCLP	
Methapyrilene	91–80–5	0.081	1.5	
Methoxychlor	72–43–5	0.25	0.18	
3-Methylcholanthrene	56–49–5	0.0055	15	
4,4-Methylene bis(2-chloroaniline)	101–14–4	0.50	30	
Methylene chloride	75–09–2	0.089	30	
Methyl ethyl ketone	78–93–3	0.28	36	
Methyl isobutyl ketone	108–10–1	0.14	33	
Methyl methacrylate	80–62–6	0.14	160	
Methyl methansulfonate	66–27–3	0.018	NA	
Methyl parathion	298–00–0	0.014	4.6	
Naphthalene	91–20–3	0.059	5.6	
2-Naphthylamine	91–59–8	0.52	NA	
p-Nitroaniline	100–01–6	0.028	28	
Nitrobenzene	98–95–3	0.068	14	
5-Nitro-o-toluidine	99–55–8	0.32	28	
p-Nitrophenol	100–02–7	0.12	29	
N-Nitrosodiethylamine	55–18–5	0.40	28	
N–Nitrosodimethylamine	62–75–9	0.40	2.3	

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
		N-Nitroso-di-n-butylamine	924–16–3	0.40	17
		N-Nitrosomethylethylamine	10595–95–6	0.40	2.3
		N-Nitrosomorpholine	59–89–2	0.40	2.3
		N-Nitrosopiperidine	100–75–4	0.013	35
		N-Nitrosophyrrolidine	930–55–2	0.013	35
		Parathion	56–38–2	0.014	4.6
		Total PCBs (sum of all PCB isomer, or all Aroclors).	1336–36–3	0.10	10
		Pentachlorobenzene	608–93–5	0.055	10
		PeCDDs (All Pentachlorodibenzo-p-dioxins).	NA	0.000063	0.001
		PeCDFs (All Pentachlorodibenzofurans).	NA	0.000035	0.001
		Pentachloronitrobenzene	82–68–8	0.055	4.8
		Pentachlorophenol	87–86–5	0.089	7.4
		Phenacetin	62–44–2	0.081	16
		Phenanthrene	85–01–8	0.059	5.6
		Phenol	108–95–2	0.039	6.2
		Phorate	298–02–2	0.021	4.6
		Phthalic anhydride	85–44–9	0.055	28
		Pronamide	23950–58–5	0.093	1.5
		Pyrene	129–00–0	0.067	8.2
		Pyridine	110–86–1	0.014	16
		Safrole	94–59–7	0.081	22
		Silvex (2,4,5-TP)	93–72–1	0.72	7.9
		2,4,5-T	93–76–5	0.72	7.9
		1,2,4,5-Tetrachlorobenzene	95–94–3	0.055	14
		TCDDs (All Tetrachlorodibenzo-p-dioxins).	NA	0.000063	0.001
		TCDFs (All Tetrachlorodibenzofurans).	NA	0.000063	0.001
		1,1,1,2-Tetrachloroethane	630–20–6	0.057	6.0
		1,1,1,2-Tetrachloroethane	79–34–6	0.057	6.0
		Tetrachloroethylene	127–18–4	0.056	6.0
		2,3,4,6-Tetrachlorophenol	58–90–2	0.030	7.4
		Toluene	108–88–3	0.080	10
		Toxaphene	8001–35–2	0.0095	2.6
		Bromoform (Tribromomethane)	75–25–2	0.63	15
		1,2,4-Trichlorobenzene	120–82–1	0.055	19
		1,1,1-Trichloroethane	71–55–6	0.054	6.0
		1,1,2-Trichloroethane	79–00–5	0.054	6.0
		Trichloroethylene	79–01–6	0.054	6.0
		Trichloromonofluoromethane	75–69–4	0.020	30
		2,4,5-Trichlorophenol	95–95–4	0.18	7.4
		2,4,6-Trichlorophenol	88–06–2	0.035	7.4
		1,2,3-Trichloropropane	96–18–4	0.85	30
		1,1,2-Trichloro-1,2,2-trifluoroethane.	76–13–1	0.057	30

		tris(2,3-Dibromopropyl) phosphate	126–72–7	0.11	0.10
		Vinyl chloride	75–01–4	0.27	6.0
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations).	1330–20–7	0.32	30
		Antimony	7440–36–0	1.9	2.1 mg/l TCLP
		Arsenic	7440–38–2	1.4	5.0 mg/l TCLP
		Barium	7440–39–3	1.2	7.6 mg/l TCLP
		Beryllium	7440–41–7	0.82	0.014 mg/l TCLP
		Cadmium	7440–43–9	0.69	0.19 mg/l TCLP
		Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Cyanides (Total)[7]	57–12–5	1.2	590
		Cyanides (Amenable)[7]	57–12–5	0.86	30
		Fluoride	16964–48–8	35	48
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
		Mercury	7439–97–6	0.15	0.025 mg/l TCLP
		Nickel	7440–02–0	3.98	5.0 mg/l TCLP
		Selenium	7782–49–2	0.82	0.16 mg/l TCLP
		Silver	7440–22–4	0.43	0.30 mg/l TCLP
		Sulfide	8496–25–8	14	NA
		Thallium	7440–28–0	1.4	0.078 mg/l TCLP
		Vanadium	7440–62–2	4.3	0.23
K001	Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol..	Naphthalene	91–20–3	0.059	5.6
		Pentachlorophenol	87–86–5	0.089	7.4
		Phenanthrene	85–01–8	0.059	5.6
		Pyrene	129–00–0	0.067	8.2
		Toluene	108–88–3	0.080	10
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations).	1330–20–7	0.32	30
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
K002	Wastewater treatment sludge from the production of chrome yellow and orange pigments.	Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
K003	Wastewater treatment sludge from the production of molybdate orange pigments.	Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
K004	Wastewater treatment sludge from the production of zinc yellow pigments.	Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
K005	Wastewater treatment sludge from the production of chrome green pigments.	Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
		Cyanides (Total)[7]	57–12–5	1.2	590
K006	Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous).	Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Lead	7439–92–1	0.69	NA
	Wastewater treatment sludge from the production of chrome oxide green pigments (hydrated).	Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
K007	Wastewater treatment sludge from the production of iron blue pigments.	Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
		Cyanides (Total)[7]	57–12–5	1.2	590
K008	Oven residue from the production of chrome oxide green.	Chromium (Total)	7440–47–3	2.77	0.86 mg/l
		Lead	7439–92–1	0.69	0.37 mg/l TCLP

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
K009	Distillation bottoms from the production of acetaldehyde from ethylene.	Chloroform	67–66–3	0.046	6.0
K010	Distillation side cuts from the procduction of acetaldehyde from ethylene.	Chloroform	67–66–3	0.046	6.0
K011	Bottom stream from the wastewater stripper in the production of acrylonitrile.	Acetonitrile	75–05–8	5.6	38
		Acrylonitrile	107–13–1	0.24	84
		Acrylamide	79–06–1	19	23
		Benzene	71–43–2	0.14	10
		Cyanide (Total)	57–12–5	1.2	590
K013	Bottom stream from the acetonitrile column in the production of acrylonitrile..	Acetonitrile	75–05–8	5.6	38
		Acrylonitrile	107–13–1	0.24	84
		Acrylamide	79–06–1	19	23
		Benzene	71–43–2	0.14	10
		Cyanide (Total)	57–12–5	1.2	590
K014	Bottoms from the acetonitrile purification column in the production of acrylonitrile.	Acetonitrile	75–05–8	5.6	38
		Acrylonitrile	107–13–1	0.24	84
		Acrylamide	79–06–1	19	23
		Benzene	71–43–2	0.14	10
		Cyanide (Total)	57–12–5	1.2	590
K015	Still bottoms from the distillation of benzyle chloride..	Anthracene	120–12–7	0.059	3.4
		Benzal chloride	98–87–3	0.055	6.0
		Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene.	205–99–2	0.11	6.8
		Benzo(k)fluroanthene (difficult to distinguish from benzo(b) fluoranthene.	207–08–9	0.11	6.8
		Phenanthrene	85–01–8	0.059	5.6
		Toluene	108–88–3	0.080	10
		Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Nickel	7440–02–0	3.98	5.0 mg/l TCLP
K016	Heavy ends or distillation residues from the production of carbon tetrachloride.	Hexachlorobenzene	118–74–1	0.055	10
		Hexachlorobutadiene	87–68–3	0.055	5.6
		Hexachlorocyclopentadiene	77–47–4	0.057	2.4
		Hexachloroethane	67–72–1	0.055	30
		Tetrachloroethylene	127–18–4	0.056	6.0
K017	Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin.	bis(2-Chloroethyl)ether	111–44–4	0.033	6.0
		1,2-Dichloropropane	78–87–5	0.85	18
		1,2,3-Trichloropropane	96–18–4	0.85	30
K018	Heavy ends from the fractionation column in ethyl chloride production.	Chloroethane	75–00–3	0.27	6.0
		Chloromethane	74–87–3	0.19	NA

		1,1-Dichloroethane	75–34–3	0.059	6.0
		1,2-Dichloroethane	107–06–2	0.21	6.0
		Hexachlorobenzene	118–74–1	0.055	10
		Hexachlorobutadiene	87–68–3	0.055	5.6
		Hexachloroethane	67–72–1	0.055	30
		Pentachloroethane	76–01–7	NA	6.0
		1,1,1-Trichloroethane	71–55–6	0.054	6.0
K019	Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production..	bis(2-Chloroethyl)ether	111–44–4	0.033	6.0
		Chlorobenzene	108–90–7	0.057	6.0
		Chloroform	68–66–3	0.046	6.0
		p-Dichlorobenzene	106–46–7	0.090	NA
		1,2-Dichloroethane	107–06–2	0.21	6.0
		Fluorene	86–73–7	0.059	NA
		Hexachloroethane	67–72–1	0.055	30
		Naphthalene	91–20–3	0.059	5.6
		Phenanthrene	85–01–8	0.059	5.6
		1,2,4,5-Tetrachlorobenzene	95–94–3	0.055	NA
		Tetrachloroethylene	127–18–4	0.056	6.0
		1,2,4-Trichlorobenzene	120–82–1	0.055	19
		1,1,1-Trichloroethane	71–55–6	0.054	6.0
K020	Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production.	1,2-Dichloroethane	107–06–2	0.21	6.0
		1,1,2,2-Tetrachloroethane	79–34–6	0.057	6.0
		Tetrachloroethylene	127–18–4	0.056	6.0
K021	Aqueous spent antimony catalyst waste from fluoromethanes production.	Carbon tetrachloride	56–23–5	0.057	6.0
		Chloroform	67–66–3	0.046	6.0
		Antimony	7440–36–0	1.9	2.1 mg/l TCLP
K022	Distillation bottom tars from the production of phenol/acetone from cumene.	Toluene	108–88–3	0.080	10
		Acetophenone	96–86–2	0.010	9.7
		Diphenylamine (difficult to distinguish from diphenylnitrosamine).	122–39–4	0.92	13
		Diphenylnitrosamine (difficult to distinguish from diphenylamine).	86–30–6	0.92	13
		Phenol	108–95–2	0.039	6.2
		Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Nickel	7440–02–0	3.98	5.0 mg/l TCLP
K023	Distillation light ends from the production of phthalic anhydride from naphthalene.	Phthalic anhydride (measured as Phthalic acid or Terephthalic acid).	100–21–0	0.055	28
		Phthalic anhydride (measured as Phthalic acid or Terephthalic acid).	85–44–9	0.055	28
K024	Distillation bottoms from the production of phthalic anhydride from naphthalene.	Phthalic anhydride (measured as Phthalic acid or Terephthalic acid).	100–21–0	0.055	28
		Phthalic anhydride (measured as Phthalic acid or Terephthalic acid).	85–44–9	0.055	28
K025	Distillation bottoms from the production of nitrobenzene by the nitration of benzene.	NA	NA	LLEXT fb SSTRP fb CARBN; or CMBST	CMBST
K026	Stripping still tails from the production of methyl ethyl pyridines.	NA	NA	CMBST	CMBST
K027	Centrifuge and distillation residues from toluene diisocyanate production.	NA	NA	CARBN; or CMBST	CMBST

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
K028	Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane.	1,1-Dichloroethane	75–34–3	0.059	6.0
		trans-1,2-Dichloroethylene	156–60–5	0.054	30
		Hexachlorobutadiene	87–68–3	0.055	5.6
		Hexachloroethane	67–72–1	0.055	30
		Pentachloroethane	76–01–7	NA	6.0
		1,1,1,2-Tetrachloroethane	630–20–6	0.057	6.0
		1,1,2,2-Tetrachloroethane	79–34–6	0.057	6.0
		Tetrachloroethylene	127–18–4	0.056	6.0
		1,1,1-Trichloroethane	71–55–6	0.054	6.0
		1,1,2-Trichloroethane	79–00–5	0.054	6.0
		Cadmium	7440–43–9	0.69	NA
		Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
		Nickel	7440–02–0	3.98	5.0 mg/l TCLP
K029	Waste from the product steam stripper in the production of 1,1,1-trichloroethane.	Chloroform	67–66–3	0.046	6.0
		1,2-Dichloroethane	107–06–2	0.21	6.0
		1,1-Dichloroethylene	75–35–4	0.025	6.0
		1,1,1-Trichloroethane	71–55–6	0.054	6.0
		Vinyl chloride	75–01–4	0.27	6.0
K030	Column bodies or heavy ends from the combined production of trichloroethylene and perchloroethylene.	o-Dichlorobenzene	95–50–1	0.088	NA
		p-Dichlorobenzene	106–46–7	0.090	NA
		Hexachlorobutadiene	87–68–3	0.055	5.6
		Hexachloroethane	67–72–1	0.055	30
		Hexachloropropylene	1888–71–7	NA	30
		Pentachlorobenzene	608–93–5	NA	10
		Pentachloroethane	76–01–7	NA	6.0
		1,2,4,5-Tetrachlorobenzene	95–94–3	0.055	14
		Tetrachloroethylene	127–18–4	0.056	6.0
		1,2,4-Trichlorobenzene	120–82–1	0.055	19
K031	By-product salts generated in the production of MSMA and cacodylic acid.	Arsenic	7440–38–2	1.4	5.0 mg/l TCLP
K032	Wastewater treatment sludge from the production of chlordane.	Hexachlorocyclopentadiene	77–47–4	0.057	2.4
		Chlordane (alpha and gamma isomers).	57–74–9	0.0033	0.26
		Heptachlor	76–44–8	0.0012	0.066
		Heptachlor epoxide	1024–57–3	0.016	0.066
K033	Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane.	Hexachlorocyclopentadiene	77–47–4	0.057	2.4
K034	Filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane.	Hexachlorocylopentadiene	77–47–4	0.057	2.4

K035	Wastewater treatment sludges generated in the production of creosote.	Acenaphthene	83–32–9	NA	3.4
		Anthracene	120–12–7	NA	3.4
		Benz(a)anthracene	56–55–3	0.059	3.4
		Benzo(a)pyrene	50–32–8	0.061	3.4
		Chrysene	218–01–9	0.059	3.4
		o-Cresol	95–48–7	0.11	5.6
		m-Cresol (difficult to distinguish from p-cresol).	108–39–4	0.77	5.6
		p-Cresol (difficult to distinguish from m-cresol).	106–44–5	0.77	5.6
		Dibenz(a,h)anthracene	53–70–3	NA	8.2
		Fluoranthene	206–44–0	0.068	3.4
		Fluorene	86–73–7	NA	3.4
		Indeno(1,2,3-cd)pyrene	193–39–5	NA	3.4
		Naphthalene	91–20–3	0.059	5.6
		Phenanthrene	85–01–8	0.059	5.6
		Phenol	108–95–2	0.039	6.2
		Pyrene	129–00–0	0.067	8.2
K036	Still bottoms from toluene reclamation distillation in the production of disulfoton.	Disulfoton	298–04–4	0.017	6.2
K037	Wastewater treatment sludges from the production of disulfoton.	Disulfoton	298–04–4	0.017	6.2
		Toluene	108–88–3	0.080	10
K038	Wastewater from the washing and stripping of phorate production.	Phorate	298–02–2	0.021	4.6
K039	Filter cake from the filtration of diethylphosphorodithioc acid in the production of phorate.	NA	NA	CARBN, or CMBST	CMBST
K040	Wastewater treatment sludge from the production of phorate.	Phorate	298–02–2	0.021	4.6
K041	Wastewater treatment sludge from the production of toxaphene.	Toxaphene	8001–35–2	0.0095	2.6
K042	Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T.	o-Dichlorobenzene	95–50–1	0.088	6.0
		p-Dichlorobenzene	106–46–7	0.090	6.0
		Pentachlorobenzene	608–93–5	0.055	10
		1,2,4,5-Tetrachlorobenzene	95–94–3	0.055	14
		1,2,4-Trichlorobenzene	120–82–1	0.055	19
K043	2,6-Dichlorophenol waste from the production of 2,4-D.	2,4-Dichlorophenol	120–83–2	0.044	14
		2,6-Dichlorophenol	187–65–0	0.044	14
		2,4,5-Trichlorophenol	95–95–4	0.18	7.4
		2,4,6-Trichlorophenol	88–06–2	0.035	7.4
		2,3,4,6-Tetrachlorophenol	58–90–2	0.030	7.4
		Pentachlorophenol	87–86–5	0.089	7.4
		Tetrachloroethylene	127–18–4	0.056	6.0
		HxCDDs (All Hexachlorodibenzo-p-dioxins).	NA	0.000063	0.001
		HxCDFs (All Hexachlorodibenzofurans).	NA	0.000063	0.001
		PeCDDs (All Pentachlorodibenzo-p-dioxins).	NA	0.000063	0.001
		PeCDFs (All Pentachlorodibenzofurans).	NA	0.000035	0.001
		TCDDs (All Tetrachlorodibenzo-p-dioxins).	NA	0.000063	0.001

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
		TCDFs (All Tetrachlorodibenzofurans).	NA	0.000063	0.001
K044	Wastewater treatment sludges from the manufacturing and processing of explosives.	NA	NA	DEACT	DEACT
K045	Spent carbon from the treatment of wastewater containing explosives.	NA	NA	DEACT	DEACT
K046	Wastewater treatment sludges from the manufacturing, formulation and loading of lead-based initiating compounds.	Lead	7439–92–1	0.69	0.37 mg/l TCLP
K047	Pink/red water from TNT operations	NA	NA	DEACT	DEACT
K048	Dissolved air flotation (DAF) float from the petroleum refining industry.	Benzene	71–43–2	0.14	10
		Benzo(a)pyrene	50–32–8	0.061	3.4
		bis(2-Ethylhexyl) phthalate	117–81–7	0.28	28
		Chrysene	218–01–9	0.059	3.4
		Di-n-butyl phthalate	84–74–2	0.057	28
		Ethylbenzene	100–41–4	0.057	10
		Fluorene	86–73–7	0.059	NA
		Naphthalene	91–20–3	0.059	5.6
		Phenanthrene	85–01–8	0.059	5.6
		Phenol	108–95–2	0.039	6.2
		Pyrene	129–00–0	0.067	8.2
		Toluene	108–88–33	0.080	10
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations).	1330–20–7	0.32	30
		Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Cyanides (Total)[7]	57–12–5	1.2	590
		Lead	7439–92–1	0.69	NA
		Nickel	7440–02–0	NA	5.0 mg/l TCLP
K049	Slop oil emulsion solids from the petroleum refining industry.	Anthracene	120–12–7	0.059	3.4
		Benzene	71–43–2	0.14	10
		Benzo(a)pyrene	50–32–8	0.061	3.4
		bis(2-Ethylhexyl) phthalate	117–81–7	0.28	28
		Carbon disulfide	75–15–0	3.8	NA
		Chrysene	2218–01–9	0.059	3.4
		2,4-Dimethylphenol	105–67–9	0.036	NA
		Ethylbenzene	100–41–4	0.057	10
		Naphthalene	91–20–3	0.059	5.6
		Phenanthrene	85–01–8	0.059	5.6
		Phenol	108–95–2	0.039	6.2
		Pyrene	129–00–0	0.067	8.2
		Toluene	108–88–3	0.080	10
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations).	1330–20–7	0.32	30

		Cyanides (Total) [7]	57–12–5	1.2	590
		Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Lead	7439–92–1	0.69	NA
		Nickel	7440–02–0	NA	5.0 mg/l TCLP
K050	Heat exchanger bundle cleaning sludge from the petroleum refining industry.	Benzo(a)pyrene	50–32–8	0.061	3.4
		Phenol	108–95–2	0.039	6.2
		Cyanides (Total) [7]	57–12–5	1.2	590
		Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Lead	7439–92–1	0.69	NA
		Nickel	7440–02–0	NA	5.0 mg/l TCLP
K051	API separator sludge from the petroleum refining industry.	Acenaphthene	83–32–9	0.059	NA
		Anthracene	120–12–7	0.059	3.4
		Benz(a)anthracene	56–55–3	0.059	3.4
		Benzene	71–43–2	0.14	10
		Benzo(a)pyrene	50–32–8	0.061	3.4
		bis(2-Ethylhexyl) phthalate	117–81–7	0.28	28
		Chrysene	2218–01–9	0.059	3.4
		Di-n-butyl phthalate	105–67–9	0.057	28
		Ethylbenzene	100–41–4	0.057	10
		Fluorene	86–73–7	0.059	NA
		Naphthalene	91–20–3	0.059	5.6
		Phenanthrene	85–01–8	0.059	5.6
		Phenol	108–95–2	0.039	6.2
		Pyrene	129–00–0	0.067	8.2
		Toluene	108–88–3	0.08	10
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations).	1330–20–7	0.32	30
		Cyanides (Total) [7]	57–12–5	1.2	590
		Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Lead	7439–92–1	0.69	NA
		Nickel	7440–02–0	NA	5.0 mg/l TCLP
K052	Tank bottoms (leaded) from the petroleum refining industry.	Benzene	71–43–2	0.14	10
		Benzo(a)pyrene	50–32–8	0.061	3.4
		o-Cresol	95–48–7	0.11	5.6
		m-Cresol (difficult to distinguish from p-cresol).	108–39–4	0.77	5.6
		p-Cresol (difficult to distinguish from m-cresol).	106–44–5	0.77	5.6
		2,4-Dimethylphenol	105–67–9	0.036	NA
		Ethylbenzene	100–41–4	0.057	10
		Naphthalene	91–20–3	0.059	5.6
		Phenanthrene	85–01–8	0.059	5.6
		Phenol	108–95–2	0.039	6.2
		Toluene	108–88–3	0.08	10
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations).	1330–20–7	0.32	30
		Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Cyanides (Total) [7]	57–12–5	1.2	590
		Lead	7439–92–1	0.69	NA
		Nickel	7440–02–0	NA	5.0 mg/l TCLP
K060	Ammonia still lime sludge from coking operations ...	Benzene	71–43–2	0.14	10
		Benzo(a)pyrene	50–32–8	0.061	3.4
		Naphthalene	91–20–3	0.059	5.6
		Phenol	108–95–2	0.039	6.2

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
		Cyanides (Total)[7]	57–12–5	1.2	590
K061	Emission control dust/sludge from the primary production of steel in electric furnaces.	Antimony	7440–36–0	NA	2.1 mg/l TCLP
		Arsenic	7440–38–2	NA	5.0 mg/l TCLP
		Barium	7440–39–3	NA	7.6 mg/l TCLP
		Beryllium	7440–41–7	NA	0.014 mg/l TCLP
		Cadmium	7440–43–9	0.69	0.19 mg/l TCLP
		Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
		Mercury	7439–97–6	NA	0.025 mg/l TCLP
		Nickel	7440–02–0	3.98	5.0 mg/l TCLP
		Selenium	7782–49–2	NA	0.16 mg/l TCLP
		Silver	7440–22–4	NA	0.30 mg/l TCLP
		Thallium	7440–28–0	NA	0.078 mg/l TCLP
		Zinc	7440–66–6	NA	5.3 mg/l TCLP
K062	Spent pickle liquor generated by steel finishing operations of facilities within the iron and steel industry (SIC Codes 331 and 332).	Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
		Nickel	7440–02–0	3.98	5.0 mg/l TCLP
K069	Emission control dust/sludge from secondary lead smelting.—Calcium Sulfate (Low Lead) Subcategory.	Cadmium	7440–43–9	0.69	0.19 mg/l TCLP
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
	Emission control dust/sludge from secondary lead smelting—Non-Calcium Sulfate (High Lead) Subcategory.	NA	NA	NA	RLEAD
K071	K071 (Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used) nonwastewaters that are residues from RMERC.	Mercury	7439–97–6	NA	0.02 mg/l TCLP
	K071 (Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used) nonwastewaters that are not residues from RMERC.	Mercury	7439–97–6	NA	0.025 mg/l TCLP
	All K071 wastewaters	Mercury	7439–97–6	0.15	NA
K073	Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production.	Carbon tetrachloride	56–23–5	0.057	6.0
		Chloroform	67–66–3	0.046	6.0
		Hexachloroethane	67–72–1	0.055	30
		Tetrachloroethylene	127–18–4	0.056	6.0
		1,1,1-Trichloroethane	71–55–6	0.054	6.0
K083	Distillation bottoms from aniline production	Aniline	62–53–3	0.81	14
		Benzene	71–43–2	0.14	10
		Cyclohexanone	108–94–1	0.36	NA

		Diphenylamine (difficult to distinguish from diphenylnitrosamine).	122–39–4	0.92	13
		Diphenylnitrosamine (difficult to distinguish from diphenylamine).	86–30–6	0.92	13
		Nitrobenzene	98–95–3	0.068	14
		Phenol	108–95–2	0.039	6.2
		Nickel	7440–02–0	3.98	5.0 mg/l TCLP
K084	Wastewater treatment sludges generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.	Arsenic	7440–38–2	1.4	5.0 mg/l TCLP
K085	Distillation or fractionation column bottoms from the production of chlorobenzenes.	Benzene	71–43–2	0.14	10
		Chlorobenzene	108–90–7	0.057	6.0
		m-Dichlorobenzene	541–73–1	0.036	6.0
		o-Dichlorobenzene	95–50–1	0.088	6.0
		p-Dichlorobenzene	106–46–7	0.090	6.0
		Hexachlorobenzene	118–74–1	0.055	10
		Total PCBs (sum of all PCB isomers, or all Aroclors).	1336–36–3	0.10	10
		Pentachlorobenzene	608–93–5	0.055	10
		1,2,4,5-Tetrachlorobenzene	95–94–3	0.055	14
		1,2,4-Trichlorobenzene	120–82–1	0.055	19
K086	Solvent wastes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead.	Acetone	67–64–1	0.28	160
		Acetophenone	96–86–2	0.010	9.7
		bis(2-Ethylhexyl phthalate	117–81–7	0.28	28
		n-Butyl alcohol	71–36–3	5.6	2.6
		Butylbenzyl phthalate	85–68–7	0.017	28
		Cyclohexanone	108–94–1	0.36	NA
		o-Dichlorobenzene	95–50–1	0.088	6.0
		Diethyl phthalate	84–66–2	0.20	28
		Dimethyl phthalate	131–11–3	0.047	28
		Di-n-butyl phthalate	84–74–2	0.057	28
		Di-n-octyl phthalate	117–84–0	0.017	28
		Ethyl acetate	141–78–6	0.34	33
		Ethylbenzene	100–41–4	0.057	10
		Menthanol	67–56–1	5.6	NA
		Methyl ethyl ketone	78–93–3	0.28	36
		Methyl isobutyl ketone	108–10–1	0.14	33
		Methylene chloride	75–09–2	0.089	30
		Naphthalene	91–20–3	0.059	5.6
		Nitrobenzene	98–95–3	0.068	14
		Toluene	108–88–3	0.080	10
		1,1,1-Trichloroethane	71–55–6	0.054	6.0
		Trichloroethylene	79–01–6	0.054	6.0
		Xylenes-mixed isomers (sum of o-,m-, and p-xylene concentrations).	1330–20–7	0.32	30
		Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Cyanides (Total) [7]	57–12–5	1.2	590
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
K087	Decanter tank tar sludge from coking operations	Acenaphthylene	208–96–8	0.059	3.4
		Benzene	71–43–2	0.14	10
		Chrysene	218–01–9	0.059	3.4
		Fluoranthene	206–44–0	0.068	3.4
		Indeno(1,2,3-cd)pyrene	193–39–5	0.0055	3.4

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
		Naphthalene	91–20–3	0.059	5.6
		Phenanthrene	85–01–8	0.059	5.6
		Toluene	108–88–3	0.080	10
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations).	1330–20–7	0.32	30
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
K088	Spent potliners from primary aluminum reduction	Acenaphthene	83–32–9	0.059	3.4
		Anthracene	120–12–7	0.059	3.4
		Benz(a)anthracene	56–55–3	0.059	3.4
		Benzo(a)pyrene	50–32–8	0.061	3.4
		Benzo(b)fluoranthene	205–99–2	0.11	6.8
		Benzo(k)fluoranthene	207–08–9	0.11	6.8
		Benzo(g,h,i)perylene	191–24–2	0.0055	1.8
		Chrysene	218–01–9	0.059	3.4
		Dibenz(a,h)anthracene	53–70–3	0.055	8.2
		Fluoranthene	206–44–0	0.068	3.4
		Indeno(1,2,3-c,d)pyrene	193–39–5	0.0055	3.4
		Phenanthrene	85–01–8	0.059	5.6
		Pyrene	129–00–0	0.067	8.2
		Antimony	7440–36–0	1.9	2.1 mg/l TCLP
		Arsenic	7440–38–2	1.4	5.0 mg/l TCLP
		Barium	7440–39–3	1.2	7.6 mg/l TCLP
		Beryllium	7440–41–7	0.82	0.014 mg/l TCLP
		Cadmium	7440–43–9	0.69	0.19 mg/l TCLP
		Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
		Mercury	7439–97–6	0.15	0.025 mg/l TCLP
		Nickel	7440–02–0	3.98	5.0 mg/l TCLP
		Selenium	7782–49–2	0.82	0.16 mg/l TCLP
		Silver	7440–22–4	0.43	0.30 mg/l TCLP
		Cyanide (Total)	57–12–5	1.2	590
		Cyanide (Amenable)	57–12–5	0.86	30
		Fluoride	16984–48–8	35	48 mg/l TCLP
K093	Distillation light ends from the production of phthalic anhydride from ortho-xylene.	Phthalic anhydride (measured as Phthalic acid or Terephthalic acid).	100–21–0	0.055	28
		Phthalic anhydride (measured as Phthalic acid or Terephthalic acid).	85–44–9	0.055	28
K094	Distillation bottoms from the production of phthalic anhydride from ortho-xylene.	Phthalic anhydride (measured as Phthalic acid or Terephthalic acid).	100–21–0	0.055	28
		Phthalic anhydride (measured as Phthalic acid or Terephthalic acid).	85–44–9	0.055	28

K095	Distillation bottoms from the production of 1,1,1-trichloroethane.	Hexachloroethane	67–72–1	0.055	30
		Pentachloroethane	76–01–7	0.055	6.0
		1,1,1,2-Tetrachloroethane	630–20–6	0.057	6.0
		1,1,2,2-Tetrachloroethane	79–34–6	0.057	6.0
		Tetrachloroethylene	127–18–4	0.056	6.0
		1,1,2-Trichloroethane	79–00–5	0.054	6.0
		Trichloroethylene	79–01–6	0.054	6.0
K096	Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane.	m-Dichlorobenzene	541–73–1	0.036	6.0
		Pentachloroethane	76–01–7	0.055	6.0
		1,1,1,2-Tetrachloroethane	630–20–6	0.057	6.0
		1,1,2,2-Tetrachloroethane	79–34–6	0.057	6.0
		Tetrachloroethylene	127–18–4	0.056	6.0
		1,2,4-Trichlorobenzene	120–82–1	0.055	19
		1,1,2-Trichloroethane	79–00–5	0.054	6.0
		Trichloroethylene	79–01–6	0.054	6.0
K097	Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane.	Chlordane (alpha and gamma isomers).	57–74–9	0.0033	0.26
		Heptachlor	76–44–8	0.0012	0.066
		Heptachlor epoxide	1024–57–3	0.016	0.066
		Hexachlorocyclopentadiene	77–47–4	0.057	2.4
K098	Untreated process wastewater from the production of toxaphene.	Toxaphene	8001–35–2	0.0095	2.6
K099	Untreated wastewater from the production of 2,4-D	2,4-Dichlorophenoxyacetic acid	94–75–7	0.72	10
		HxCDDs (All Hexachlorodibenzo-p-dioxins).	NA	0.000063	0.001
		HxCDFs (All Hexachlorodibenzofurans).	NA	0.000063	0.001
		PeCDDs (All Pentachlorodibenzo-p-dioxins).	NA	0.000063	0.001
		PeCDFs (All Pentachlorodibenzofurans).	NA	0.000035	0.001
		TCDDs (All Tetrachlorodibenzo-p-dioxins).	NA	0.000063	0.001
		TCDFs (All Tetrachlorodibenzofurans).	NA	0.000063	0.001
K100	Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting.	Cadmium	7440–43–9	0.69	0.19 mg/l TCLP
		Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
K101	Distillation tar residues from the distillation of aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.	o-Nitroaniline	88–74–4	0.27	14
		Arsenic	7440–38–2	1.4	5.0 mg/l TCLP
		Cadmium	7440–43–9	0.69	NA
		Lead	7439–92–1	0.69	NA
		Mercury	7439–97–6	0.15	NA
K102	Residue from the use of activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.	o-Nitrophenol	88–75–5	0.028	13
		Arsenic	7440–38–2	1.4	5.0 mg/l TCLP
		Cadmium	7440–43–9	0.69	NA
		Lead	7439–92–1	0.69	NA
		Mercury	7439–97–6	0.15	NA

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
K103	Process residues from aniline extraction from the production of aniline.	Aniline	62–53–3	0.81	14
		Benzene	71–43–2	0.14	10
		2,4-Dinitrophenol	51–28–5	0.12	160
		Nitrobenzene	98–95–3	0.068	14
		Phenol	108–95–2	0.039	6.2
K104	Combined wastewater streams generated from nitrobenzene/aniline production.	Aniline	62–53–3	0.81	14
		Benzene	71–43–2	0.14	10
		2,4-Dinitrophenol	51–28–5	0.12	160
		Nitrobenzene	98–95–3	0.068	14
		Phenol	108–95–2	0.039	6.2
		Cyanides (Total)[7]	57–12–5	1.2	590
K105	Separated aqueous stream from the reactor product washing step in the production of chlorobenzenes.	Benzene	71–43–2	0.14	10
		Chlorobenzene	108–90–7	0.057	6.0
		2-Chlorophenol	95–57–8	0.044	5.7
		o-Dichlorobenzene	95–50–1	0.088	6.0
		p-Dichlorobenzene	106–46–7	0.090	6.0
		Phenol	108–95–2	0.039	6.2
		2,4,5-Trichlorophenol	95–95–4	0.18	7.4
		2,4,6-Trichlorophenol	88–06–2	0.035	7.4
K106	K106 (wastewater treatment sludge from the mercury cell process in chlorine production) nonwastewaters that contain greater than or equal to 260 mg/kg total mercury.	Mercury	7439–97–6	NA	RMERC
	K106 (wastewater treatment sludge from the mercury cell process in chlorine production) nonwastewaters that contain less than 260 mg/kg total mercury that are residues from RMERC.	Mercury	7439–97–6	NA	0.20 mg/l TCLP
	Other K106 nonwastewaters that contain less than 260 mg/kg total mercury and are not residues from RMERC.	Mercury	7439–97–6	NA	0.025 mg/l TCLP
	All K106 wastewaters	Mercury	7439–97–6	0.15	NA
K107	Column bottoms from product separation from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides.	NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST
K108	Condensed column overheads from product separation and condensed reactor vent gases from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazines.	NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST
K109	Spent filter cartridges from product purification from the production of 1,1-dimethyhydrazine (UDMH) from carboxylic acid hydrazides.	NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST

K110	Condensed column overheads from intermediate separation from the production of 1,1-dimethyhydrazine (UDMH) from carboxylic acid hydrazides.	NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST
K111	Product washwaters from the production of dinitrotoluene via nitration of toluene.	2,4-Dinitrotoluene	121–1–2	0.32	140
		2,6-Dinitrotoluene	606–20–2	0.55	28
K112	Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene.	NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST
K113	Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.	NA	NA	CARBN; or CMBST	CMBST
K114	Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.	NA	NA	CARBN; or CMBST	CMBST
K115	Heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.	Nickel	7440–02–0	3.98	5.0 mg/l TCLP
		NA	NA	CARBN; or CMBST	CMBST
K116	Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluenediamine.	NA	NA	CARBN; or CMBST	CMBST
K117	Wastewater from the reactor vent gas scrubber in the production of ethylene dibromide via bromination of ethene.	Methyl bromide (Bromomethane)	74–83–9	0.11	15
		Chloroform	67–66–3	0.046	6.0
		Ethylene dibromide (1,2-Dibromoethane).	106–93–4	0.028	15
K118	Spent absorbent solids from purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene.	Methyl bromide (Bromomethane)	74–83–9	0.11	15
		Chloroform	67–66–3	0.046	6.0
		Ethylene dibromide (1,2-Dibromoethane).	106–93–4	0.028	15
K123	Process wastewater (including supernates, filtrates, and washwaters) from the production of ethylenebisdithiocarbamic acid and its salts.	NA	NA	CMBST; or CHOXD fb (BIODG or CARBN)	CMBST
K124	Reactor vent scrubber water from the production of ethylenebisdithiocarbamic acid and its salts.	NA	NA	CMBST; or CHOXD fb (BIODG or CARBN)	CMBST
K125	Filtration, evaporation, and centrifugation solids from the production of ethylenebisdithiocarbamic acid and its salts.	NA	NA	CMBST; or CHOXD fb (BIODG or CARBN)	CMBST
K126	Baghouse dust and floor sweepings in milling and packaging operations from the production or formulation of ethylenebisdithiocarbamic acid and its salts.	NA	NA	CMBST; or CHOXD fb (BIODG or CARBN)	CMBST
K131	Wastewater from the reactor and spent sulfuric acid from the acid dryer from the production of methyl bromide.	Methyl bromide (Bromomethane)	74–83–9	0.11	15

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
K132	Spent absorbent and wastewater separator solids from the production of methyl bromide.	Methyl bromide (Bromomethane)	74–83–9	0.11	15
K136	Still bottoms from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene.	Methyl bromide (Bromomethane)	74–83–9	0.11	15
		Chloroform	67–66–3	0.046	6.0
		Ethylene dibromide (1,2-Dibromoethane).	106–93–4	0.028	15
K140	Waste solids and filter cartridges from the production of 2,4,6-tribromophenol.	2,4,6-Tribromophenol	118–79–6	0.035	7.4
K141	Process residues from the recovery of coal tar, including, but not limited to, collecting sump residues from the production of coke or the recovery of coke by-products produced from coal. This listing does not include K087 (decanter tank tar sludge from coking operations).	Benzene	71–43–2	0.14	10
		Benz(a)anthracene	56–55–3	0.059	3.4
		Benzo(a)pyrene	50–2–8	0.061	3.4
		Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene).	205–99–2	0.11	6.8
		Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene).	207–08–9	0.11	6.8
		Chrysene	218–01–9	0.059	3.4
		Dibenz(a,h)anthracene	53–70–3	0.055	8.2
		Indeno(1,2,3–cd)pyrene	193–39–5	0.0055	3.4
K142	Tar storage tank residues from the production of coke from coal or from the recovery of coke by-products produced from coal.	Benzene	71–43–2	0.14	10
		Benz(a)anthracene	50–32–8	0.059	3.4
		Benzo(a)pyrene	50–32–8	0.061	3.4
		Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene).	205–99–2	0.11	6.8
		Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene).	207–08–9	0.11	6.8
		Chrysene	218–01–9	0.059	3.4
		Dibenz(a,h)anthracene	53–70–3	0.055	8.2
		Indeno(1,2,3–cd)pyrene	193–39–5	0.0055	3.4
K143	Process residues from the recovery of light oil, including, but not limited to, those generated in stills, decanters, and wash oil recovery units from the recovery of coke by-products produced from coal.	Benzene	71–43–2	0.14	10
		Benz(a)anthracene	56–55–3	0.059	3.4

		Benzo(a)pyrene	50–32–8	0.061	3.4
		Benzo(b)fluoranthene (difficult to distinguish from benzo(k) fluoranthene).	205–99–2	0.11	6.8
		Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene).	207–08–9	0.11	6.8
		Benzene	71–43–2	0.14	10
		Chrysene	218–01–9	0.059	3.4
K144	Wastewater sump residues from light oil refining, including, but not limited to, intercepting or contamination sump sludges from the recovery of coke by-products produced from coal.	Benz(a)anthracene	56–55–3	0.059	3.4
		Benzo(a)pyrene	50–32–8	0.061	3.4
		Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene).	205–99–2	0.11	6.8
		Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene).	207–08–9	0.11	6.8
		Chrysene	218–01–9	0.059	3.4
		Dibenz(a,h)anthracene	53–70–3	0.055	8.2
K145	Residues from naphthalene collection and recovery operations from the recovery of coke by-products produced from coal.	Benzene	71–43–2	0.14	10
		Benz(a)anthracene	56–55–3	0.059	3.4
		Benzo(a)pyrene	50–32–8	0.061	3.4
		Chrysene	218–01–9	0.059	3.4
		Dibenz(a,h)anthracene	53–70–3	0.055	8.2
		Naphthalene	91–20–3	0.059	5.6
K147	Tar storage tank residues from coal tar refining	Benzene	71–43–2	0.14	10
		Benz(a)anthracene	56–55–3	0.059	3.4
		Benzo(a)pyrene	50–32–8	0.061	3.4
		Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene).	205–99–2	0.11	6.8
		Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene).	207–08–9	0.11	6.8
		Chrysene	218–01–9	0.059	3.4
		Dibenz(a,h)anthracene	53–70–3	0.055	8.2
		Indeno(1,2,3-cd)pyrene	193–39–5	0.0055	3.4
K148	Residues from coal tar distillation, including, but not limited to, still bottoms.	Benz(a)anthracene	56–55–3	0.059	3.4
		Benzo(a)pyrene	50–32–8	0.061	3.4
		Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene).	205–99–2	0.11	6.8
		Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene).	207–08–9	0.11	6.8
		Chrysene	218–01–9	0.059	3.4
		Dibenz(a,h)anthracene	53–70–3	0.055	8.2
		Indeno(1,2,3-cd)pyrene	193–39–5	0.0055	3.4

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
K149	Distillation bottoms from the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. (This waste does not include still bottoms from the distillations of benzyl chloride.).	Chlorobenzene	108–90–7	0.057	6.0
		Chloroform	67–66–3	0.046	6.0
		Chloromethane	74–87–3	0.19	30
		p-Dichlorobenzene	106–46–7	0.090	6.0
		Hexachlorobenzene	118–74–1	0.055	10
		Pentachlorobenzene	608–93–5	0.055	10
		1,2,4,5-Tetrachlorobenzene	95–94–3	0.055	14
		Toluene	108–88–3	0.080	10
K150	Organic residuals, excluding spent carbon adsorbent, from the spent chlorine gas and hydrochloric acid recovery processes associated with the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups.	Carbon tetrachloride	56–23–5	0.057	6.0
		Chloroform	67–66–3	0.046	6.0
		Chloromethane	74–87–3	0.19	30
		p-Dichlorobenzene	106–46–7	0.090	6.0
		Hexachlorobenzene	118–74–1	0.055	10
		Pentachlorobenzene	608–93–5	0.055	10
		1,2,4,5-Tetrachlorobenzene	95–94–3	0.055	14
		1,1,2,2-Tetrachlorotehane	79–34–5	0.057	6.0
		Tetrachloroethylene	127–18–4	0.056	6.0
		1,2,4-Trichlorobenzene	120–82–1	0.055	19
K151	Wastewater treatment sludges, excluding neutralization and biological sludges, generated during the treatment of wastewaters from the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups.	Benzene	71–43–2	0.14	10
		Carbon tetrachloride	56–23–5	0.057	6.0
		Chloroform	67–66–3	0.046	6.0
		Hexachlorobenzene	118–74–1	0.055	10
		Pentachlorobenzene	608–93–5	0.055	10
		1,2,4,5-Tetrachlorobenzene	95–94–3	0.055	14
		Tetrachloroethylene	127–18–4	0.056	6.0
		Toluene	108–88–3	0.080	10
K156	Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes.	Acetone	67–64–1	0.28	160
		Acetonitrile	75–05–8	5.6	1.8
		Acetophenone	96–86–2	0.010	9.7
		Aniline	62–53–3	0.81	14
		Benomyl	17804–35–2	0.056	1.4
		Benzene	71–43–2	0.14	10
		Carbaryl	63–25–21	0.006	0.14
		Carbenzadim	10605–21–7	0.056	1.4
		Carbofuran	1563–66–2	0.006	0.14
		Carbosulfan	55285–14–8	0.028	1.4
		Chlorobenzene	108–90–7	0.057	6.0
		Chloroform	67–66–3	0.046	6.0
		o-Dichlorobenzene	95–50–1	0.088	6.0
		Hexane	110–54–3	0.611	10
		Methomyl	16752–77–5	0.028	0.14
		Methylene chloride	75–09–2	0.089	30
		Methyl ethyl ketone	78–93–3	0.28	36
		Methyl isobutyl ketone	108–10–1	0.14	33
		Naphthalene	91–20–3	0.059	5.6
		Phenol	108–95–2	0.039	6.2
		Pyridine	110–86–1	0.014	16

		Toluene	108–88–3	0.080	10
		Triethylamine	121–44–8	0.081	1.5
		Xylenes (total)	1330–20–7	0.32	30
K157..	Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes.	Acetone	67–64–1	0.28	160
		Carbon tetrachloride	56–23–5	0.057	6.0
		Chloroform	67–66–3	0.046	6.0
		Chloromethane	74–87–3	0.19	30
		Methanol	67–56–1	5.6	0.75 mg/l TCLP
		Methomyl	16752–77–5	0.028	0.14
		Methylene chloride	75–09–2	0.089	30
		Methyl ethyl ketone	78–93–3	0.28	36
		Methyl isobutyl ketone	108–10–1	0.14	33
		o-Phenylenediamine	95–54–5	0.056	5.6
		Pyridine	110–86–1	0.014	16
		Triethylamine	121–44–8	0.081	1.5
K158..	Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes.	Benomyl	17804–35–2	0.056	1.4
		Benzene	71–43–2	0.14	10
		Carbenzadim	10605–21–7	0.056	1.4
		Carbofuran	1563–66–2	0.006	0.14
		Carbosulfan	55285–14–8	0.028	1.4
		Chloroform	67–66–3	0.046	6.0
		Hexane	110–54–3	0.611	10
		Methanol	67–56–1	5.6	0.75 mg/l TCLP
		Methylene chloride	75–09–2	0.089	30
		Phenol	108–95–2	0.039	6.2
		Xylenes (total)	1330–20–7	0.32	30
K159..	Organics from the treatment of thiocarbamate wastes.	Benzene	71–43–2	0.14	10
		Butylate	2008–41–5	0.003	1.5
		EPTC (Eptam)	759–94–4	0.003	1.4
		Molinate	2212–67–1	0.003	1.4
		Pebulate	1114–71–2	0.003	1.4
		Thiocarbamate, N.O.S.	NA	0.003	1.4
		Vernolate	1929–77–7	0.003	1.4
K160..	Solids (including filter wastes, separation solids, and spent catalysts) from the production of thiocarbamates and solids from the treatment of thiocarbamate wastes.	Butylate	2008–41–5	0.003	1.5
		EPTC (Eptam)	759–94–4	0.003	1.4
		Molinate	2212–67–1	0.003	1.4
		Pebulate	1114–71–2	0.003	1.4
		Thiocarbamate, N.O.S.	NA	0.003	1.4
		Toluene	108–88–3	0.080	10
		Vernolate	1929–77–7	0.003	1.4
		Xylenes (total)	1330–20–7	0.32	30
K161..	Purification solids (including filtration, evaporation, and centrifugation solids), baghouse dust and floor sweepings from the production of dithiocarbamate acids and their salts.	Antimony	7440–36–0	1.9	2.1 mg/l TCLP
		Carbon disulfide	75–15–0	3.8	4.8 mg/l TCLP
		Dithiocarbamates, total	NA	0.028	28
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
		Nickel	7440–02–0	3.98	5.0 mg/l TCLP
		Selenium	7782–49–2	0.82	016 mg/l TCLP
		Xylenes (total)	1330–20–7	0.32	30
P001	Warfarin, & salts, when present at concentrations greater than 0.3%.	Warfarin	81–81–2	(WETOX or CHOXD) fb CARBN; or CBMST	CMBST

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
P002	1-Acetyl-2-thiourea	1-Acetyl-2-thiourea	591–08–2	(WETOX or CHOXD) fb CARBN; or CBMST	CMBST
P003	Acrolein	Acrolein	107–02–8	0.29	CMBST
P004	Aldrin	Aldrin	309–00–2	0.021	0.066
P005	Allyl alcohol	Allyl alcohol	107–18–6	(WETOX or CHOXD) fb CARBN. or CBMST	CMBST
P006	Aluminum phosphide	Aluminum phosphide	20859–73–8	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST
P007	5-Aminomethyl e-isoxazoloe	5-Aminomethyl e-isoxazoloe	2763–96–4	(WETOX or CHOXD) fb CARBN; or CBMST	CMBST
P008	4-Aminopyridine	4-Aminopyridine	504–24–5	(WETOX or CHOXD) fb CARBN; or CBMST	CMBST
P009	Ammonium picrate	Ammonium picrate	131–74–8	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
P010	Arsenic acid	Arsenic	7440–38–2	1.4	50 mg/l TCLP
P011	Arsenic pentoxide	Arsenic	7440–38–2	1.4	50 mg/l TCLP
P012	Arsenic trioxide	Arsenic	7440–38–2	1.4	50 mg/l TCLP
P013	Barium cyanide	Barium	7440–39–3	NA	7.6 mg/l TCLP
		Cyanides (Total)[7]	57–12–5	1.2	590
		Cyanides (Amenable)[7]	57–12–5	0.86	30
P014	Thiophenol (Benzene thiol)	Thiophenol (Benzene thiol)	108–98–5	(WETOX or CHOXD) fb CARBN; or CBMST	CMBST
P015	Beryllium dust	Beryllium	7440–41–7	RMETL, or RTHRM	RMETL; or RTHRM
P016	Dichloromethyl ether (Bis(chloromethyl)ether)	Dichloromethyl ether	542–88–1	(WETOX or CHOXD) fb CARBN; or CBMST	CMBST
P017	Bromoacetone	Bromoacetone	598–31–2	(WETOX or CHOXD) fb CARBN; or CBMST	CMBST
P018	Brucine	Brucine	357–57–3	(WETOX or CHOXD) fb CARBN; or CBMST	CMBST

P020	2-sec-Butyl-4,6-dinitrophenol (Dinoseb)	2-sec-Butyl-4,6-dinitrophenol (Dinoseb).	88–85–7	0.066	2.5
P021	Calcium cyanide	Cyanides (Total) [7]	57–12–5	1.2	590
		Cyanides (Amenable) [7]	57–12–5	0.86	30
P022	Carbon disulfide	Carbon disulfide	75–15–0	3.8	CMBST
		Carbon disulfide; alternate [6] standard for nonwastewaters only.	75–15–0	NA	4.8 mg/l TCLP
P023	Choloracetaldehyde	Choloracetaldehyde	107–20–0	(WETOX or CHOXD) fb CARBN; or CBMST	CMBST
P024	p-Chloroaniline	p-Chloroaniline	106–47–8	0.46	16
P026	1-(o-Cholorphenyl)thiourea	1-(o-Cholorphenyl)thiourea	5344–82–1	(WETOX or CHOXD) fb CARBN; or CBMST	CMBST
P027	3-Chloropropionitrile	3-Chloropropionitrile	542–76–7	(WETOX or CHOXD) fb CARBN; or CBMST	CMBST
P028	Benzyl chloride	Benzyl chloride	100–44–7	(WETOX or CHOXD) fb CARBN; or CBMST	CMBST
P029	Copper cyanide	Cyanides (Total) [7]	57–12–5	1.2	590
		Cyanides (Amenable) [7]	57–12–5	0.86	30
P030	Cyanides (soluble salts and complexes)	Cyanides (Total) [7]	57–12–5	1.2	590
		Cyanides (Amenable) [7]	57–12–5	0.86	30
P031	Cyanogen	Cyanogen	460–19–5	CHOXD; WETOX; or CMBST	CHOXD; WETOX; or CMBST
P033	Cyanogen chloride	Cyanogen chloride	506–77–4	CHOXD; WETOX; or CMBST	CHOXD; WETOX; or CMBST
P034	2-Cyclohexly-4,6-dinitrophenol	2-Cyclohexly-4,6-dinitrophenol	131–89–5	(WETOX or CHOXD) fb CARBN; or CBMST	CMBST
P036	Dichlorophenylarsine	Arsenic	7440–38–2	1.4	5.0 mg/l TCLP
P037	Dieldrin	Dieldrin	60–57–1	0.017	0.13
P038	Diethylarsine	Arsenic	7440–38–2	1.4	50 mg/l TCLP
P039	Disulfoton	Disulfoton	298–04–4	0.017	6.2
P040	0,0-Diethyl O-pyrazinyl phosphorothioate	0,0-Diethyl O-pyrazinyl phosphorothioate.	297–97–2	CARBN; or CMBST	CMBST
P041	Diethyl-p-nitrophenyl phosphate	Diethyl-p-nitrophenyl phosphate	311–45–5	CARBN; or CMBST	CMBST
P042	Epinephrine	Epinephrine	51–43–4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P043	Diisopropylfluorophosphate (DFP)	Diisopropylfluorophosphate (DFP)	55–91–4	CARBN; or CMBST	CMBST
P044	Dimethoate	Dimethoate	60–51–5	CARBN; or CMBST	CMBST
P045	Thiofanox	Thiofanox	39196–18–4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
P046	alpha, alpha-Dimethylphenethylamine	alpha, alpha-Dimethylphenethylamine.	122–09–8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P047	4,6-Dinitro-o-cresol	4,6-Dinitro-o-cresol	543–52–1	0.28	160
	4,6-Dinitro-o-cresol salts	NA	NA	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P048	2,4-Dinitrophenol	2,4-Dinitrophenol	51–28–5	0.12	160
P049	Dithiobiuret	Dithiobiuret	541–53–7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P050	Endosulfan	Endosulfan I	939–98–8	0.023	0.066
		Endosulfan II	33213–6–5	0.029	0.13
		Endosulfan sulfate	1031–07–8	0.029	0.13
P051	Endrin	Endrin	72–20–8	0.0028	0.13
		Endrin aldehyde	7421–93–4	0.025	0.13
P054	Aziridine	Aziridine	151–56–4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P056	Fluorine	Fluorine (measured in wastewaters only).	16964–48–8	35	ADGAS fb NEUTR
P057	Fluoroacetamide	Fluoroacetamide	640–19–7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P058	Fluoroacetic acid, sodium salt	Fluoroacetic acid, sodium salt	62–74–8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P059	Heptachlor	Heptachlor	76–44–8	0.0012	0.066
		Heptachlor epoxide	1024–57–3	0.016	0.066
P060	Isodrin	Isodrin	465–73–6	0.021	0.066
P062	Hexaethyl tetraphosphate	Hexaethyl tetraphosphate	757–58–4	CARBN; or CMBST	CMBST
P063	Hydrogen cyanide	Cyandies (Total)[7]	57–12–5	1.2	590
		Cyanides (Amenable)[7]	57–12–5	0.86	30
P064	Isocyanic acid, ethyl ester	Isocyanic acid, ethyl ester	624–83–9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P065	Mercury fulminate nonwastewaters, regardless of their total mercury content, that are not incinerator residues or are not residues from RMERC.	Mercury	7439–97–6	NA	IMERC

	Mercury fulminate nonwastewaters that are either incinerator residues or are residues from RMERC; and contain greater than or equal to 260 mg/kg total mercury.	Mercury	7339–97–6	NA	RMERC
	Mercury fulminate nonwastewaters that are residues from RMERC and contain less than 260 mg/kg total mercury.	Mercury	7439–97–6	NA	0.20 mg/l TCLP
	Mercury fulminate nonwastewaters that are incinerator residues and contain less than 260 mg/kg total mercury.	Mercury	7439–97–6	NA	0.025 mg/l TCLP
	All mercury fulminate wastewaters	Mercury	7439–97–6	0.15	NA
P066	Methomyl	Methomyl	16752–77–5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P067	2-Methyl-aziridine	2-Methyl-aziridine	75–55–8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P068	Methyl hydrazine	Methyl hydrazine	60–34–4	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
P069	2-Methyllactonitrile	2-Methyllactonitrile	75–86–5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P070	Aldicarb	Aldicarb	116–06–3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P071	Methyl parathion	Methyl parathion	298–00–0	0.014	4.6
P072	1-Naphthyl–2–thiourea	1-Naphthyl–2–thiourea	86–88–4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P073	Nickel carbonyl	Nickel	7440–02–0	3.98	5.0 mg/l TCLP
P074	Nickel-cyanide	Cyanides (Total)[7]	57–12–5	1.2	590
		Cyanides (Total)[7]	57–12–5	0.86	30
		Nickel	7440–02–0	3.98	5.0 mg/l TCLP
P075	Nicotine and salts	Nicotine and salts	54–11–5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P076	Nitric oxide	Nitric oxide	10102–43–9	ADGAS	ADGAS
P077	p-Nitroaniline	p-Nitroaniline	100–01–6	0.028	28
P078	Nitrogen dioxide	Nitrogen dioxide	10102–44–0	ADGAS	ADGAS
P081	Nitroglycerin	Nitroglycerin	55–63–0	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
P082	N-Nitrosodimethylamine	N-Nitrosodimethylamine	62–75–9	0.40	2.3
P084	N-Nitrosomethylvinylamine	N-Nitrosomethylvinylamine	4549–40–0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P085	Octamethylpyrophosphoramide	Octamethylpyrophosphoramide	152–16–9	CARBN; OR CMBST	CMBST
P087	Osmium tectroxide	Osmium tectroxide	20816–12–0	RMETL; or RTHRM	RMETL; or RTHRM

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
P088	Endothall	Endothall	145–73–3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P089	Parathion	Parathion	56–38–2	0.014	4.6
P092	Phenyl mercuric acetate nonwastewaters, regardless of their total mercury content, that are not incinerator residues or are not residues from RMERC.	Mercury	7439–97–6	NA	IMERC; or RMERC
	Phenyl mercuric acetate nonwastewaters that are either incinerator residues or are residues from RMERC; and still contain greater than or equal to 260 mg/kg total mercury.	Mercury	7439–97–6	NA	RMERC
	Phenyl mercuric acetate nonwastewaters that are residues from RMERC and contain less than 160 mg/kg total mercury.	Mercury	7439–97–6	NA	0.20 mg/l TCLP
	Phenyl mercuric acetate nonwastewaters that are incinerator residues and contain less then 260 mg/kg total mercury.	Mercury	7439–97–6	NA	0.025 mg/l TCLP
	All phenyl mercuric acetate wastewaters.	Mercury	7439–97–6	0.15	NA
P093	Phenythiouea	Phenythiouea	103–85–5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P094	Phorate	Phorate	298–02–2	0.021	4.6
P095	Phosgene	Phosgene	75–44–5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P096	Phosphine	Phosphine	7803–51–2	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST
P097	Famphur	Famphur	52–85–7	0.017	15
P098	Potassium cyanide.	Cyanides (Total)[7]	57–12–5	1.2	590
		Cyanides (Amenable)[7]	57–12–5	.086	30
	Potasslum silver cyanide	Cyanides (Total)[7]	57–12–5	1.2	590
P099		Cyanides (Amenable)[7]	57–12–5	0.86	30
		Silver	7440–22–4	.043	0.30 mg/l TCLP
P0101	Ethyl cyanide (Propanenitrile)	Ethyl cyanide (Propanenitrile)	107–12–0	0.24	360
P0102	Propargyl alcohol	Propargyl alcohol	107–19–7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P0103	Selenourea	Selenium	7782–49–2	0.82	0.16 mg/l TCLP
P0104	Silver cyanide	Cyanides (Total)[7]	57–12–5	1.2	590
		Cyanides (Amenable)[7]	57–12–5	0.86	30
		Silver	7440–22–4	0.43	0.30 mg/l TCLP

P0105	Sodium azide	Sodium azide	26628–22–8	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
P0106	Sodium cyanide	Cyanides (Total) [7]	57–12–5	1.2	590
		Cyanides (Amenable) [7]	57–12–5	0.86	30
P0108	Strychnine and salts	Strychnine and salts	57–24–9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P109	Tetraethyldithiopyrophosphate	Tetraethyldithiopyrophosphate	3689–24–5	CARBN; or CMBST	CMBST
P110	Tetraethyl lead	Lead	7439–92–1	0.69	0.37 mg/l TCLP
P111	Tetraethylpyrophosphate	Tetraethylpyrophosphate	107–49–3	CARBN; or CMBST	CMBST
P112	Tetranitromethane	Tetranitromethane	509–14–8	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
P113	Thallic oxide	Thallium (measured in waste-waters only).	7440–28–0	1.4	RTHRM; or STABL
P114	Thallium selenite	Selenium	7782–49–2	0.82	0.16 mg/l TCLP
P115	Thallium (I) sulfate	Thallium (measured in waste-waters only).	7440–28–0	1.4	RTHRM; or STABL
P116	Thiosemicarbazide	Thiosemicarbazide	79–19–6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P118	Trichloromethanethiol	Trichloromethanethiol	75–70–7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P119	Ammonium vanadate	Vanadium (measured in waste-waters only).	7440–62–2	4.3	STABL
P120	Vandium pentoxide	Vanadium (measured in waste-waters only).	7440–62–2	4.3	STABL
P121	Zinc cyanide	Cyanides (Total) [7]	57–12–5	1.2	590
		Cyanides (Amenable) [7]	57–12–5	0.86	30
P122	Zinc phosphide Zn_3P_2, when present at concentrations greater than 10%.	Zinc Phosphide	1314–84–7	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST
P123	Toxaphene	Toxaphene	8001–35–2	0.0095	2.6
P127	Carbofuran	Carbofuran	1563–66–2	0.006	0.14
P128	Mexacarbate	Mexacarbate	315–18–4	0.056	1.4
P185	Tirpate	Tirpate	26419–73–8	0.056	0.28
P187	Bendiocarb	Bendiocarb	22781–23–3	0.056	1.4
P188	Physostigimine salicylate	Physostigmine salicylate	57–64–7	0.056	1.4
P189	Carbosulfan	Carbosulfan	55285–14–8	0.028	1.4
P190	Metolcarb	Metolcarb	1129–41–5	0.056	1.4
P191	Dimetilan	Dimetilan	644–64–4	0.056	1.4
P192	Isolan	Isolan	119–38–0	0.056	1.4
P193	Thiophanate-methyl	Thiophanate-methyl	23564–05–8	0.056	1.4
P194	Oxamyl	Oxamyl	23135–22–0	0.056	0.28
P195	Thiodicarb	Thiodicarb	59669–26–0	0.019	1.4
P196	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
P197	Formparanate	Formparanate	17702–57–7	0.056	1.4
P198	Formetanate hydrochloride	Formetanate hydrochloride	23422–53–9	0.056	1.4
P199	Methiocarb	Methiocarb	2032–65–7	0.056	1.4
P200	Propoxur	Propoxur	114–26–1	0.056	1.4
P201	Promecarb	Promecarb	2631–37–0	0.056	1.4
P202	Hercules AC–5727	Hercules AC–5727	64–00–6	0.056	1.4

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
P203	Aldicarb sulfone	Aldicarb sulfone	1646–88–4	0.056	0.28
P204	Physostigmine	Physostigmine	57–47–6	0.056	1.4
P205	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
U001	Acetaldehyde	Acetaldehyde	75–07–0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U002	Acetone	Acetone	67–64–1	0.28	160
U003	Acetonitrile	Acetonitrile	75–05–8	5.6	CMBST
		Acetonitrile; alternate[6] standard for nonwastewaters only.	75–05–8	NA	1.8
U004	Acetophenone	Acetophenone	98–86–2	0.010	9.7
U005	2-Acetylaminofluorene	2-Acetylaminofluorene	53–96–3	0.059	140
U006	Acetyl chloride	Acetyl Chloride	75–36–5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U007	Acrylamide	Acrylamide	79–06–1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U008	Acrylic acid	Acrylic acid	79–10–7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U009	Acrylonitrile	Acrylonitrile	107–13–1	0.24	84
U010	Mitomycin C	Mitomycin C	50–07–7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U011	Amitrole	Amitrole	61–82–5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U012	Aniline	Aniline	62–53–3	0.81	14
U014	Auramine	Auramine	492–80–8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U015	Azaserine	Azaserine	115–02–6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U016	Benz(c)acridine	Benz(c)acridine	225–51–4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U017	Benzal chloride	Benzal chloride	98–87–3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U018	Benz(a)anthracene	Benz(a)anthracene	56–55–3	0.059	3.4
U019	Benzene	Benzene	71–43–2	0.14	10
U020	Benzenesulfonyl chloride	Benzenesulfonyl chloride	98–09–9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U021	Benzidine	Benzidine	92–87–5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U022	Benzo(a)pyrene	Benzo(a)pyrene	50–32–8	0.061	3.4
U023	Benzotrichloride	Benzotrichloride	98–07–7	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
U024	bis(2-Chloroethoxy)methane	bis(2-Chloroethoxy)methane	111–91–1	0.036	7.2
U025	bis(2-Chloroethyl)ether	bis(2-Chloroethyl)ether	111–44–4	0.033	6.0
U026	Chlornaphazine	Chlornaphazine	494–03–1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U027	bis(2-Chloroisopropyl)ether	bis(2-Chloroisopropyl)ether	39638–32–9	(WETOX or CHOXD) fb CARBN; or CMBST	7.2
U028	bis(2-Ethylhexyl) phthalate	bis(2-Ethylhexyl) phthalate	117–81–7	0.28	28
U029	Methyl bromide (Bromomethane)	Methyl bromide (Bromomethane)	74–83–9	0.11	15
U030	4-Bromophenyl phenyl ether	4-Bromophenyl phenyl ether	101–55–3	0.055	15
U031	n-Butyl alcohol	n-Butyl alcohol	71–36–3	5.6	2.6
U032	Calcium chromate	Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
U033	Carbon oxyfluoride	Carbon oxyfluoride	353–50–4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U034	Trichloroacetaldehyde (Chloral)	Trichloroacetaldehyde (Chloral)	75–87–6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U035	Chlorambucil	Chlorambucil	305–03–3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U036	Chlordane	Chlordane (alpha and gamma isomers).	57–74–9	0.0033	0.26
U037	Chlorobenzene	Chlorobenzene	108–90–7	0.057	6.0
U038	Chlorobenzilate	Chlorobenzilate	510–15–6	0.10	CMBEST
U039	p-Chloro-m-cresol	p-Chloro-m-cresol	59–50–7	0.018	14
U041	Epichlorohydrin (1-Chloro-2,3-epoxypropane)	Epichlorohydrin (1-Chloro-2,3-epoxypropane).	106–89–8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U042	2-Chloroethyl vinyl ether	2-Chloroethyl vinyl ether	110–75–8	0.062	CMBST
U043	Vinyl chloride	Vinyl chloride	75–01–4	0.27	6.0
U044	Chloroform	Chloroform	67–66–3	0.046	6.0
U045	Chloromethane (Methyl chloride)	Chloromethane (Methyl chloride)	74–87–3	0.19	30

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
U046	Chloromethyl methyl ether	Chloromethyl methyl ether	107–30–2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U047	2-Chloronaphthalene	2-Chloronaphthalene	91–58–7	0.055	5.6
U048	2-Chlorophenol	2-Chlorophenol	95–57–8	0.044	5.7
U049	4-Chloro-o-toluidine hydrochloride	4-Chloro-o-toluidine hydrochloride	3165–93–3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U050	Chrysene	Chrysene	218–01–9	0.059	3.4
U051	Creosote	Naphthalene	91–20–3	0.059	5.6
		Pentachlorophenol	87–86–5	0.089	7.4
		Phenanthrene	85–01–8	0.059	5.6
		Pyrene	129–00–0	0.067	8.2
		Toluene	108–88–3	0.080	10
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations).	1330–20–7	0.32	30
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
U052	Cresols (Cresylic acid)	o-Cresol	95–48–7	0.11	5.6
		m-Cresol (difficult to distinguish from p-cresol).	108–39–4	0.77	5.6
		p-Cresol (difficult to distinguish from m-cresol).	106–44–5	0.77	5.6
		Cresol-mixed isomers (Cresylic acid) (sum of o-, m-, and p-cresol concentrations).	1319–77–3	0.88	11.2
U053	Crotonaldehyde	Crotonaldehyde	4170–30–3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U055	Cumene	Cumene	98–82–8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U056	Cyclohexane	Cyclohexane	110–82–7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U057	Cyclohexanone	Cyclohexanone	108–94–1	0.36	CMBST
		Cyclohexanone; alternate[6] standard for nonwastewaters only.	108–94–1	NA	0.75 mg/l TCLP
U058	Cyclophosphamide	Cyclophosphamide	50–18–0	CARBN; or CMBST	CMBST

U059	Daunomycin	Daunomycin	20830–81–3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U060	DDD	o,p'-DDD	53–19–0	0.023	0.087
		p,p'-DDD	72–54–8	0.023	0.087
U061	DDT	o,p'-DDT	789–02–6	0.0039	0.087
		p,p'-DDT	50–29–3	0.0039	0.087
		o,p'-DDD	53–19–0	0.023	0.087
		p,p'-DDD	72–54–8	0.023	0.087
		o,p'-DDE	3424–82–6	0.031	0.087
		p,p'-DDE	72–55–9	0.031	0.087
U062	Diallate	Diallate	2303–16–4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U063	Dibenz(a,h)anthracene	Dibenz(a,h)anthracene	53–70–3	0.055	8.2
U064	Dibenz(a,i)pyrene	Dibenz(a,i)pyrene	189–55–9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U066	1,2-Dibromo-3-chloropropane	1,2-Dibromo-3-chloropropane	96–12–8	0.11	15
U067	Ethylene dibromide (1,2-Dibromoethane)	Ethylene dibromide (1,2-Dibromoethane).	106–93–4	0.028	15
U068	Dibromomethane	Dibromomethane	74–95–3	0.11	15
U069	Di-n-butyl phthalate	Di-n-butyl phthalate	84–74–2	0.057	28
U070	o-Dichlorobenzene	o-Dichlorobenzene	95–50–1	0.088	6.0
U071	m-Dichlorobenzene	m-Dichlorobenzene	541–73–1	0.036	6.0
U072	p-Dichlorobenzene	p-Dichlorobenzene	106–46–7	0.090	6.0
U073	3,3'-Dichlorobenzidine	3,3'-Dichlorobenzidine	91–94–1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U074	1,4-Dichloro-2-butene	cis-1,4-Dichloro-2-butene	1476–11–5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
		trans-1,4-Dichloro-2-butene	764–41–0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U075	Dichlorodifluoromethane	Dichlorodifluoromethane	75–71–8	0.23	7.2
U076	1,1-Dichloroethane	1,1-Dichloroethane	75–34–3	0.059	6.0
U077	1,2-Dichloroethane	1,2-Dichloroethane	107–06–2	0.21	6.0
U078	1,1-Dichloroethylene	1,1-Dichloroethylene	75–35–4	0.025	6.0
U079	1,2-Dichloroethylene	trans-1,2-Dichloroethylene	156–60–5	0.054	30
U080	Methylene chloride	Methylene chloride	75–09–2	0.089	30
U081	2,4-Dichlorophenol	2,4-Dichlorophenol	120–83–2	0.044	14
U082	2,6-Dichlorophenol	2,6-Dichlorophenol	87–65–0	0.044	14
U083	1,2-Dichloropropane	1,2-Dichloropropane	78–87–5	0.85	18
U084	1,3-Dichloroproplyene	cis-1,3-Dichloroproplyene	10061–01–5	0.036	18
		trans-1,3-Dichloroproplyene	10061–02–6	0.036	18
U085	1,2:3,4-Diepoxybutane	1,2:3,4-Diepoxybutane	1464–53–5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
U086	N,N′-Diethylhydrazine	N,N′-Diethylhydrazine	1615–80–1	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
U087	O,O-Diethyl S-methyldithiophosphate	O,O-Diethyl S-methyldithiophosphate.	3288–58–2	CARBN; CMBST	CMBST
U088	Diethyl phthalate	Diethyl phthalate	84–66–2	0.20	28
U089	Diethyl stilbestrol	Diethyl stilbestrol	56–53–1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U090	Dihydrosafrole	Dihydrosafrole	94–58–6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U091	3,3′-Dimethoxybenzidine	3,3′-Dimethoxybenzidine	119–90–4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U092	Dimethylamine	Dimethylamine	124–40–3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U093	p-Dimethylaminoazobenzene	p-Dimethylaminoazobenzene	60–11–7	0.13	CMBST
U094	7,12-Dimethylibenz(a)anthracene	7,12-Dimethylbenz(a)anthracene	57–97–6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST CMBST
U095	3,3′-Dimethylbenzidine	3,3′-Dimethylbenzidine	119–93–7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U096	alpha, alpha-Dimethyl benzyl hydroperoxide	alpha, alpha-Dimethyl benzyl hydroperoxide.	80–15–9	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
U097	Dimethylcarbamoyl chloride	Dimethylcarbamoyl chloride	79–44–7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U098	1,1-Dimethylhydrazine	1,1-Dimethylhydrazine	57–14–7	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST

U099	1,2-Dimethylhydrazine	1,2-Dimethylhydrazine	540–73–8	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
				CHOXD, CHRED; or CMBST	
U101	2,4-Dimethylphenol	2,4-Dimethylphenol	105–67–9	0.036	14
U102	Dimethyl phthalate	Dimethyl phthalate	131–11–3	0.047	28
U103	Dimethyl sulfate	Dimethyl sulfate	77–78–1	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
U105	2,4-Dinitrotoluene	2,4-Dinitrotoluene	121–14–2	0.32	140
U106	2,6-Dinitrotoluene	2,6-Dinitrotoluene	606–20–2	0.55	28
U108	1,4-Dioxane	1,4-Dioxane	123–91–1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
		1,4-Dioxane; alternate [6] standard for nonwastewaters only.	123–91–1	NA	170
U109	1,2-Diphenylhydrazine	1,2-Diphenylhydrazine	122–66–7	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
		1,2-Diphenylhydrazine; alternate [6] standard for wastewaters only.	122–66–7	0.087	NA
U110	Dipropylamine	Dipropylamine	142–84–7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U111	Di-n-propylnitrosamine	Di-n-propylnitrosamine	621–64–7	0.40	14
U112	Ethyl acetate	Ethyl acetate	141–78–6	0.34	33
U113	Ethyl acrylate	Ethyl acrylate	140–88–5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U114	Ethylenebisdithiocarbamic acid salts and esters	Ethylenebisdithiocarbamic acid	111–54–6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U115	Ethylene oxide	Ethylene oxide	75–21–8	(WETOX or CHOXD) fb CARBN; or CMBST	CHOXD; or CMBST
		Ethylene oxide; alternate [6] standard for wastewaters only.	75–21–8	0.12	NA
U116	Ethylene thiourea	Ethylene thiourea	96–45–7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U117	Ethyl ether	Ethyl ether	60–29–7	0.12	160
U118	Ethyl methacrylate	Ethyl methacrylate	97–63–2	0.14	160
U119	Ethyl methane sulfonate	Ethyl methane sulfonate	62–50–0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U120	Fluoranthene	Fluoranthene	206–44–0	0.068	3.4
U121	Trichloromonofluoromethane	Trichloromonofluoromethane	75–69–4	0.020	30

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
U122	Formaldehyde	Formaldehyde	50–00–0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U123	Formic acid	Formic acid	64–18–6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U124	Furan	Furan	110–00–9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U125	Furfural	Furfural	98–01–1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U126	Glycidylaldehyde	Glycidylaldehyde	765–34–4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U127	Hexachlorobenzene	Hexachlorobenzene	118–74–1	0.055	10
U128	Hexachlorobutadiene	Hexachlorobutadiene	87–68–3	0.055	5.6
U129	Lindane	alpha-BHC	319–84–6	0.00014	0.066
		beta-BHC	319–85–7	0.00014	0.066
		delta-BHC	319–86–8	0.023	0.066
		gamma-BHC (Lindane)	58–89–9	0.0017	0.066
U130	Hexachlorocyclopentadiene	Hexachlorocyclopentadiene	77–47–4	0.057	2.4
U131	Hexachloroethane	Hexachloroethane	67–72–1	0.055	30
U132	Hexachlorophene	Hexachlorophene	70–30–4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U133	Hydrazine	Hydrazine	302–01–2	CHOXD; CHRED; CARBN; DIODG; or CMBST	CHOXD; CHRED; or CMBST
U134	Hydrogen fluoride	Fluoride (measured in wastewaters only).	16964–48–8	35	ADGAS fb NEUTR; or NEUTR
U135	Hydrogen Sulfide	Hydrogen Sulfide	7783–06–4	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST
U136	Cacodylic acid	Arsenic	7440–38–2	1.4	5.0 mg/l TCLP
U137	Indeno(1,2,3-c,d)pyrene	Indeno(1,2,3-c,d)pyrene	193–39–5	0.0055	3.4
U138	Iodomethane	Iodomethane	74–88–4	0.19	65
U140	Isobutyl alcohol	Isobutyl alcohol	78–83–1	5.6	170
U141	Isosafrole	Isosafrole	120–58–1	0.081	2.6
U142	Kepone	Kepone	143–50–8	0.0011	0.13

U143	Lasiocarpine	Lasiocarpine	303–34–4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U144	Lead acetate	Lead	7439–92–1	0.69	0.37 mg/l TCLP
U145	Lead phosphate	Lead	7439–92–1	0.69	0.37 mg/l TCLP
U146	Lead subacetate	Lead	7439–92–1	0.69	0.37 mg/l TCLP
U147	Maleic anhydride	Maleic anhydride	108–31–6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U148	Maleic hydrazide	Maleic hydrazide	123–33–1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U149	Malononitrile	Malononitrile	109–77–3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U150	Melphalan	Melphalan	148–82–3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U151	U151 (mercury) nonwastewaters that contain greater than or equal to 260 mg/kg total mercury.	Mercury	7439–97–6	NA	RMERC
	U151 (mercury) nonwastewaters that contain less than 260 mg/kg total mercury and that are residues from RMERC only.	Mercury	7439–97–6	NA	0.20 mg/l TCLP
	U151 (mercury) nonwastewaters that contain less than 260 mg/kg total mercury and that are not residues from RMERC.	Mercury	7439–97–6	NA	0.025 mg/l TCLP
	All U151 (mercury) wastewaters	Mercury	7439–97–6	0.15	NA
	Elemental Mercury Contaminated with Radioactive materials.	Mercury	7439–97–6	NA	AMLGM
U152	Methacrylonitrile	Methacrylonitrile	126–98–7	0.24	84
U153	Methanethiol	Methanethiol	74–93–1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U154	Methanol	Methanol	67–56–1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
		Methanol, alternate [6] set of standards for both wastewaters and nonwastewaters.	67–56–1	5.6	0.75 mg/l TCLP
U155	Methapyrilene	Methapyrilene	91–80–5	0.081	1.5
U156	Methyl chlorocarbonate	Methyl chlorocarbonate	79–22–1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U157	3-Methylcholanthrene	3-Methylcholanthrene	56–49–5	0.0055	15
U158	4,4'-Methylene bis(2-chloroaniline)	4,4'-Methylene bis(2-chloroaniline)	101–14–4	0.50	30
U159	Methyl ethyl ketone	Methyl ethyl ketone	78–93–3	0.28	36
U160	Methyl ethyl ketone peroxide	Methyl ethyl ketone peroxide	1338–23–4	CHOXD; CHRED; CARBN; BIODG; OR CMBST	CHOXD; CHRED; OR CMBST

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
U161	Methyl isobutyl ketone	Methyl isobutyl ketone	108–10–1	0.14	33
U162	Methyl methacrylate	Methyl methacrylate	80–62–6	0.14	160
U163	N-Methyl N'-nitro N-nitrosoguanidine	N-Methyl N'-nitro N-nitrosoguanidine.	70–25–7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U164	Methylthiouracil	Methylthiouracil	56–04–2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U165	Naphthalene	Naphthalene	91–20–3	0.059	5.6
U166	1,4-Naphthoquinone	1,4-Naphthoquinone	130–15–4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U167	1-Naphthlyamine	1-Naphthlyamine	134–32–7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U168	2-Naphthlyamine	2-Naphthlyamine	91–59–8	0.52	CMBST
U169	Nitrobenzene	Nitrobenzene	98–95–3	0.068	14
U170	p-Nitrophenol	p-Nitrophenol	100–02–7	0.12	29
U171	2-Nitropropane	2-Nitropropane	79–46–9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U172	N-Nitrosodi-n-butylamine	N-Nitrosodi-n-butylamine	924–16–3	0.40	17
U173	N-Nitrosodiethylamine	N-Nitrosodiethanolamine	1116–54–7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U174	N-Nitrosodiethanolamine	N-Nitrosodiethylamine	55–18–5	0.40	28
U176	N-Nitroso-N-ethylurea	N-Nitroso-N-ethylurea	759–73–9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U177	N-Nitroso-N-methylurea	N-Nitroso-N-methylurea	684–93–5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U178	N-Nitroso-N-methylurethane	N-Nitroso-N-methylurethane	615–53–2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U179	N-Nitrosopiperidine	N-Nitrosopiperidine	100–75–4	0.013	35
U180	N-Nitrosopyrrolidine	N-Nitrosopyrrolidine	930–55–2	0.013	35
U181	5-Nitro-o-toluidine	5-Nitro-o-toluidine	99–55–8	0.32	28

U182	Paraldehyde	Paraldehyde	123–63–7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U183	Pentachlorobenzene	Pentachlorobenzene	608–93–5	0.055	10
U184	Pentachloroethane	Pentachloroethane	76–01–7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
		Pentachloroethane; alternate [6] standards for both wastewaters and nonwastewaters.	76–01–7	0.055	6.0
U185	Pentachloronitrobenzene	Pentachloronitrobenzene	82–68–8	0.055	4.8
U186	1,3-Pentadiene	1,3-Pentadiene	504–60–9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U187	Phenacetin	Phenacetin	62–44–2	0.081	16
U188	Phenol	Phenol	108–95–2	0.039	6.2
U189	Phosphorus sulfide	Phosphorus sulfide	1314–80–3	CHOXD, CHRED, or CMBST	CHOXD, CHRED, or CMBST
U190	Phthalic anhydride (measured as Phthalic acid or Terephthalic acid).	Phthalic anhydride (measured as Phthalic acid or Terephthalic acid).	100–21–0	0.055	28
		Phthalic anhydride	85–44–9	0.055	28
U191	2-Picoline	2-Picoline	109–06–8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U192	Pronamide	Pronamide	23950–58–5	0.093	1.5
U193	1,3-Propane sultone	1,3-Propane sultone	1120–71–4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U194	n-Propylamine	n-Propylamine	107–10–8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U196	Pyridine	Pyridine	110–86–1	0.014	16
U197	p-Benzoquinone	p-Benzoquinone	106–51–4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U200	Reserpine	Reserpine	50–55–5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U201	Resorcinol	Resorcinol	108–46–3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U202	Saccharin and salts	Saccharin	81–07–2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U203	Safrole	Safrole	94–59–7	0.081	22
U204	Selenium dioxide	Selenium	7782–49–2	0.82	0.16 mg/l TCLP
U205	Selenium sulfide	Selenium	7782–49–2	0.82	0.16 mg/l TCLP

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
U206	Streptozotocin	Streptozotocin	18883–66–4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U207	1,2,4,5-Tetrachlorobenzene	1,2,4,5-Tetrachlorobenzene	95–94–3	0.055	14
U208	1,1,1,2-Tetrachloroethane	1,1,1,2-Tetrachloroethane	630–20–6	0.057	6.0
U209	1,1,2,2-Tetrachloroethane	1,1,2,2-Tetrachloroethane	79–34–5	0.057	6.0
U210	Tetrachloroethylene	Tetrachloroethylene	127–18–4	0.056	6.0
U211	Carbon tetrachloride	Carbon tetrachloride	56–23–5	0.057	6.0
U213	Tetrahydrofuran	Tetrahydrofuran	109–99–9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U214	Thallium (I) acetate	Thallium (measured in wastewaters only).	7440–28–0	1.4	RTHRM; or STABL
U215	Thallium (I) carbonate	Thallium (measured in wastewaters only).	7440–28–0	1.4	RTHRM; or STABL
U216	Thallium (I) chloride	Thallium (measured in wastewaters only).	7440–28–0	1.4	RTHRM; or STABL
U217	Thallium (I) nitrate	Thallium (measured in wastewaters only).	7440–28–0	1.4	RTHRM; or STABL
U218	Thioacetamide	Thioacetamide	62–55–5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U219	Thiourea	Thiourea	62–56–6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U220	Toluene	Toluene	108–83–3	0.080	10
U221	Toluenediamine	Toluenediamine	25376–45–8	CARBN; or CMBST	CMBST
U222	o-Toluidine hydrochloride	o-Toluidine hydrochloride	636–21–5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U223	Toluene diisocyanate	Toluene diisocyanate	26471–62–5	CARBN; or CMBST	CMBST
U225	Bromoform (Tribromomethane)	Bromoform (Tribromomethane)	75–25–2	0.63	15
U226	1,1,1-Trichloroethane	1,1,1-Trichloroethane	71–55–6	0.054	6.0
U227	1,1,2-Trichloroethane	1,1,2-Trichloroethane	79–00–5	0.054	6.0
U228	Trichloroethylene	Trichloroethylene	79–01–6	0.054	6.0
U234	1,3,5-Trinitrobenzene	1,3,5-Trinitrobenzene	99–35–4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U235	tris-(2,3-Dibromoprophyl)-phosphate	tris-(2,3-Dibromoprophyl)-phosphate.	126–72–7	0.11	0.10
U236	Trypan Blue	Trypan Blue	72–57–1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U237	Uracil mustard	Uracil mustard	66–75–1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U238	Urethane (Ethyl carbamate)	Urethane (Ethyl carbamate)	51–79–6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U239	Xylenes	Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations).	1330–20–7	0.32	30
U240	2,4-D (2,4-Dichlorophenoxyacetic acid)	2,4–D (2,4-Dichlorophenoxyacetic acid).	94–75–7	0.72	10
	2,4-D (2,4-Dichlorophenoxyacetic acid) salts and esters.		NA	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U243	Hexachloropropylene	Hexachloropropylene	1888–71–7	0.035	30
U244	Thiram	Thiram	137–26–8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U246	Cyanogen bromide	Cyanogen bromide	506–68–3	CHOXD; WETOX; or CMBST	CHOXD, WETOX; or CMBST
U247	Methoxychlor	Methoxychlor	72–43–5	0.25	0.18
U248	Warfarin, & salts, when present at concentrations of 0.3% or less.	Warfarin	81–81–2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U249	Zinc phosphide, Zn_3P_2, when present at concentrations of 10% or less.	Zinc Phosphide	1314–84–7	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST
U271	Benomyl	Benomyl	17804–35–2	0.056	1.4
U277	Sulfallate	Sulfallate	95–06–7	0.056	1.4
U279	Carbaryl	Carbaryl	63–25–2	0.006	0.14
U280	Barban	Barban	101–27–9	0.056	1.4
U328	o-Toluidine	o-Toluidine	95–53–4	CMBST; or CHOXD fb (BIODG or CARBN); or BIODG fb CARBN.	CMBST
U353	p-Toluidine	p-Toluidine	106–49–0	CMBST; or CHOXD fb (BIODG or CARBN); or BIODG fb CARBN.	CMBST
U359	2-Ethoxyethanol	2-Ethoxyethanol	110–80–5	CMBST; or CHOXD fb (BIODG or CARBN); or BIODG fb CARBN	CMBST

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS[2] No.	Concentration in mg/l[3]; or technology code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP"; or technology code
U360	Carbamates, N.O.S	Carbamates, N.O.S	NA	0.056	1.4
U361	Carbamoyl Oximes, N.O.S	Carbamoyl Oximes, N.O.S	NA	0.056	0.28
U362	Thiocarbamates, N.O.S	Thiocarbamates, N.O.S	NA	0.003	1.4
U363	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
	Antimony	Antimony	7440–36–0	1.9	2.1 mg/l TCLP
	Lead	Lead	7439–92–1	0.69	0.37 mg/l TCLP
	Nickel	Nickel	7440–02–0	3.98	5.0 mg/l TCLP
	Selenium	Selenium	7782–49–2	0.82	0.16 mg/l TCLP
U364	Bendiocarb phenol	Bendiocarb phenol	22961–82–6	0.056	1.4
U365	Molinate	Molinate	2212–67–1	0.003	1.4
U366	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
U367	Carbofuran phenol	Carbofuran phenol	1563–38–8	0.056	1.4
U368	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
	Antimony	Antimony	7440–36–0	1.9	2.1 mg/l TCLP
U369	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
	Antimony	Antimony	7440–36–0	1.9	2.1 mg/l TCLP
U370	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
U371	Hexazinone intermediate	Hexazinone intermediate	65086–85–3	0.056	1.4
U372	Carbendazim	Carbendazim	10605–21–7	0.056	1.4
U373	Propham	Propham	122–42–9	0.056	1.4
U374	U9069	U9069	112006–94–7	0.056	1.4
U375	Troysan Polyphase	Troysan Polyphase	55406–53–6	0.056	1.4
U376	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
	Selenium	Selenium	7782–49–2	0.82	0.16 mg/l TCLP
U377	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
U378	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
U379	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
U380	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
U381	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
U382	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
U383	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
U384	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
U385	Vernolate	Vernolate	1929–77–7	0.003	1.4
U386	Cycloate	Cycloate	1134–23–2	0.003	1.4
U387	Prosulfocarb	Prosulfocarb	52888–80–9	0.003	1.4
U388	Esprocarb	Esprocarb	85785–20–2	0.003	1.4
U389	Triallate	Triallate	2303–17–5	0.003	1.4
U390	Eptam	Eptam	759–94–4	0.003	1.4
U391	Pebulate	Pebulate	1114–71–2	0.003	1.4
U392	Butylate	Butylate	2008–41–5	0.003	1.4
U393	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
U394	A2213	A2213	30558–43–1	0.003	1.4
U395	Reactacrease 4–DEG	Reactacrease 4–DEG	5952–26–1	0.056	1.4
U396	Ferbam	Ferbam	14484–64–1	0.056	1.4
U397	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
	Lead	Lead	7439–92–1	0.69	0.37 mg/l TCLP
U398	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28

U399	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
	Nickel	Nickel	7440–02–0	3.98	5.0 mg/l TCLP
U400	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
U401	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
U402	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
U403	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
U404	Triethylamine	Triethylamine	121–44–8	0.081	1.5
U405	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
U406	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
U407	Dithiocarbamates (total)	Dithiocarbamates (total)	NA	0.028	28
U408	2,4,6-Tribromophenol	2,4,6-Tribromophenol	118–79–6	0.035	7.4

Notes to Table:

[1] The waste descriptions provided in this table do not replace waste descriptions in 40 CFR part 261. Descriptions of Treatment/Regulatory Subcategories are provided, as needed, to distinguish betweenapplicability of different standards.

[2] CAS means Chemical Abstract Services. When the waste code and/or regulated constituents are described as a combination of a chemical with it's salts and/or esters, the CAS number is given for the parent compound only.

[3] Concentration standards for wastewaters are expressed in mg/l and are based on analysis of composite samples.

[4] All treatment standards expressed as a Technology Code or combination of Technology Codes are explained in detail in 40 CFR 268.42 Table 1—Technology Codes and Descriptions of Technology-Based Standards.

[5] Except for Metals (EP or TCLP) and Cyanides (Total and Amenable) the nonwastewater treatment standards expressed as a concentration were established, in part, based upon incineration in units operated in accordance with the technical requirements of 40 CFR Part 264, Subpart O, or Part 265, Subpart O, or based upon combustion in fuel substitution units operating in accordance with applicable technical requirements. A facility may comply with these treatment standards according to provisions in 40 CFR 268.40(d). All concentration standards for nonwastewaters are based on analysis of grab samples.

[6] Where an alternate treatment standard or set of alternate standards has been indicated, a facility may comply with this alternate standard, but only for the Treatment/Regulatory Subcategory or physical form (i.e., wastewater and/or nonwastewater) specified for that alternate standard.

[7] Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method 9010 or 9012, found in ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods'', EPA Publication SW–846, as incorporated by reference in 40 CFR 260.11, with a sample size of 10 grams and a distillation time of one hour and 15 minutes.

[8] As an alternative to these standards, the underlying hazardous constituents in the waste must meet a CWA limitation, which can include a toxic pollutant indicator for the constituent; Pretreatment Standards for Existing Sources; Pretreatment Standards for New Sources; local limitations based upon a pass-through determination; or a Fundamentally Different Factors variance under 40 CFR 125.30–125.32.

17. In § 268.42 Table 1. is amended by revising the entry ''CMBST'' to read as follows:

§ 268.42 Treatment standards expressed as specified technologies.

* * * * *

TABLE 1.—TECHNOLOGY CODES AND DESCRIPTION OF TECHNOLOGY-BASED STANDARDS

Technology code	Description of technology-based standards
* * * * * * *	
CMBST:	High temperature organic destruction technologies, such as combustion in incinerators, boilers, or industrial furnaces operated in accordance with the applicable requirements of 40 CFR part 264, subpart O, or 40 CFR part 265, subpart O, or 40 CFR part 266, subpart H, and in other units operated in accordance with applicable technical operating requirements; and certain non-combustive technologies, such as the Catalytic Extraction Process.
* * * * * * *	

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18. Section 268.44 is amended by revising paragraph (a) to read as follows:

§ 268.44 Variance from a treatment standard.

(a) Where the treatment standard is expressed as a concentration in a waste or waste extract and a waste cannot be treated to the specified level, or where the treatment technology is not appropriate to the waste, the generator or treatment facility may petition the Administrator for a variance from the treatment standard. The petitioner must demonstrate that because the physical or chemical properties of the waste differs significantly from wastes analyzed in developing the treatment standard, the waste cannot be treated to specified levels or by the specified methods. The petitioner may also demonstrate that it is treating underlying hazardous constituents in characteristically hazardous wastewaters by sending the waste to a properly designed and operated BAT/PSES system, which may not be achieving the treatment standards found in § 268.48.

* * * * *

19. In § 268.48 the table in paragraph (a) is revised to read as follows:

§ 268.48 Universal treatment standards.

(a) * * *

UNIVERSAL TREATMENT STANDARDS

[Note: NA means not applicable.]

Regulated constituent/common name	CAS [1] number	Wastewater standard	Nonwastewater standard
		Concentration in mg/l [2]	Concentration in mg/kg [3] unless noted as ''mg/l TCLP''
I. Organic constituents:			
A2213	30558–43–1	0.003	1.4
Acenaphthene	83–32–9	0.059	3.4
Acenaphthylene	208–96–8	0.059	3.4
Acetone	67–64–1	0.28	160
Acetonitrile	75–05–8	5.6	38
Acetophenone	96–86–2	0.010	9.7
2-Acetylaminofluorene	53–96–3	0.059	140
Acrolein	107–02–8	0.29	NA
Acrylamide	79–06–1	19	23
Acrylonitrile	107–13–1	0.24	84
Aldicarb sulfone	1646–88–4	0.056	0.28
Aldrin	309–00–2	0.021	0.066
4-Aminobiphenyl	92–67–1	0.13	NA
Aniline	62–53–3	0.81	14
Anthracene	120–12–7	0.059	3.4
Aramite	140–57–8	0.36	NA
Barban	101–27–9	0.056	1.4
Bendiocarb	22781–23–3	0.056	1.4
Bendiocarb phenol	22961–82–6	0.056	1.4
Benomyl	17804–35–2	0.056	1.4
Benz(a)anthracene	56–55–3	0.059	3.4
Benzal chloride	98–87–3	0.055	6.0
Benzene	71–43–2	0.14	10
Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205–99–2	0.11	6.8
Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207–08–9	0.11	6.8
Benzo(g,h,i)perylene	191–24–2	0.0055	1.8
Benzo(a)pyrene	50–32–8	0.061	3.4

UNIVERSAL TREATMENT STANDARDS—Continued

[Note: NA means not applicable.]

Regulated constituent/common name	CAS [1] number	Wastewater standard	Nonwastewater standard
		Concentration in mg/l [2]	Concentration in mg/kg [3] unless noted as "mg/l TCLP"
alpha-BHC	319–84–6	0.00014	0.066
beta-BHC	319–85–7	0.00014	0.066
delta-BHC	319–86–8	0.023	0.066
gamma-BHC	58–89–9	0.0017	0.066
Bromodichloromethane	75–27–4	0.35	15
Bromomethane/Methyl bromide	74–83–9	0.11	15
4-Bromophenyl phenyl ether	101–55–3	0.055	15
n-Butyl alcohol	71–36–3	5.6	2.6
Butyl benzyl phthalate	85–68–7	0.017	28
Butylate	2008–41–5	0.003	1.4
2-sec-Butyl-4,6-dinitrophenol/Dinoseb	88–85–7	0.066	2.5
Carbaryl	63–25–2	0.006	0.14
Carbenzadim	10605–21–7	0.056	1.4
Carbofuran	1563–66–2	0.006	0.14
Carbofuran phenol	1563–38–8	0.056	1.4
Carbon disulfide	75–15–0	3.8	4.8 mg/l TCLP
Carbon tetrachloride	56–23–5	0.057	6.0
Carbosulfan	55285–14–8	0.028	1.4
Chlordane (alpha and gamma isomers)	57–74–9	0.0033	0.26
p-Chloroaniline	106–47–8	0.46	16
Chlorobenzene	108–90–7	0.057	6.0
Chlorobenzilate	510–15–6	0.10	NA
2-Chloro-1,3-butadiene	126–99–8	0.057	0.28
Chlorodibromomethane	124–48–1	0.057	15
Chloroethane	75–00–3	0.27	6.0
bis(2-Chloroethoxy)methane	111–91–1	0.036	7.2
bis(2-Chloroethyl)ether	111–44–4	0.033	6.0
2-Chloroethyl vinyl ether	110–75–8	0.062	NA
Chloroform	67–66–3	0.046	6.0
bis(2-Chloroisopropyl)ether	39638–32–9	0.055	7.2
p-Chloro-m-cresol	59–50–7	0.018	14
Chloromethane/Methyl chloride	74–87–3	0.19	30
2-Chloronaphthalene	91–58–7	0.055	5.6
2-Chlorophenol	95–57–8	0.044	5.7
3-Chloropropylene	107–05–1	0.036	30
Chrysene	218–01–9	0.059	3.4
o-Cresol	95–48–7	0.11	5.6
m-Cresol (difficult to distinguish from p-cresol)	108–39–4	0.77	5.6
p-Cresol (difficult to distinguish from m-cresol)	106–44–5	0.77	5.6
m-Cumenyl methylcarbamate	64–00–6	0.056	1.4
Cycloate	1134–23–2	0.003	1.4
Cyclohexanone	108–94–1	0.36	0.75 mg/l TCLP
o,p′-DDD	53–19–0	0.023	0.087
p,p′-DDD	72–54–8	0.023	0.087
o,p′-DDE	3424–82–6	0.031	0.087
p,p′-DDE	72–55–9	0.031	0.087
o,p′-DDT	789–02–6	0.0039	0.087
p,p′-DDT	50–29–3	0.0039	0.087
Dibenz(a,h)anthracene	53–70–3	0.055	8.2
Dibenz(a,e)pyrene	192–65–4	0.061	NA
1,2-Dibromo-3-chloropropane	96–12–8	0.11	15
1,2-Dibromoethane/Ethylene dibromide	106–93–4	0.028	15
Dibromomethane	74–95–3	0.11	15
m-Dichlorobenzene	541–73–1	0.036	6.0
o-Dichlorobenzene	95–50–1	0.088	6.0
p-Dichlorobenzene	106–46–7	0.090	6.0
Dichlorodifluoromethane	75–71–8	0.23	7.2
1,1-Dichloroethane	75–34–3	0.059	6.0
1,2-Dichloroethane	107–06–2	0.21	6.0
1,1-Dichloroethylene	75–35–4	0.025	6.0
trans-1,2-Dichloroethylene	156–60–5	0.054	30
2,4-Dichlorophenol	120–83–2	0.044	14
2,6-Dichlorophenol	87–65–0	0.044	14
2,4-Dichlorophenoxyacetic acid/2,4-D	94–75–7	0.72	10
1,2-Dichloropropane	78–87–5	0.85	18

UNIVERSAL TREATMENT STANDARDS—Continued

[Note: NA means not applicable.]

Regulated constituent/common name	CAS [1] number	Wastewater standard	Nonwastewater standard
		Concentration in mg/l [2]	Concentration in mg/kg [3] unless noted as "mg/l TCLP"
cis-1,3-Dichloropropylene	10061–01–5	0.036	18
trans-1,3-Dichloropropylene	10061–02–6	0.036	18
Dieldrin	60–57–1	0.017	0.13
Diethyl phthalate	84–66–2	0.20	28
Diethylene glycol, dicarbamate	5952–26–1	0.056	1.4
p-Dimethylaminoazobenzene	60–11–7	0.13	NA
2-4-Dimethyl phenol	105–67–9	0.036	14
Dimethyl phthalate	131–11–3	0.047	28
Dimetilan	644–64–4	0.056	1.4
Di-n-butyl phthalate	84–74–2	0.057	28
1,4-Dinitrobenzene	100–25–4	0.32	2.3
4,6–Dinitro-o-cresol	534–52.1	0.28	160
2,4-Dinitrophenol	51–28–5	0.12	160
2,4-Dinitrotoluene	121–14–2	0.32	140
2,6-Dinitrotoluene	606–20–2	0.55	28
Di-n-octyl phthalate	117–84–0	0.017	28
Di-n-propylnitrosamine	621–64–7	0.40	14
1,4-Dioxane	123–91–1	12.0	170
Diphenylamine (difficult to distinguish from diphenylitrosamine)	122–39–4	0.92	13
Diphenylnitrosamine (difficult to distinguish from diphenylamine)	86–30–6	0.92	13
1,2-Diphenylhydrazine	122–66–7	0.087	NA
Disulfoton	298–04–3	0.017	6.2
Dithiocarbamates (total)	137–30–4	0.028	28
Endosulfan I	959–98–8	0.023	0.066
Endosulfan II	33213–65–9	0.029	0.13
Endosulfan sulfate	1031–07–8	0.029	0.13
Endrin	72–20–8	0.0028	0.13
Endrin aldehyde	7421–93–4	0.025	0.13
EPTC	759–94–4	0.003	1.4
Ethyl acetate	141–78–6	0.34	33
Ethyl benzene	100–41–4	0.057	10
Ethyl cyanide/Propanenitrile	107–12–0	0.24	360
Ethyl ether	60–29–7	0.12	160
Ethyl methacrylate	97–63–2	0.14	160
Ethylene oxide	75–21–8	0.12	NA
bis(2-Ethylhexyl) phthalate	117–81–7	0.28	28
Famphur	52–85–7	0.017	15
Fluoranthene	206–44–0	0.068	3.4
Fluorene	86–73–7	0.059	3.4
Formetanate hydrochloride	23422–53–9	0.056	1.4
Formparanate	17702–57–7	0.056	1.4
Heptachlor	76–44–8	0.0012	0.066
Heptachlor epoxide	1024–57–3	0.016	0.066
Hexachlorobenzene	118–74–1	0.055	10
Hexachlorobutadiene	87–68–3	0.055	5.6
Hexachlorocyclopentadiene	77–47–4	0.057	2.4
Hexachloroethane	67–72–1	0.055	30
Hexachloropropylene	1888–71–7	0.035	30
HxCDDs (All Hexachlorodibenzo-p-dioxins)	NA	0.000063	0.001
HxCDFs (All Hexachlorodibenzofurans)	NA	0.000063	0.001
Indeno (1,2,3-c,d) pyrene	193–39–5	0.0055	3.4
Iodomethane	74–88–4	0.19	65
3-Iodo-2-propynyl n-butylcarbamate	55406–53–6	0.056	1.4
Isobutyl alcohol	78–83–1	5.6	170
Isodrin	465–73–6	0.021	0.066
Isolan	119–38–0	0.056	1.4
Isosafrole	120–58–1	0.081	2.6
Kepone	143–50–0	0.0011	0.13
Methacrylonitrile	126–98–7	0.24	84
Methanol	67–56–1	5.6	0.75 mg/l TCLP
Methapyrilene	91–80–5	0.081	1.5
Methiocarb	2032–65–7	0.056	1.4
Methomyl	16752–77–5	0.028	0.14
Methoxychlor	72–43–5	0.25	0.18
Methyl ethyl ketone	78–93–3	0.28	36

UNIVERSAL TREATMENT STANDARDS—Continued

[Note: NA means not applicable.]

Regulated constituent/common name	CAS [1] number	Wastewater standard	Nonwastewater standard
		Concentration in mg/l [2]	Concentration in mg/kg [3] unless noted as "mg/l TCLP"
Methyl isobutyl ketone	108–10–1	0.14	33
Methyl methacrylate	80–62–6	0.14	160
Methyl methansulfonate	66–27–3	0.018	NA
Methyl parathion	298–00–0	0.014	4.6
3-Methylchlolanthrene	56–49–5	0.0055	15
4,4-Methylene bis(2-chloroaniline	101–14–4	0.50	30
Methylene chloride	75–09–2	0.089	30
Metolcarb	1129–41–5	0.056	1.4
Mexacarbate	315–18–4	0.056	1.4
Molinate	2212–67–1	0.003	1.4
Naphthalene	91–20–3	0.059	5.6
2-Naphthylamine	91–59–8	0.52	NA
o-Nitroaniline	88–74–4	0.27	14
p-Nitroaniline	100–01–6	0.028	28
Nitrobenzene	98–95–3	0.068	14
5-Nitro-o-toluidine	99–55–8	0.32	28
o-Nitrophenol	88–75–5	0.028	13
p-Nitrophenol	100–02–7	0.12	29
N-Nitrosodiethylamine	55–18–5	0.40	28
N-Nitrosodimethylamine	62–75–9	0.40	2.3
N-Nitroso-di-n-butylamine	924–16–3	0.40	17
N-Nitrosomethylethylamine	10595–95–6	0.40	2.3
N-Nitrosomorpholine	59–89–2	0.40	2.3
N-Nitrosopiperidine	100–75–4	0.013	35
N-Nitrosopyrrolidine	930–55–2	0.013	35
Oxamyl	23135–22–0	0.056	0.28
Parathion	56–38–2	0.014	4.6
Total PCBs (sum of all PCB isomers, or all Aroclors)	1336–36–3	0.10	10
Pebulate	1114–71–2	0.003	1.4
Pentachlorobenzene	608–93–5	0.055	10
PeCDDs (All Pentachlorodibenzo-p-dioxins)	NA	0.000063	0.001
PeCDFs (All Pentachlorodibenzofurans)	NA	0.000035	0.001
Pentachloroethane	76–01–7	0.055	6.0
Pentachloronitrobenzene	82–68–8	0.055	4.8
Pentachlorophenol	87–86–5	0.089	7.4
Phenacetin	62–44–2	0.081	16
Phenanthrene	85–01–8	0.059	5.6
Phenol	108–95–2	0.039	6.2
o-Phenylenediamine	95–54–5	0.056	5.6
Phorate	298–02–2	0.021	4.6
Phthalic acid	100–21–0	0.055	28
Phthalic anhydride	85–44–9	0.055	28
Physostigmine	57–47–6	0.056	1.4
Physostigmine salicylate	57–64–7	0.056	1.4
Promecarb	2631–37–0	0.056	1.4
Pronamide	23950–58–5	0.093	1.5
Propham	122–42–9	0.056	1.4
Propoxur	114–26–1	0.056	1.4
Prosulfocarb	52888–80–9	0.003	1.4
Pyrene	129–00–0	0.067	8.2
Pyridine	110–86–1	0.014	16
Safrole	94–59–7	0.081	22
Silvex/2,4,5-TP	93–72–1	0.72	7.9
1,2,4,5-Tetrachlorobenzene	95–94–3	0.055	14
TCDDs (All Tetrachlorodibenzo-p-dioxins)	NA	0.000063	0.001
TCDFs (All Tetrachlorodibenzofurans)	NA	0.000063	0.001
1,1,1,2-Tetrachloroethane	630–20–6	0.057	6.0
1,1,2,2-Tetrachloroethane	79–34–5	0.057	6.0
Tetrachloroethylene	127–18–4	0.056	6.0
2,3,4,6-Tetrachlorophenol	58–90–2	0.030	7.4
Thiodicarb	59669–26–0	0.019	1.4
Thiophanate-methyl	23564–05–8	0.056	1.4
Tirpate	26419–73–8	0.056	0.28
Toluene	108–88–3	0.080	10
Toxaphene	8001–35–2	0.0095	2.6

UNIVERSAL TREATMENT STANDARDS—Continued

[Note: NA means not applicable.]

Regulated constituent/common name	CAS [1] number	Wastewater standard	Nonwastewater standard
		Concentration in mg/l [2]	Concentration in mg/kg [3] unless noted as "mg/l TCLP"
Triallate	2303–17–5	0.003	1.4
Tribromomethane/Bromoform	75–25–2	0.63	15
1, 2, 4-Trichlorobenzene	120–82–1	0.055	19
1,1,1-Trichlorethane	71–55–6	0.054	6.0
1,1,2-Trichlorethane	79–00–5	0.054	6.0
Trichloroethylene	79–01–6	0.054	6.0
Trichloromonofluoromethane	75–69–4	0.020	30
2,4,5-Trichlorophenol	95–95–4	0.18	7.4
2,4,6-Trichlorophenol	88–06–2	0.035	7.4
2,4,5-Trichlorophenoxyacetic acid/2,4,5-T	93–.76–5	0.72	7.9
1,2,3-Trichloropropane	96–18–4	0.85	30
1,1,2-Trichloro-2,2,2-trifluoroethane	76–13–1	0.057	30
Triethylamine	101–44–8	0.081	1.5
tris-(2,3-Dibromopropyl) phosphate	126–72–7	0.11	0.10
Vernolate	1929–77–7	0.003	1.4
Vinyl chloride	75–01–4	0.27	6.0
Xylenes-mixed isomers (sum of o-,m-, and p-xylene concentrations)	1330–20–7	0.32	30
II. Inorganic Constituents:			
Antimony	7440–36–0	1.9	2.1 mg/l TCLP
Arsenic	7440–38–2	1.4	5.0 mg/l TCLP
Barium	7440–39–3	1.2	7.6 mg/l TCLP
Beryllium	7440–41–7	0.82	0.014 mg/l TCLP
Cadmium	7440–43–9	0.69	0.19 mg/l TCLP
Chromium (Total)	7440–47–3	2.77	0.86 mg/l TCLP
Cyanides (Total) [4]	57–12–5	1.2	590
Cyanides (Amenable) [4]	57–12–5	0.86	30
Fluoride [5]	16984–48–8	35	NA
Lead	7439–92–1	0.69	0.37 mg/l TCLP
Mercury—Nonwastewater from Retort	7439–97–6	NA	0.20 mg/l TCLP
Mercury—All Others	7439–97–6	0.15	0.25 mg/l TCLP
Nickel	7440–02–0	3.98	5.0 mg/l TCLP
Selenium	7782–49–2	0.82	0.16 mg/l TCLP
Silver	7440–22–4	0.43	0.30 mg/l TCLP
Sulfide	18496–25–8	14	NA
Thallium	7440–28–0	1.4	0.78 mg/l TCLP
Vanadium [4]	7440–62–2	4.3	0.23 mg/l TCLP
Zinc [5]	7440–66–6	2.61	5.3 mg/l TCLP

Notes to table:

[1] CAS means Chemical Abstract Services. When the waste code and/or regulated constituents are described as a combination of a chemical with it's salts and/or esters, the CAS number is given for the parent compound only.

[2] Concentration standards for wastewaters are expressed in mg/l and are based on analysis of composite samples.

[3] Except for Metals (EP or TCLP) and Cyanides (Total and Amenable) the nonwastewater treatment standards expressed as a concentration were established, in part, based upon incineration in units operated in accordance with the technical requirements of 40 CFR part 264, subpart O, or 40 CFR part 265, subpart O, or based upon combustion in fuel substitution units operating in accordance with applicable technical requirements. A facility may comply with these treatment standards according to provisions in 40 CFR 268.40(d). All concentration standards for nonwastewaters are based on analysis of grab samples.

[4] Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method 9010 or 9012, found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW–846, as incorporated by reference in 40 CFR 260.11, with a sample size of 10 grams and a distillation time of one hour and 15 minutes.

[5] These constituents are not "underlying hazardous constituents" in characteristic wastes, according to the definition at § 268.2(i).

20. Appendix XI is added to part 268 to read as follows:

APPENDIX XI TO PART 268—METAL BEARING WASTES PROHIBITED FROM DILUTION IN A COMBUSTION UNIT ACCORDING TO 40 CFR 268.3(C) [1]

Waste code	Waste description
D004	Toxicity Characteristic for Arsenic.
D005	Toxicity Characteristic for Barium.
D006	Toxicity Characteristic for Cadmium.
D007	Toxicity Characteristic for Chromium.
D008	Toxicity Characteristic for Lead.
D009	Toxicity Characteristic for Mercury.
D010	Toxicity Characteristic for Selenium.
D011	Toxicity Characteristic for Silver.

APPENDIX XI TO PART 268—METAL BEARING WASTES PROHIBITED FROM DILUTION IN A COMBUSTION UNIT ACCORDING TO 40 CFR 268.3(C) [1]—Continued

Waste code	Waste description
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.
F007	Spent cyanide plating bath solutions from electroplating operations.
F008	Plating bath residues from the bottom of plating baths from electroplating operations where cyanides are used in the process.
F009	Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process.
F010	Quenching bath residues from oil baths from metal treating operations where cyanides are used in the process.
F011	Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations.
F012	Quenching waste water treatment sludges from metal heat treating operations where cyanides are used in the process.
F019	Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum car washing when such phosphating is an exclusive conversion coating process.
K002	Wastewater treatment sludge from the production of chrome yellow and orange pigments.
K003	Wastewater treatment sludge from the production of molybdate orange pigments.
K004	Wastewater treatment sludge from the production of zinc yellow pigments.
K005	Wastewater treatment sludge from the production of chrome green pigments.
K006	Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated).
K007	Wastewater treatment sludge from the production of iron blue pigments.
K008	Oven residue from the production of chrome oxide green pigments.
K061	Emission control dust/sludge from the primary production of steel in electric furnaces.
K069	Emission control dust/sludge from secondary lead smelting.
K071	Brine purification muds from the mercury cell processes in chlorine production, where separately prepurified brine is not used.
K100	Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting.
K106	Sludges from the mercury cell processes for making chlorine.
P010	Arsenic acid H_3AsO_4
P011	Arsenic oxide As_2O_5
P012	Arsenic trioxide
P013	Barium cyanide
P015	Beryllium
P029	Copper cyanide Cu(CN)
P074	Nickel cyanide $Ni(CN)_2$
P087	Osmium tetroxide
P099	Potassium silver cyanide
P104	Silver cyanide
P113	Thallic oxide
P114	Thallium (I) selenite
P115	Thallium (I) sulfate
P119	Ammonium vanadate
P120	Vanadium oxide V_2O_5
P121	Zinc cyanide.
U032	Calcium chromate.
U145	Lead phosphate.
U151	Mercury.
U204	Selenious acid.
U205	Selenium disulfide.
U216	Thallium (I) chloride.
U217	Thallium (I) nitrate.

[1] A combustion unit is defined as any thermal technology subject to 40 CFR part 264, subpart O; Part 265, subpart O; and/or 266, subpart H.

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

21. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a) and 6926.

Subpart A—Requirements for Final Authorization

22. Section 271.1(j) is amended by adding the following entries to Table 1 in chronological order by date of publication in the Federal Register, and by adding the following entries to Table 2 in chronological order by effective date in the Federal Register to read as follows:

§ 271.1 Purpose and scope.

* * * * *

(j) * * *

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	Federal Register reference	Effective date
* *	* * *	*	*
April 8, 1996	Land Disposal Restrictions Phase III—Decharacterized Wastewaters, Carbamate Wastes, and Spent Aluminum Potliners in § 268.39..	61 FR [Insert page numbers].	July 8, 1996.
* *	* * *	*	*

* * * * *

TABLE 2—SELF-IMPLEMENTING PROVISIONS OF THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Effective date	Self-implementing provision	RCRA citation	Federal Register reference
* *	* *	*	* *
July 8, 1996	Prohibition on land disposal of carbamate wastes..	3004(m).	April 8, 1996, 61 FR [Insert page numbers].
* *	* *	*	* *
October 8, 1996	Prohibition on land disposal of K088 wastes. .	3004(m).	April 8, 1998, 61 FR [Insert page numbers].
April 8, 1996		3004(m)	April 8, 1996, 61 FR [Insert page numbers].
* *	* *	*	* *

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PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

23. The authority citation for part 403 continues to read as follows:

Authority: Sec. 54(c)(2) of the Clean Water Act of 1977, (Pub. L. 95–217) sections 204(b)(1)(C), 208(b)(2)(C)(iii), 301(b)(1)(A)(ii), 301(b)(2)(A)(ii), 301(b)(2)(C), 301(h)(5), 301(i)(2), 304(e), 304(g), 307, 308, 309, 402(b), 405 and 501(a) of the Federal Water Pollution Control Act (Pub. L. 92–500) as amended by the Clean Water Act of 1977 and the Water Quality Act of 1987 (Pub. L. 100–4).

24. In § 403.5, paragraphs (c) heading, (c)(1) and (d) are revised to read as follows:

§ 403.5 National pretreatment standards: Prohibited discharges.

* * * * *

(c) *Development of specific limits by POTW.* (1) Each POTW developing a POTW Pretreatment Program pursuant to § 403.8 shall develop and enforce specific limits to implement the prohibitions listed in paragraphs (a)(1) and (b) of this section. Each POTW with an approved pretreatment program shall continue to develop these limits as necessary and effectively enforce such limits. In addition, the POTW may establish such limits as necessary to address the land disposal restrictions at 40 CFR 268.40.

* * * * *

(d) *Local limits.* Where specific prohibitions or limits on pollutants or pollutant parameters are developed by a POTW in accordance with paragraph (c) of this section, including those standards established to address land disposal restrictions at 40 CFR 268.40, such limits shall be deemed Pretreatment Standards for the purposes of section 307(d) of the Act.

* * * * *

[FR Doc. 96–7597 Filed 4–5–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 148, 268 and 403

[EPA # 530–Z–96–002; FRL–5452–7]

RIN 2050–AD38

Land Disposal Restrictions Phase III—Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners

AGENCY: Environmental Protection Agency (EPA).

ACTION: Partial withdrawal and amendment of final rule.

SUMMARY: Elsewhere in this Federal Register, EPA is promulgating a final rule which, among other things, revises treatment standards for hazardous wastewaters that exhibit the characteristic of ignitability, corrosivity, reactivity, or toxicity. The revised treatment standards were promulgated to implement the mandate of the opinion of the Circuit Court of Appeals for the District of Columbia Circuit in *Chemical Waste Management (CWM)* v. *EPA*, 976 F. 2d 2 (D.C. Cir. 1992) cert. denied 507 U.S. 1057 (1993). On March 26, 1996, President Clinton signed into law the Land Disposal Program Flexibility Act of 1996 which, among other things, provides that the wastes in question are no longer prohibited from land disposal so long as they are not hazardous wastes at the point they are land disposed. By operation of the statute, this provision is made effective immediately and therefore essentially overrules this portion of the CWM opinion. EPA accordingly is incorporating the statutory provision into the regulations by amending and/or withdrawing the portions of the regulations that are superseded by the new legislation. The amendment/withdrawal of these standards does not affect any other part of the final rule; and the effective dates of the other actions in the final rule likewise will not change. Furthermore, EPA is amending parts of the LDR Phase II final rule, published on September 19, 1994 (59 FR 47982) which are also overruled by the legislation.

EFFECTIVE DATE: April 5, 1996.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Hotline at 800–424–9346 (toll-free) or 703–412–9810 locally. For specific information on the LDR Phase III rule

and this document, contact Peggy Vyas in the Office of Solid Waste, phone 703–308–8594.

SUPPLEMENTARY INFORMATION:

I. Today's Action

Elsewhere in this Federal Register, a final rule is published which revises treatment standards for decharacterized wastewaters that are managed in surface impoundments regulated under the Clean Water Act (CWA) or in CWA-equivalent systems, and in Class I nonhazardous waste injection wells regulated under the Safe Drinking Water Act (SDWA). Among other actions, the final rule would have (1) revised 40 CFR 148.1(b) and (d), 148.3, 148.4, 148.20(a), 268.3, 268.40(e), 268.44(a), and 403.5(d); and (2) amended 268.1(e), 268.9(d), and 403.5(c); as well as (3) added 148.18, 268.2 (k) and (l), 268.9 (e), (f), and (g), and 268.39. EPA also promulgated certain regulations as part of the LDR Phase II rule prohibiting injection of certain decharacterized wastes (see 40 CFR 148.17(c) and 268.1(c)(3) at 59 FR 48041 and 48043 (September 19, 1994)).

EPA promulgated these provisions to implement the holding and reasoning of the D.C. Circuit's opinion in *CWM* v. *EPA*, 976 F. 2d 2 (D.C. Cir. 1992), cert. denied 507 U.S. 1057 (1993). EPA interpreted this opinion to require hazardous constituents in characteristic wastes to be treated so that the constituents were removed, destroyed or immobilized before the wastes were permanently land disposed, in order to minimize threats posed by land disposal of the wastes. This requirement extended to wastewaters managed in the types of centralized wastewater management systems mentioned above. In doing so, EPA noted in the LDR Phase III final rule, published elsewhere in this Federal Register, that it would not have set treatment standards for hazardous constituents in these characteristic wastewaters at this time but for the court's opinion, and noted the pendency of legislation which could overrule the court's opinion and so require amendments to the final rule.

Congress has now passed that legislation, the Land Disposal Program Flexibility Act of 1996, and President Clinton signed it into law on March 26, 1996 (Public Law 104–119, 100 Stat. 830). A main purpose of the legislation is to put back in place the approach for centrally-managed, decharacterized wastewater which EPA adopted in the LDR ''Third Third'' rule promulgated on June 1, 1990 (55 FR 22520). The new legislation states, in essence, that hazardous wastes which are hazardous only because they are identified as exhibiting a characteristic are not prohibited from land disposal if they are managed in either a treatment system whose ultimate discharge is regulated under the CWA (including both direct and indirect dischargers), a CWA-equivalent treatment system, or a Class I nonhazardous injection well regulated under the SDWA, provided that the wastes no longer are hazardous (i.e. no longer exhibit a characteristic) at the point land disposal occurs (RCRA § 3004(g) (7) and (8)). The characteristic can be removed by any means, including dilution or other deactivation through aggregation of different wastestreams preceding land disposal (see H. Rep. No. 454, 104th Cong. 2d Sess. at 9). For wastes managed in CWA or CWA-equivalent systems, there is a further caveat that characteristic wastes for which EPA has promulgated a method of treatment as the treatment standard (for example, high TOC ignitable wastes for which the treatment standard is recovery of organics (RORGS) or combustion (CMBST)) remain prohibited unless treated pursuant to that method (RCRA § 3004(g)(7)). Reactive cyanide wastes (i.e. wastes that may release toxic emissions when exposed to pH conditions between 2 and 12 as defined in 40 CFR 261.23(a)(5)) likewise remain prohibited from disposal units in CWA and CWA-equivalent treatment systems unless first treated to satisfy the treatment standard (*id.*).

The purpose of this notice is to withdraw the portions of the existing rules which are inconsistent with the new statute and therefore no longer in effect, or, in a few limited instances, to amend language which cannot be feasibly withdrawn. Thus, treatment standards for wastes identified as exhibiting a characteristic and managed in centralized wastewater management systems identified above will require only that the wastes be deactivated (i.e. rendered non-hazardous) before they are land disposed. The exception will continue to be for wastes for which the treatment standard is a method of treatment—namely high TOC ignitables—and for reactive cyanide wastes, which must be treated to satisfy the existing treatment standard before land disposal in a surface impoundment at CWA and CWA-equivalent treatment systems.

This action puts back in place the rules which existed before EPA promulgated the LDR Phase III provisions. Thus, for example, withdrawing the version of 148.1(d) promulgated in the LDR Phase III rule has the effect of restoring the previous version of that provision. EPA believes that withdrawing the portions of the rules that have been superseded is the quickest and simplest way of amending the rules that conform to the new legislation. Certain portions of the LDR Phase III rule have to be amended (namely §§ 268.3, 268.39 and 268.40) because withdrawing them would undo other revisions which are not affected by the legislation. [1]

EPA realizes that there may be certain questions relating to other provisions of the rules which may benefit from clarifying revisions in light of the statutory amendment. (Communications from various affected parties suggesting such changes are part of the record for this notice.) EPA is limiting this notice to changes that have to be made to eliminate superceded regulatory provisions. EPA intends to pursue the possibility of whether clarifying amendments are needed in other proceedings.

EPA does wish, however, that to clarify that as a result of withdrawing these provisions, generators with decharacterized wastewaters that are being managed in CWA or CWA-equivalent systems or injected into Class I nonhazardous injection wells do not have to identify underlying hazardous constituents. EPA also wishes to make clear to States that withdrawing these provisions removes the obligation for States to adopt them as part of an authorized program.

II. Interpretive Issues

A. Definition of CWA-Equivalent Treatment

The legislation does not define what a CWA-equivalent treatment system is, leaving the issue to the Administrator (RCRA § 3004(g)(7)(A)). EPA's existing rules at 40 CFR 268.38(a) provide a definition: ''CWA equivalent treatment means biological treatment for organics, alkaline chlorination or ferrous sulfate precipitation for cyanide, precipitation/sedimentation for metals, reduction of hexavalent chromium, or other treatment technology that can be demonstrated to perform equally or better than these technologies.'' EPA intends to use this definition in implementing the new statute.

B. Wastes Listed Because They Exhibit a Characteristic

A number of wastes, such as F003 ignitable solvents, are listed as hazardous solely because they exhibit a characteristic of hazardous waste. The legislation does not by its terms apply

[1] In addition, EPA is withdrawing § 148.18(d) because this prohibition already exists in § 148.16 (c) and (f).

to such wastes (it applies only to wastes that are identified by characteristic, and so does not apply to listed wastes). EPA's current rules addressing the status of this type of waste under the LDR program are tangled. The Agency initially found that the dilution prohibition should apply to such wastes. See 56 FR 3864 and 3871 (Jan. 31, 1991). However, in a later notice, EPA amended the rules so that wastewaters that are listed solely because they exhibit a characteristic would not be subject to the dilution prohibition. 57 FR 37194 and 37263 (August 18, 1992). EPA did so to be consistent with the Third Third rule's approach to characteristic wastewaters. Id. at 37210–37211. This action occurred before the D.C. Circuit issued its decision remanding portions of the Third Third rule dealing with wastewaters. The Agency never corrected the regulation (found at 40 CFR 261.3(a)(2)(iii)) to conform to the opinion.

EPA's initial view is that the existing regulatory provision not applying the dilution prohibition to wastewaters listed because they exhibit a characteristic is probably inconsistent with the court's opinion, but that the principles of the new legislation (although not its language) could apply to these wastes. EPA thus has a policy choice as to whether to amend the existing rule. Today's notice is not intended to make policy choices, but rather to withdraw those rules no longer in effect. EPA plans to revisit this issue in a later proceeding. In the interim, the existing rule which provides that the dilution prohibition does not apply to wastewaters listed solely because they exhibit a characteristic remains in effect.

III. Status of Other LDR Treatment Standards

EPA is not withdrawing other treatment standards promulgated in either the LDR Phase III rule or other rules implementing portions of the court's opinion that are unaffected by the new legislation. Consequently, the provisions of the May 24, 1993, Interim Final Rule (58 FR 29860), which applied to disposal not involving the types of centralized wastewater management systems covered by the legislation, remain unaffected. Thus, underlying hazardous constituents in decharacterized wastes that are disposed of in systems other than these centralized wastewater management systems must continue to be treated before land disposal. Similarly, EPA amended the treatment standards for reactive wastes in the LDR Phase III final rule, published elsewhere in this Federal Register, to require that underlying hazardous constituents be treated when the wastes are land disposed (with an exception for certain types of emergency detonation situations). These requirements are likewise not addressed by the legislation (unless centralized wastewater management of the wastes is involved), and EPA is consequently not withdrawing these treatment standards.

IV. Rationale for Immediate Effective Date

EPA is taking this action without prior notice and opportunity to comment. Because the provisions of the legislation are effective immediately, the legislation overrules the D.C. Circuit's opinion, and thus necessarily overrules the rules implementing those parts of the opinion. Consequently, those rules need to be withdrawn to reflect the new statute. The situation is similar to what the Agency faced in 1985 when it codified portions of the 1984 amendments to RCRA without prior notice and opportunity to comment. 50 FR 28704 (July 15, 1985). The Agency's action was upheld in *United Technologies* v. *EPA*, 821 F. 2d 714, 720 (D.C. Cir. 1987). See also *Metzenbaum* v. *Federal Energy Regulatory Commission (FERC)*, 675 F. 2d 1282, 1291 (D.C. Cir. 1982) (funding orders implementing statutory waiver were non-discretionary acts regulated by such waiver and that notice and comment procedures were unnecessary and possibly contrary to public interest ''given the expense that would have been involved in the futile gesture''); *Hadson Gas Systems* v. *FERC*, _____ F. 2d ____ (D.C. Cir. Feb. 9, 1996) (because controlling statute left FERC no authority to retain a regulation, notice and comment is not needed to withdraw it). EPA views today's effort as comparable to that involved in codifying the 1984 amendments since the legislation is focused clearly on one particular set of regulations and requires little interpretation by the Agency, and consequently that the decision to issue an immediately final withdrawal is justified. Consequently, EPA believes that good cause exists to issue this rule in immediately final form.

List of Subjects

40 CFR Part 148

Environmental protection, Administrative practice and procedure, Hazardous waste, Reporting and recordkeeping requirements, Water supply.

40 CFR Part 268

Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 403

Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution controls.

Dated: March 29, 1996.

Carol M. Browner,

Administrator.

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

1. The amendments revising 40 CFR 148.1(b) and (d), 148.3, 148.4, 148.20(a) introductory text, 268.3, 268.40(e), 268.44(a), and 403.5(d); as well as the amendments amending 40 CFR 268.1(e), 268.9(d), and 403.5(c); as well as the amendments adding 40 CFR 148.18, 268.2(k) and (l), 268.9(e), (f), and (g), and 268.39 as published elsewhere in this issue of the Federal Register are withdrawn.

PART 148—HAZARDOUS WASTE INJECTION RESTRICTIONS

2. The authority citation for part 148 continues to read as follows:

Authority: Sec. 3004, Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*

§ 148.17—[Amended]

3. Section 148.17 is amended by removing and reserving paragraph (c).

4. Section 148.18 is added to subpart B to read as follows:

§ 148.18 Waste specific prohibitions—newly identified wastes.

(a) On July 8, 1996, the wastes specified in 40 CFR 261.32 as EPA Hazardous waste numbers K156–K161, P127, P128, P185, P188–P192, P194, P196–P199, P201–P205, U271, U277–U280, U364–U367, U372, U373, U375–U379, U381–387, U389–U396, U400–U404, U407, and U409–U411 are prohibited from underground injection.

(b) On January 8, 1997, the wastes specified in 40 CFR 261.32 as EPA Hazardous waste number K088 is prohibited from underground injection.

(c) On April 8, 1998, the wastes specified in 40 CFR part 261 as EPA Hazardous waste numbers D018–043, and Mixed TC/Radioactive wastes, are prohibited from underground injection.

PART 268—LAND DISPOSAL RESTRICTIONS

5. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

Subpart A—General

6. Section 268.1 is amended by removing and reserving paragraph (c)(3).

7. Section 268.3 is revised to read as follows:

§ 268.3 Dilution prohibited as a substitute for treatment.

(a) Except as provided in paragraph (b) of this section, no generator, transporter, handler, or owner or operator of a treatment, storage, or disposal facility shall in any way dilute a restricted waste or the residual from treatment of a restricted waste as a substitute for adequate treatment to achieve compliance with subpart D of this part, to circumvent the effective date of a prohibition in subpart C of this part, to otherwise avoid a prohibition in subpart C of this part, or to circumvent a land disposal prohibition imposed by RCRA section 3004.

(b) Dilution of wastes that are hazardous only because they exhibit a characteristic in a treatment system which treats wastes subsequently discharged to a water of the United States pursuant to a permit issued under section 402 of the Clean Water Act (CWA), or which treats wastes in a CWA-equivalent treatment system, or which treats wastes for the purposes of pretreatment requirements under section 307 of the CWA is not impermissible dilution for purposes of this section unless a method has been specified in § 268.40 as the treatment standard, or unless the waste is a D003 reactive cyanide wastewater or nonwastewater.

(c) Combustion of the hazardous waste codes listed in Appendix XI of this part is prohibited, unless the waste, at the point of generation, or after any bona fide treatment such as cyanide destruction prior to combustion, can be demonstrated to comply with one or more of the following criteria (unless otherwise specifically prohibited from combustion):

(1) The waste contains hazardous organic constituents or cyanide at levels exceeding the constituent-specific treatment standard found in § 268.48;

(2) The waste consists of organic, debris-like materials (e.g., wood, paper, plastic, or cloth) contaminated with an inorganic metal-bearing hazardous waste;

(3) The waste, at point of generation, has reasonable heating value such as greater than or equal to 5000 BTU per pound;

(4) The waste is co-generated with wastes for which combustion is a required method of treatment;

(5) The waste is subject to Federal and/or State requirements necessitating reduction of organics (including biological agents); or

(6) The waste contains greater than 1% Total Organic Carbon (TOC).

8. Section 268.39 is added to read as follows:

§ 268.39 Waste specific prohibitions—spent aluminum potliners; reactive; and carbamate wastes.

(a) On July 8, 1996, the wastes specified in 40 CFR 261.32 as EPA Hazardous Waste numbers K156–K161; and in 40 CFR 261.33 as EPA Hazardous Waste numbers P127, P128, P185, P188–P192, P194, P196–P199, P201–P205, U271, U277–U280, U364–U367, U372, U373, U375–U379, U381–U387, U389–U396, U400–U404, U407, and U409–U411 are prohibited from land disposal. In addition, soil and debris contaminated with these wastes are prohibited from land disposal.

(b) On July 8, 1996, the wastes identified in 40 CFR 261.23 as D003 that are managed in systems other than those whose discharge is regulated under the Clean Water Act (CWA), or that inject in Class I deep wells regulated under the Safe Drinking Water Act (SDWA), or that are zero dischargers that engage in CWA-equivalent treatment before ultimate land disposal, are prohibited from land disposal. This prohibition does not apply to unexploded ordnance and other explosive devices which have been the subject of an emergency response. (Such D003 wastes are prohibited unless they meet the treatment standard of DEACT before land disposal (see § 268.40)).

(c) On January 8, 1997, the wastes specified in 40 CFR 261.32 as EPA Hazardous Waste number K088 are prohibited from land disposal. In addition, soil and debris contaminated with these wastes are prohibited from land disposal.

(d) On April 8, 1998, Radioactive wastes mixed with K088, K156–K161, P127, P128, P185, P188–P192, P194, P196–P199, P201–P205, U271, U277–U280, U364–U367, U372, U373, U375–U379, U381–U387, U389–U396, U400–U404, and U407, U409–U411 are also prohibited from land disposal. In addition, soil and debris contaminated with these radioactive mixed wastes are prohibited from land disposal.

(e) Between July 8, 1996, and April 8, 1998, the wastes included in paragraphs (a), (b), (c), and (d) of this section may be disposed in a landfill or surface impoundment, only if such unit is in compliance with the requirements specified in § 268.5(h)(2).

(f) The requirements of paragraphs (a), (b), (c), and (d) of this section do not apply if:

(1) The wastes meet the applicable treatment standards specified in Subpart D of this part;

(2) Persons have been granted an exemption from a prohibition pursuant to a petition under § 268.6, with respect to those wastes and units covered by the petition;

(3) The wastes meet the applicable alternate treatment standards established pursuant to a petition granted under § 268.44;

(4) Persons have been granted an extension to the effective date of a prohibition pursuant to § 268.5, with respect to these wastes covered by the extension.

(g) To determine whether a hazardous waste identified in this section exceeds the applicable treatment standards specified in § 268.40, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains constituents in excess of the applicable Subpart D levels, the waste is prohibited from land disposal, and all requirements of this part 268 are applicable, except as otherwise specified.

9. Section 268.40 is amended by revising paragraph (e) to read as follows:

§ 268.40 Applicability of treatment standards.

* * * * *

(e) For characteristic wastes (D001–D003, and D018–D043) that are subject to treatment standards in the following table ''Treatment Standards for Hazardous Wastes,'' all underlying hazardous constituents (as defined in § 268.2(i)) must meet Universal Treatment Standards, found in § 268.48, ''Table UTS,'' prior to land disposal as defined in § 268.2(c).

* * * * *

10. In § 268.40, Table § 268.40, as revised elsewhere in this issue of the Federal Register, is further amended by removing note 8 at the end of the table and by revising the entries for D001, D002, D003 and D018–D043 to read as follows:

* * * * *

TREATMENT STANDARDS FOR HAZARDOUS WASTES

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory [1]	Regulated Hazardous Constituent		Wastewaters	Nonwastewaters
		Common name	CAS [2] No.	Concentration in mg/l [3]; or technology code [4]	Concentration in mg/kg [5] unless noted as "mg/l TCLP"; or technology code
D001 ..	Ignitable Characteristic Wastes, except for the § 261.21(a)(1) High TOC Subcategory, that are managed in non-CWA/non-CWA-equivalent/non-Class I SDWA systems.	NA	NA	DEACT and meet § 268.48 standards; or RORGS; or CMBST	DEACT and meet § 268.48 standards; or RORGS; or CMBST
	Ignitable Characteristic Wastes, except for the § 261.21(a)(1) High TOC Subcategory, that are managed in CWA/CWA-equivalent/Class I SDWA systems.	NA	NA	DEACT	DEACT
	High TOC Ignitable Characteristic Liquids Subcategory based on 40 CFR 261.21(a)(1)—Greater than or equal to 10% total organic carbon. (Note: This subcategory consists of nonwastewaters only).	NA	NA	NA	RORGS; or CMBST
D002 ..	Corrosive Characteristic Wastes that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems.	NA	NA	DEACT and meet § 268.48 standards	DEACT and meet § 268.48 standards
	Corrosive Characteristic Wastes that are managed in CWA, CWA-equivalent, or Class I SDWA systems.	NA	NA	DEACT	DEACT
	* * *	*	*	*	*
D003 ..	Reactive Sulfides Subcategory based on 261.23(a)(5).	NA	NA	DEACT	DEACT
	Unexploded ordnance and other explosive devices which have been the subject of an emergency response.	NA	NA	DEACT	DEACT
	Explosives Subcategory based on 261.23(a)(6), (7), and (8).	NA	NA	DEACT and meet § 268.48 standards	DEACT and meet § 268.48 standards
	Other Reactives Subcategory based on 261.23(a)(1).	NA	NA	DEACT	DEACT
	Water Reactive Subcategory based on 261.23(a) (2), (3), and (4). (Note: This subcategory consists of nonwastewaters only.).	NA	NA	NA	DEACT and meet § 268.48 standards
	Reactive Cyanides Subcategory based on 261.23(a)(5).	Cyanides (Total) [7]	57–12–5	Reserved	590
		Cyanides (Amenable) [7]	57–12–5	0.86	30
	* * *	*	*	*	*
D018 ..	Wastes that are TC for Benzene based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems only.	Benzene	71–43–2	0.14 and meet § 268.48 standards	10 and meet § 268.48 standards
	Wastes that are TC for Benzene based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, or Class I SDWA systems.	Benzene	71–43–2	0.14	10
D019 ..	Wastes that are TC for Carbon tetrachloride based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems only.	Carbon tetrachloride	56–23–5	0.057 and meet § 268.48 standards	6.0 and meet § 268.48 standards
	Wastes that are TC for Carbon tetrachloride based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, or Class I SDWA systems.	Carbon tetrachloride	56–23–5	0.057	6.0
D020 ..	Wastes that are TC for Chlordane based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems only.	Chlordane (alpha and gamma isomers).	57–74–9	0.0033 and meet § 268.48 standards	0.26 and meet § 268.48 standards
	Wastes that are TC for Chlordane based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, or Class I SDWA systems.	Chlordane (alpha and gamma isomers).	57–74–9	0.0033	0.26

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory [1]	Regulated Hazardous Constituent		Wastewaters	Nonwastewaters
		Common name	CAS [2] No.	Concentration in mg/l [3]; or technology code [4]	Concentration in mg/kg [5] unless noted as "mg/l TCLP"; or technology code
D021 ..	Wastes that are TC for Chlorobenzene based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems only.	Chlorobenzene	108–90–7	0.057 and meet § 268.48 standards	6.0 and meet § 268.48 standards
	Wastes that are TC for Chlorobenzene based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, or Class I SDWA systems.	Chlorobenzene	108–90–7	0.057	6.0
D022 ..	Wastes that are TC for Chloroform based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems only.	Chloroform	67–66–3	0.046 and meet § 268.48 standards	6.0 and meet § 268.48 standards
	Wastes that are TC for Chloroform based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, or Class I SDWA systems.	Chloroform	67–66–3	0.046	6.0
D023 ..	Wastes that are TC for o-Cresol based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems only.	o-Cresol	95–48–7	0.11 and meet § 268.48 standards	5.6 and meet § 268.48 standards
	Wastes that are TC for o-Cresol based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, or Class I SDWA systems.	o-Cresol	95–48–7	0.11	5.6
D024 ..	Wastes that are TC for m-Cresol based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems only.	m-Cresol (difficult to distinguish from p-cresol).	108–39–4	0.77 and meet § 268.48 standards	5.6 and meet § 268.48 standards
	Wastes that are TC for m-Cresol based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, or Class I SDWA systems.	m-Cresol (difficult to distinguish from p-cresol).	108–39–4	0.77	5.6
D025 ..	Wastes that are TC for p-Cresol based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems only.	p-Cresol (difficult to distinguish from m-cresol).	106–44–5	0.77 and meet § 268.48 standards	5.6 and meet § 268.48 standards
	Wastes that are TC for p-Cresol based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, or Class I SDWA systems.	p-Cresol (difficult to distinguish from m-cresol).	106–44–5	0.77	5.6
D026 ..	Wastes that are TC for Cresols (Total) based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems only.	Cresol-mixed isomers (Cresylic acid) (sum of o-, m-, p-cresol concentrations).	1319–77–3	0.88 and meet § 268.48 standards	11.2 and meet § 268.48 standards
	Wastes that are TC for Cresols (Total) based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, or Class I SDWA systems.	Cresol-mixed isomers (Cresylic acid) (sum of o-, m-, and p-cresol concentrations).	1319–77–3	0.88	11.2
D027 ..	Wastes that are TC for p-Dichlorobenzene based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems only.	p-Dichlorobenzene (1,4-Dichlorobenzene).	106–46–7	0.090 and meet § 268.48 standards	6.0 and meet § 268.48 standards
	Wastes that are TC for p-Dichlorobenzene based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, or Class I SDWA systems.	p-Dichlorobenzene (1,4-Dichlorobenzene).	106–46–7	0.090	6.0
D028 ..	Wastes that are TC for 1,2-Dichloroethane based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA system only.	1,2-Dichloroethane	107–06–2	0.21 and meet § 268.48 standards	6.0 and meet § 268.48 standards

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory [1]	Regulated Hazardous Constituent		Wastewaters	Nonwastewaters
		Common name	CAS [2] No.	Concentration in mg/l [3]; or technology code [4]	Concentration in mg/kg [5] unless noted as "mg/l TCLP"; or technology code
	Wastes that are TC for 1,2-Dichloroethane based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, or Class I SDWA systems.	1,2-Dichloroethane	107–06–2	0.21	6.0
D029 ..	Wastes that are TC for 1,1-Dichloroethylene based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA system only.	1,1-Dichloroethylene	75–35–4	0.025 and meet § 268.48 standards	6.0 and meet § 268.48 standards
	Wastes that are TC for 1,1-Dichloroethylene based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, or Class I SDWA systems.	1,1-Dichloroethylene	75–35–4	0.025	6.0
D030 ..	Wastes that are TC for 2,4-Dinitrotoluene based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA system only.	2,4-Dinitrotoluene	121–14–2	0.32 and meet § 268.48 standards	140 and meet § 268.48 standards
	Wastes that are TC for 2,4-Dinitrotoluene based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, or Class I SDWA systems.	2,4-Dinitrotoluene	121–14–2	0.32	140
D031 ..	Wastes that are TC for Heptachlor based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems only.	Heptachlor	76–44–8	0.0012 and meet § 268.48 standards	0.066 and meet § 268.48 standards
		Heptachlor epoxide	1024–57–3	0.016 and meet § 268.48 standards	0.066 and meet § 268.48 standards
	Wastes that are TC for Heptachlor based on the TCLP ion SW846 Method 1311 and that are managed in CWA, CWA equivalent, or Class I SDWA systems.	Heptachlor	76–44–8	0.0012	0.066
		Heptachlor epoxide	1024–57–3	0.016	0.066
D032 ..	Wastes that are TC for Hexachlorobenzene based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA system only.	Hexachlorobenzene	118–74–1	0.55 and meet § 268.48 standards	10 and meet § 268.48 standards
	Wastes that are TC for Hexachlorobenzene based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, or Class I SDWA systems.	Hexachlorobenzene	118–74–1	0.055	10
D033 ..	Wastes that are TC for Hexachlorobutadiene based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems only.	Hexachlorobutadiene	87–68–3	0.055 and meet § 268.48 standards	5.6 and meet § 268.48 standards
	Wastes that are TC for Hexachlorobutadiene based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, or Class I SDWA systems.	Hexachlorobutadiene	87–68–3	0.055	5.6
D034 ..	Wastes that are TC for Hexachloroethane based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems only.	Hexachloroethane	67–72–1	0.055 and meet § 268.48 standards	30 and meet § 268.48 standards
	Wastes that are TC for Hexachloroethane based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, or Class I SDWA systems.	Hexachlorethane	67–72–1	0.055	30

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory [1]	Regulated Hazardous Constituent		Wastewaters	Nonwastewaters
		Common name	CAS [2] No.	Concentration in mg/l [3]; or technology code [4]	Concentration in mg/kg [5] unless noted as "mg/l TCLP"; or technology code
D035 ..	Wastes that are TC for Methyl ethyl ketone based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems only.	Methyl ethyl ketone	78–93–3	0.28 and meet § 268.48 standards	36 and meet § 268.48 standards
	Wastes that are TC for Methyl ethyl ketone based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, Class I SDWA systems.	Methyl ethyl ketone	78–93–3	0.28	36
D036 ..	Wastes that are TC for Nitrobenzene based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems only.	Nitrobenzene	98–95–3	0.068 and meet § 268.48 standards	14 and meet § 268.48 standards
	Wastes that are TC for Nitrobenzene based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, Class I SDWA systems.	Nitrobenzene	98–95–3	0.068	14
D037 ..	Wastes that are TC for Pentachlorophenol based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems only.	Pentachlorophenol	87–86–5	0.089 and meet § 268.48 standards	7.4 and meet § 268.48 standards
	Wastes that are TC for Pentachlorophenol based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, Class I SDWA systems.	Pentachlorophenol	87–86–5	0.089	7.4
D038 ..	Wastes that are TC for Pyridine based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems only.	Pyridine	110–86–1	0.014 and meet § 268.48 standards	16 and meet § 268.48 standards
	Wastes that are TC for Pyridine based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, or Class I SDWA systems.	Pyridine	110–86–1	0.014	16
D039 ..	Wastes that are TC for Tetrachloroethylene based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems only.	Tetrachloroethylene	127–18–4	0.056 and meet § 268.48 standards	6.0 and meet § 268.48 standards
	Wastes that are TC for Tetrachloroethylene based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, or Class I SDWA systems.	Tetrachloroethylene	127–18–4	0.056	6.0
D040 ..	Wastes that are TC for Trichloroethylene based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems only.	Trichloroethylene	79–01–6	0.054 and meet § 268.48 standards	6.0 and meet § 268.48 standards
	Wastes that are TC for Trichloroethylene based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, or Class I SDWA systems.	Trichloroethylene	79–01–6	0.054	6.0
D041 ..	Wastes that are TC for 2,4,5-Trichlorophenol based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems only.	2,4,5-Trichlorophenol	95–95–4	0.18 and meet § 268.48 standards	7.4 and meet § 268.48 standards
	Wastes that are TC for 2,4,5-Trichlorophenol based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, or Class I SDWA systems.	2,4,5-Trichlorophenol	95–95–4	0.18	7.4

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

(Note: NA means not applicable.)

Waste code	Waste description and treatment/regulatory subcategory [1]	Regulated Hazardous Constituent		Wastewaters	Nonwastewaters
		Common name	CAS [2] No.	Concentration in mg/l [3]; or technology code [4]	Concentration in mg/kg [5] unless noted as "mg/l TCLP"; or technology code
D042 ..	Wastes that are TC for 2,4,6-Trichlorophenol based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems only.	2,4,6-Trichlorophenol	88–06–2	0.035 and meet § 268.48 standards	7.4 and meet § 268.48 standards
	Wastes that are TC for 2,4,6-Trichlorophenol based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, or Class I SDWA systems.	2,4,6-Trichlorophenol	88–06–2	0.035	7.4
D043 ..	Wastes that are TC for Vinyl chloride based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems only.	Vinyl chloride	75–01–4	0.27 and meet § 268.48 standards	6.0 and meet § 268.48 standards
	Wastes that are TC for Vinyl chloride based on the TCLP in SW846 Method 1311 and that are managed in CWA, CWA equivalent, or Class I SDWA systems.	Vinyl chloride	75–01–4	0.27	6.0
	* * *	*	*	*	*

Notes to table:

[1] The waste descriptions provided in this table do not replace waste descriptions in 40 CFR part 261. Descriptions of Treatment/Regulatory Subcategories are provided, as needed, to distinguish between applicability of different standards.

[2] CAS means Chemical Abstract Services. When the waste code and/or regulated constituents are described as a combination of a chemical with it's salts and/or esters, the CAS number if given for the parent compound only.

[3] Concentration standards for wastewaters are expressed in mg/l and are based on analysis of composite samples.

[4] All treatment standards expressed as a Technology Code or combination of Technology Codes are explained in detail in 40 CFR 268.42 Table 1—Technology Codes and Descriptions of Technology-Based Standards.

[5] Except for Metals (EP or TCLP) and Cyanides (Total and Amenable) the nonwastewater treatment standards expressed as a concentration were established, in part, based upon incineration in units operated in accordance with the technical requirements of 40 CFR Part 264, Subpart O, or based upon combustion in fuel substitution units operating in accordance with applicable technical requirements. A facility may comply with these treatment standards according to provisions in 40 CFR 268.40(d). All concentration standards for nonwastewaters are based on analysis of grab samples.

* * * * * *

[7] Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method 9010 or 9012, found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW–846, as incorporated by reference in 40 CFR 260.11, with a sample size of 10 grams and distillation time of one hour and 15 minutes.

[FR Doc. 96–8249 Filed 4–5–96; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Monday
April 8, 1996

Part III

Department of Education

Office of Elementary and Secondary Education; Title I, Part C—Education of Migratory Children; Notice

DEPARTMENT OF EDUCATION

RIN 1830–ZA03

Office of Elementary and Secondary Education; Title I, Part C—Education of Migratory Children

AGENCY: Department of Education.

ACTION: Notice of final criteria for consortium incentive grants in fiscal year (FY) 1996 and subsequent fiscal years, available under Part C of Title I of the Elementary and Secondary Education Act of 1965.

SUMMARY: Under the authority of section 1308(d) of Title I of the Elementary and Secondary Education Act (ESEA), as amended by the Improving America's Schools Act (IASA), the Assistant Secretary for Elementary and Secondary Education (Assistant Secretary) establishes criteria for awarding Migrant Education Program (MEP) consortium incentive grants to State educational agencies (SEAs) with approved consortium arrangements.

EFFECTIVE DATE: These regulations take effect on May 8, 1996.

FOR FURTHER INFORMATION CONTACT: James English, U.S. Department of Education, 600 Independence Avenue, S.W., Portals Building, Room 4100, Washington, D.C. 20202–6135. Telephone: (202) 260–1394. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

The MEP, authorized in Title I, Part C of the ESEA, is a State-operated, formula grant program under which SEAs receive funds to improve the academic achievement and welfare of migratory children who reside in their States. Consistent with the emphasis that the reauthorized ESEA places upon removing barriers to cross-program coordination and integration of programs that serve migratory children, sections 1303(d) and 1308(d) of the ESEA encourage SEAs to consider whether consortium arrangements with other States or appropriate entities would result in a more effective and efficient delivery of MEP services.

In this regard, section 1303(d) directs the Secretary to consult with States whose MEP allocations in any year will be $1 million or less about the desirability of forming consortia. This section also directs the Secretary to approve any State's consortium proposal that (1) reduces MEP administrative costs or program function costs, and (2) increases the amount of MEP funds that are made available for direct services to migratory children that add substantially to the educational attainment or welfare of those children. While an SEA may form a consortium arrangement with any appropriate entity, the Secretary, in light of the strong interstate emphasis in the MEP, encourages SEAs to establish multi-State consortium arrangements.

To encourage States to form consortium arrangements that meet the requirements of section 1303(d), section 1308(d) of the ESEA directs the Secretary to reserve up to $1.5 million of the funds appropriated for the MEP for competitive incentive awards to SEAs with consortium arrangements approved by the Secretary. Section 1308(d) also limits the size of each of these grants to not more than $250,000 and provides that not fewer than 10 grants be made to eligible SEAs with approved consortium arrangements whose MEP are less than $1 million. While the provision offers all States an incentive to participate in consortium arrangements, it was enacted particularly to benefit those States that, because of the small size of their MEP allocations, may have particular difficulty in both administering the MEP and providing direct services to migratory children.

Last year, for FY 1995, the Department exercised its authority under section 437(d)(1) of the General Education Provisions Act (GEPA) to waive public comment on the criteria and process for first-year implementation of the consortium incentive grant program. The notice of final criteria for the FY 1995 grants was published in the Federal Register on March 30, 1995. FY 1995 awards went to 15 SEAs participating in 5 approved consortium arrangements.

On February 1, 1996, the Secretary published in the Federal Register (61 FR 3772) a notice of proposed criteria to award the consortium incentive grants in FY 1996 and subsequent fiscal years. The notice of proposed criteria, which was based on the Department's experience with the FY 1995 grants and subsequent discussions with staff from SEAs that applied or considered applying for grants last year, proposed to continue using the same criteria and process as was used in FY 1995. There are no differences between the notice of proposed criteria and this notice of final criteria.

Analysis of Comment and Changes

In response to the Secretary's invitation in the notice of proposed criteria, two parties submitted comments. One commenter concurred with the notice of proposed criteria as written. One commenter suggested that the notice should include examples of the ''direct services'' for which consortium incentive grant funds could be expended.

The Secretary has made no change in the notice of final criteria. The Secretary cannot envision all possible activities that might be characterized as direct services. The Secretary believes that providing a partial list of examples could limit a recipient's flexibility in using the consortium incentive grant funds.

Eligibility for Consortium Incentive Grants

The Secretary will reserve $1.5 million to implement this consortium incentive grant program in FY 1996. For subsequent fiscal years, the Secretary shall announce, in the Federal Register, the amount of funds that will be available under this grant authority.

The Secretary will use a variety of methods, including meetings and telephone calls, to discuss with SEA officials, in States receiving MEP allocations of less than $1 million, the circumstances in which consortium arrangements might enhance their programs for migratory children.

Consistent with section 1303(d), a consortium arrangement will be approved if it (1) reduces the overall amount of MEP administrative or program function costs across the participating SEAs from the amount that would be incurred in the absence of the consortium, and (2) makes more funds available, in total across the participating SEAS, for direct educational or support services to migratory children, so as to add substantially to their welfare or educational attainment than would have been available in the absence of the consortium.

For purposes of section 1303(d), ''administrative or program function costs'' include all costs that an SEA or its local operating agencies pay from MEP funds to support MEP activities other than direct educational or support services for migratory children. Administrative and program function costs would include the costs of general program administration paid from funds reserved under section 1603(c) of ESEA, as well as the costs of other, program-specific administrative activities, such as identification and recruitment,

interstate, intrastate, and interagency coordination, and parent advisory councils. The term ''direct educational or support services'' means any instructional or support activities provided directly to migratory children, as well as training of instructional or support staff who provide instructional or support services directly to migratory children. For purposes of section 1303(d), the term ''other appropriate entity'' can mean any public or private agency or organization.

A single SEA may be part of more than one consortium arrangement. However, consistent with section 1303(d) of the ESEA, each consortium arrangement that the Secretary approves must separately decrease the amount of MEP administrative or program function costs in total for the participating SEAs and, conversely, increase the amount of MEP funds available for direct services to migratory children in total for the participating SEAs. An SEA will submit the information that the Department needs to review and approve the SEA's consortium arrangement, and determine the size of the SEA's consortium incentive grant, through its MEP-specific application or in conjunction with the optional consolidated State plan under section 14302 of the ESEA.

Amount of Incentive Grants

Each SEA with one or more consortium arrangements that the Secretary determines meet the criteria in section 1303(d) of the ESEA, *and* whose consortium arrangements increase the amount of MEP funds available for direct services to migratory children in *its* State, will receive one incentive award. In determining the size of an SEA's award, the Secretary will rank SEAs seeking incentive grants on the basis of the *total* percentage increase in MEP funds that the SEA will make available for direct services to migratory children in *its* State as a result of the SEA's participation in the consortium arrangements, as compared to the level of direct services that would be made available to migratory children in the State in the absence of the consortia.

Example I: SEA A has 1 consortium arrangement that increases the amount of funds available for direct services in State A by 10 percent, while SEA B has 2 consortium arrangements that increase the total amount of funds available for direct services in State B by 8 percent. SEA A would be ranked higher than SEA B even if SEA B's consortium arrangements permit more total funds to be used for direct services.

Example II: SEA C and SEA D participate together in one consortium and this consortium is the only one in which each SEA participates. If the amount available for direct services increases in total across the two States due to participation in the consortium, but the amount available for direct services in State C does not increase, the consortium arrangement will be approved, but only State D, and not State C, will receive an incentive grant.

From the information that an SEA submits, the Department will calculate, for each State, the total percentage increase in MEP funds available for direct services as a result of all the approved consortium arrangements in which the applicant SEA participates. The Department will then rank these percentages in descending order and divide the distribution into thirds (that is, into terciles). Each SEA ranked in the highest third of the distribution will receive an incentive grant that is three times the size of the grant received by each SEA ranked in the lowest third, while each SEA ranked in the middle third will receive an incentive grant that is twice the size of that provided to each SEA ranked in the lowest third. Within each third, grant awards will be of equal size, except that adjustments will be made so that no consortium incentive grant will be greater than $250,000 or 100 percent of the amount of funds awarded to the SEA under its formula grant allocation, whichever is less.

An SEA may use incentive grant funds awarded under section 1308(d) of the ESEA only to provide direct services to migratory children. These funds are in addition to, and not in place of, the funds awarded under the MEP formula grant.

The Secretary implements section 1308(d) in this way in order to (1) reward all SEAs whose participation in consortium arrangements increases direct services to migratory children in their State, (2) provide larger awards to those SEAs whose consortium arrangements most enhance their capacity to deliver direct services, and (3) ensure that funds under this program are available to SEAs as soon as possible.

Applicability of the Education Department General Administrative Regulations (EDGAR)

In view of the process that the Department proposes to use to obtain information on proposed SEA consortium arrangements, and the criteria it proposes to use to determine, by formula, the amount of the consortium incentive grant that each applicant SEA will receive, the regulations in 34 CFR Part 75 (Direct Grant Programs) of the Education Department General Administrative Regulations (EDGAR) do not apply Instead, the consortium incentive grant program will be administered, like the MEP itself, under the provisions of 34 CFR Parts 76, 77, 79, 80, and 85 of EDGAR.

Paperwork Reduction Act of 1995

These final criteria have been examined under the Paperwork Reduction Act of 1995 and have been found to contain no information collection requirements.

Intergovernmental Review

The MEP is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Authority: 20 U.S.C. 6393(d) and 6398(d).

(Catalog of Federal Domestic Assistance Number: 84.011, Migratory Education Basic State Formula Grant Program)

Dated: March 27, 1996.

Gerald N. Tirozzi,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 96–8539 Filed 4–5–96; 8:45 am]

BILLING CODE 4000–01–M

Federal Register

Monday
April 8, 1996

Part IV

Department of Housing and Urban Development

Public and Indian Housing Drug Elimination Program; Notice of Funding Availability—FY 1996

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. 4003–N–01]

Office of the Assistant Secretary for Public and Indian Housing; Public and Indian Housing Drug Elimination Program; Notice of Funding Availability—FY 1996

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of Funding Availability (NOFA) for fiscal year (FY) 1996.

SUMMARY: This NOFA announces HUD's FY 1996 funding of approximately $250 million under the Public and Indian Housing Drug Elimination Program (PHDEP) for use in eliminating drug-related crime and other criminal activities associated with drug-related problems. Funded programs must be part of a comprehensive plan for addressing the problem of drug-related crime and other criminal activities associated with drug-related problems. In the body of this document is information concerning the purpose of the NOFA, applicant eligibility, available amounts, selection criteria, financial requirements, management, and application processing, including how to apply, how selections will be made, and how applicants will be notified of results. HEREAFTER, the term housing authority (HA) shall include public housing agencies (PHAs) and Indian housing authorities (IHAs).

Note: The Congress has not yet enacted a FY 1996 appropriation for HUD. However, HUD is publishing this notice in order to give potential applicants adequate time to prepare applications. The estimate of the amount of funds available for this program is based on the level of funding available for FY 1995. The estimated amount may be adjusted based on the enacted 1996 appropriation. HUD is not bound by the estimate set forth in this notice.

DATES: Applications must be received at the local HUD Field Office on or before Friday, June 14, 1996 at 3:00 PM, Local Time. This Application Deadline Is Firm as to Date and Hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by any unanticipated or delivery-related problems. A FAX is not acceptable.

ADDRESSES: (a) *Application Kit.* An application kit may be obtained, and assistance provided, from the local HUD Field Office with delegated public housing responsibilities over an applying public housing authority, or from the Area Offices of Native American Programs (AONAPs) having jurisdiction over an Indian housing authority making an application, or by calling HUD's Drug Information and Strategy Clearinghouse, telephone (800) 578–3472. The application kit contains information on all exhibits and certifications required under this NOFA.

(b) Application Submission. An applicant may submit only one application per housing authority under each Notice of Funding Availability (NOFA). Joint applications ARE NOT PERMITTED under this program with the following EXCEPTION: HAs under a single administration (such as HAs managing another HA under contract or HAs sharing a common executive director) may submit a single application, even though each HA has its own operating budget. Applications (original and two identical copies of the original application) must be received by the deadline at the local HUD Field Office with responsibilities over the applying public housing authorities, Attention: Director, Office of Public Housing or, in the case of Indian housing authorities, to the local HUD AONAPs, Attention: Administrator, AONAPs with jurisdiction over the applying Indian housing authorities, as appropriate. A complete listing of these offices is provided in Appendix ''A'' of this NOFA. It is not sufficient for an application to bear a postage date within the submission time period. Applications submitted by facsimile are not acceptable. APPLICATIONS RECEIVED AFTER THE DEADLINE DATE AND HOUR, FRIDAY, JUNE 14, 1996, AT 3:00 PM, LOCAL TIME, WILL NOT BE CONSIDERED.

FOR FURTHER INFORMATION CONTACT: For questions concerning the Public Housing Drug Elimination Program (PHDEP) contact: the local HUD Field Office, Director, Office of Public Housing (Appendix ''A'' of this NOFA), HUD's Drug Information and Strategy Clearinghouse, telephone (800) 578–3472 or Malcolm E. (Mike) Main, Crime Prevention and Security Division, Office of Community Relations and Involvement, Office of Public and Indian Housing, Room 4112, telephone (202) 708–1197, ext. 4232.

For questions concerning Native Americans programs contact: the local HUD Field Office Administrator, AONAPs (Appendix ''A'' of this NOFA), HUD's Drug Information and Strategy Clearinghouse, telephone (800) 578–3472 or Tracy Outlaw, Office of Native American Programs, Room B–133, telephone (202) 755–0088.

For questions concerning the Assisted Housing Drug Elimination Program (AHDEP) contact: Michael E. Diggs, Office of Multifamily Housing Programs, Office of Housing, Room 6130, telephone (202) 708–0614, ext. 2514.

The address for the above Headquarters persons is: Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Hearing-or-speech impaired persons may call (800) 877–8339. (Federal Information Relay Service TTY). Except for the ''800'' number, these telephone numbers are not toll-free.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this Notice have been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number. The OMB control number, when assigned, will be announced by separate notice in the Federal Register.

I. Purpose and Substantive Description

(a) *Authority.* These grants are authorized under Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 *et. seq.*), as amended by section 581 of the National Affordable Housing Act of 1990 (NAHA), approved November 28, 1990, Pub. L. 101–625, and section 161 of the Housing and Community Development Act of 1992 (HCDA 1992) (Pub. L. 102–550, approved October 28, 1992).

(b) *Allocation Amounts.* (1) Federal Fiscal Year 1996 Funding. The amount available, to remain available until expended, for funding under this NOFA in FY 1996 is approximately $250 million. NOTE: The Congress has not yet enacted a FY 1996 appropriation for HUD. However, HUD is publishing this notice in order to give potential applicants adequate time to prepare applications. The estimate of the amount of funds available for this program is based on the level of funding available for FY 1995. The estimated amount may be adjusted based on the enacted 1996 appropriation. HUD is not bound by the estimate set forth in this notice.

(2) Maximum Grant Award Amounts. HUD is distributing grant funds under this NOFA on a national competition basis. Maximum grant award amounts

are computed on a sliding scale, using an overall maximum cap, depending upon the number of public housing agency (PHA) or Indian housing authority (IHA) units. The unit count includes rental, Turnkey III Homeownership, Mutual Help Homeownership and Section 23 leased housing bond-financed projects. Units in the Turnkey III Homeownership, Mutual Help Homeownership and Section 23 bond-financed programs are counted IF they have not been conveyed. Eligible projects must be covered by an annual contributions contract (ACC) or annual operating agreement (AOA) during the period of the grant award.

(i) Public housing agencies. (A) PHA-Owned Rental Housing Program. In accordance with Notice 94–66 (PHA), Low Rent Public Housing Program—Streamlined Operating Budget and Financial Reporting Procedures, PHAs with fiscal years beginning January 1, 1995 and after, ARE NOT REQUIRED to submit an Operating Budget (Form HUD–52564) IF they have been determined, by HUD, to be High or Standard performers under Public Housing Management Assessment Program (PHMAP) and HAVE NOT FAILED the PHMAP financial indicators. Those requesting subsidy must, however, submit Form HUD–52723, Calculation of Performance Funding System (PFS) Operating Subsidy and units are in the header.

(B) PHAs (rental program) that are NOT REQUIRED to submit a budget under the PHMAP criteria in section I.(b)(2)(ii)(A) above AND not requesting operating subsidy ARE NOT REQUIRED to submit Form HUD–52723. Unit counts MUST be confirmed with the local Field Office prior to submission of the PHDEP application.

(C) For PHA-Owned Turnkey III Homeownership Program and Section 23 Leased Housing Programs, PHAs ARE REQUIRED to submit Form HUD–52564, in accordance with Notice PIH 94–66 (PHA), and units in the header.

(D) For purposes of this NOFA, PHAs ARE REQUIRED to validate their unit counts with the local Field Office as of April 1, 1996. Units identified after this date will not be accepted.

(ii) Indian housing authorities. (A) As of January 1, 1995 Indian housing authorities ARE NOT REQUIRED to submit Form HUD–52564, UNLESS a corrective action order has been issued in accordance with Notice PIH 94–72 (IHA) extended by Notice PIH 95–65.

(B) For purposes of this NOFA, Indian housing authorities ARE REQUIRED to validate their unit counts with the local AONAPs, prior to submission of the PHDEP application, to ensure the unit count matches the data in the Management Information Retrieval System (MIRS) for units in management as of April 1, 1996. Units identified after this date will not be accepted.

(iii) The amount computed in this way MUST be compared with the dollar amount requested in the PHA/IHA application to make certain the amount requested does not exceed the maximum grant award. BASED UPON THE REQUIREMENTS OF SECTIONS I.(B)(2)(i) THROUGH (iii) OF THIS NOFA, APPLICANTS THAT REQUEST FUNDING THAT EXCEEDS THE ESTIMATED MAXIMUM GRANT AWARD AMOUNT PERMITTED WILL BE REJECTED AND WILL NOT BE ELIGIBLE FOR ANY FUNDING.

Amendments to the PHDEP made by the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992), permit grants, under certain conditions as given in section (c)(9) of this NOFA, below, to be used to eliminate drug-related crime and other criminal activities associated with drug-related crime in housing owned by PHAs that is not housing assisted under the United States Housing Act of 1937 and is not otherwise federally assisted. Where an application is submitted for this category of housing, the amount of eligible funding will be determined on the same per-unit basis as for federally assisted housing units, above.

The maximum grant awards are estimated to be as follows, although, as discussed below, in section I.(b)(4) (Reduction of Requested Grant Amounts and Special Conditions), the Department may adjust the amount of any grant award. These estimates of the maximum grant awards are based on the amount of funds available in FY 1995. The maximum grant awards may be further adjusted based on the enacted 1996 appropriation.

(i) For housing authorities with 1–499 units: The maximum grant award is either a maximum grant award cap of $500.00 per unit, or a TOTAL MINIMUM grant award of $50,000, WHICHEVER IS GREATER;

(ii) For housing authorities with 500–1,249 units: The maximum grant award is either a maximum grant award cap of $300.00 per unit, or a TOTAL MINIMUM grant award of $250,000, WHICHEVER IS GREATER;

(iii) For housing authorities with 1,250—49,999 units: The maximum grant award is either a maximum grant award cap of $250.00 per unit, or a TOTAL MINIMUM grant award of $375,000 WHICHEVER IS GREATER;

(iv) For housing authorities with 50,000 or more units: The maximum grant award is a maximum cap of $200.00 per unit OR A TOTAL MAXIMUM GRANT AWARD OF $25 MILLION.

An applicant shall not apply for more funding than is permitted in accordance with the estimated maximum grant award amount as described above. Any application requesting funding that exceeds the estimated maximum grant award amount permitted will be rejected and will not be eligible for any funding UNLESS A COMPUTATIONAL ERROR WAS INVOLVED IN THE FUNDING REQUEST. Section IV of this NOFA provides guidance regarding application curable and noncurable deficiencies.

Such a computational error will be considered a curable deficiency in the application. Section III.(d) (Checklist of Application Requirements) of this NOFA requires applicants to compute the maximum grant award amount for which they are eligible. In accordance with sections I.(b)(2) (i) through (iii), applicants are required to confirm the unit count with the local HUD Field Office and/or AONAPs prior to submission of the application. The amount computed in this way must be compared with the dollar amount requested in the application to make certain the amount requested does not exceed the maximum grant award.

(3) Reallocation. All awards will be made to fund fully an application, except as provided in section I.(b)(4) (Reduction of Requested Grant Amounts and Special Conditions) below.

(4) Reduction of Requested Grant Amounts and Special Conditions. HUD may approve an application for an amount lower than the amount requested, withhold funds after approval, and/or the grantee will be required to comply with special conditions added to the grant agreement, in accordance with 24 CFR 85.12 (PHAs), and 24 CFR 950.135 (IHAs) as applicable, and the requirements of this NOFA, or where:

(i) HUD determines the amount requested for one or more eligible activities is unreasonable or unnecessary;

(ii) The application does not otherwise meet applicable cost limitations established for the program;

(iii) The applicant has requested an ineligible activity;

(iv) Insufficient amounts remain in that funding round to fund the full amount requested in the application and HUD determines that partial funding is a viable option;

(v) The applicant fails to implement the program in its plan and/or fails to submit required reports;

(vi) The applicant has demonstrated an inability to manage HUD grants, particularly PHDEP grants; or

(vii) For any other reason where good cause exists.

(c) Eligibility. Funding under this NOFA is available only for HAs. Although section 161 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992) makes public housing resident management corporations (RMCs) eligible for PHDEP funding, the 95 App. Act limited the funds appropriated ''for grants to public housing agencies.'' The authorizing statute includes Indian housing authorities (IHAs) in the term ''public housing agencies'' and, therefore, IHAs are eligible for funding. Because RMCs, unlike IHAs, constitute a separate entity from PHAs under the authorizing statute, no funds are appropriated for RMCs. However, RMCs may continue to receive funding from housing authority grantees, as sub-grantees, to develop security and drug abuse prevention programs involving site residents as they have in the past. The Department has determined that the term ''in or around'' means within, or adjacent to, the physical boundaries of a public or Indian housing development. This effect of this definition is appropriate to make certain that program funds and program activities are targeted to benefit, as directly as possible, public and Indian housing developments, the intended beneficiaries of the program under the authorizing statute. An application for funding under this program may be for one or more of the eligible activities. The following is a listing of eligible activities under this program and guidance as to their parameters:

(1) Employment of Security Guard Personnel. Employment of security personnel IS PERMITTED under this section. Employment of contracted security personnel is divided into two categories: contracted security personnel services and equipment for and employment of HA police departments.

(i) Contracted Security Guard Personnel Services. Contracting for or direct HA employment of security personnel services in HAs/development(s) IS PERMITTED under this program. Contracting for security personnel services is defined as a competitive process in which individual companies and/or individuals participate.

(A) Contracted security personnel funded by this program must perform services not usually performed by local law enforcement agencies on a routine basis, such as, patrolling inside buildings, providing personnel services at building entrances to check for proper identification or patrolling and checking car parking lots for appropriate parking decals.

(B) Contracted security personnel funded by this program must meet and demonstrate compliance with all relevant Federal, Tribal, state or local government insurance, licensing, certification, training, bonding, or other similar requirements relating to security services.

(C) The HA, the cooperating local law enforcement agency, and the provider (contractor) of the security personnel services are required to enter into and execute a security personnel service contract that includes (but is not limited to) the following:

(*1*) The activities to be performed by security personnel employed by the contractor; the scope of authority, written policies, procedures, and practices that will govern security personnel performance (i.e., a Policy Manual as described in section I.(c)); and how the security personnel contractor shall coordinate activities with the local law enforcement agency;

(*2*) The types of activities that the approved security personnel contractor(s) are expressly prohibited from undertaking.

(D) Expenditures for activities under this section will not be incurred by the HA (grantee) and/or funds released by the local HUD Field Office until the HA has executed a contract for security personnel services.

(E) Security personnel services funded under this program shall be guided by a contract for services that includes a policy manual (see below) that regulates, directs, controls, and monitors the conduct and activities of its personnel. The HA shall ensure all contracted security personnel are trained at a minimum in the areas described in this section.

(*1*) An up-to-date policy manual, which contains the security personnel contractor's policies, procedures, and general orders that regulate conduct and describe in detail how jobs are to be performed, must exist before a contract for services can be executed.

(*2*) Areas that MUST BE COVERED IN THE CONTRACTOR'S SECURITY PERSONNEL MANUAL INCLUDE BUT ARE NOT LIMITED TO: use of force, resident contacts, enforcement of HA rules, response criteria to calls, pursuits, arrest procedures, reporting of crimes and workload, feedback procedures to victims, citizens' complaint procedures, internal affairs investigations, towing of vehicles, authorized weapons and other equipment, radio procedures internally and with local police, training requirements, patrol procedures, scheduling of meetings with residents, reports to be completed, record keeping and position descriptions on all personnel, post assignments, monitoring and self evaluation program.

(F) The security personnel contractor shall complete a daily activity form/incident complaint report for the HA. The contractor shall use a HA approved activity form for the collection, analysis and reporting of these activities by personnel funded under this section. Computers, software, and associated equipment ARE PERMITTED as eligible items in support of crime workload data collection activities to support the HA's crime prevention and security mission.

(ii) Equipment for and Employment of Personnel for Housing Authority Police Departments. Funding for equipment and employment of HA police department personnel IS PERMITTED by HAs that already have their own public housing authority police department. The below listed eleven (11) HAs have public housing police departments:

Baltimore Housing Authority and Community Development, Baltimore, MD
Boston Housing Authority, Boston, MA
Buffalo Housing Authority, Buffalo, NY
Chicago Housing Authority, Chicago, IL
Cuyahoga Metropolitan Housing Authority, Cleveland, OH
Housing Authority of the City of Los Angeles, Los Angeles, CA
Housing Authority of the City of Oakland, Oakland, CA
Philadelphia Housing Authority, Philadelphia, PA
Housing Authority of the City of Pittsburgh, Pittsburgh, PA
Waterbury Housing Authority, Waterbury, CT
Virgin Islands Housing Authority, Virgin Islands

(A) On September 22, 1995, the Department issued Notice PIH 95–58 (Guidelines for Creating, Implementing and Managing Public Housing Authority Police Departments in Public Housing Authorities). This Notice identifies the prerequisites for creating public housing police departments and provides guidance regarding technical assistance to HAs to assist in making decisions regarding public housing security, analysis of security needs and performance measures.

(B) HAs that have established their own public housing authority police departments, but are not included on this list, may file a request to be recognized as a HA police department by contracting Malcolm E. (Mike) Main of the Crime Prevention and Security

Division (CPSD), Office of Community Relations and Involvement (OCRI), Public and Indian Housing, Department of Housing and Urban Development, Room 4112, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 708–1197, ext 4232. THIS REQUEST MUST BE APPROVED PRIOR TO THE SUBMISSION OF THE FY 1996 PHDEP APPLICATION. THE APPLICATION DEADLINE DATE IS JUNE 14, 1996. Hearing-or-speech impaired persons may call (800) 877–8339. (Federal Information Relay Service TTY.) Except for the ''800'' number, these telephone numbers are not toll-free.

(C) An applicant seeking funding for this activity must describe the current level of local law enforcement agency baseline services being provided to the HA/development(s) proposed for assistance. The baseline services are defined as ordinary and routine services provided to the residents as a part of the overall city and county-wide deployment of police resources, to respond to crime and other public safety incidents, including 911 communications, processing calls for service, routine patrol, police officer response to calls for service and investigative follow-up of criminal activity.

(D) Public housing authority police departments funded by this program must meet, and demonstrate compliance with, all relevant Federal, state, Tribal or local government insurance, licensing, certification, training, bonding, or other similar law enforcement requirements.

(E) Before approval of the grant agreement (Form HUD–1044), and funding by HUD, the applicant and the cooperating local law enforcement agency are required to enter into and execute a law enforcement service agreement, in addition to the HA's cooperation agreement, between the HA and the local law enforcement agency, that describes the following:

(*1*) The activities to be performed by the public housing authority police department, their scope of authority, established policies, procedures, and practices that will govern their performance (i.e., a public housing police department policy manual as described in section I.(c)), and how they will coordinate their activities with the Federal, state, Tribal, and local law enforcement agencies;

(*2*) The types of activities that the public housing authority police departments are expressly prohibited from undertaking.

(F) Public housing authority police departments funded under this program shall be guided by an up-to-date policy manual (see paragraph (*1*) below) that regulates, directs, and controls the conduct and activities of its personnel. All HA police officers must be trained at a minimum in the areas described in paragraph (*2*), below.

(*1*) An up-to-date public housing police department policy manual, which contains the policies, procedures, and general orders that regulate conduct and describe in detail how jobs are to be performed must exist prior to execution of the grant agreement. Applicants must submit a plan and timetable for the implementation of training for staff.

(*2*) Areas that MUST BE COVERED IN THE PUBLIC HOUSING POLICE DEPARTMENT MANUAL INCLUDE BUT ARE NOT LIMITED TO: use of force, resident contacts, enforcement of HA rules, response criteria to calls, pursuits, arrest procedures, prisoner transport procedures, reporting of crimes and workload, feedback procedures to victims, citizens complaint procedures, internal affairs investigations, towing of vehicles, authorized weapons and other equipment, radio procedures internally and with local police, training requirements, patrol procedures, scheduling of meetings with residents, reports to be completed, record keeping, evidence and drug seizures, position descriptions on every class of personnel, post and assignments, and integration of HA police and security personnel with local police as part of the HA's comprehensive security and safety strategy.

(G) Public housing authority police departments shall collect information on drug-related crime and other criminal activities as defined by the Uniform Crime Reporting (UCR) system (any Part I or Part II crimes that occur). For purposes of this section, HA police departments shall establish, implement and maintain a system of records management that ensures confidentially of criminal records and information. A HA approved daily activity/incident complaint form must be used for the collection, analysis, workload, response to service calls, reporting of activities/crime by officers within the HA/development(s) funded under this section. Computers, software, and associated equipment ARE PERMITTED AS ELIGIBLE ITEMS in support of the HA crime and workload data collection activities to support the overall HA's comprehensive crime prevention, security and safety mission.

(H) Applicants for funding of HA public housing authority police department officers must have car-to-car (or other vehicles) and portable-to-portable radio communications links between public housing authority police officers and local law enforcement officers to assure a coordinated and safe response to crimes or calls for services. The use of scanners (radio monitors) is not sufficient to meet the requirements of this section. Applicants that do not have such links must submit a plan and timetable for the implementation of such communications links.

(I) Public housing authority police departments funded under this program that are not employing a community policing concept must submit a plan and timetable for the implementation of community policing. An HA funded under the FY 1994/1995 PHDEP for public housing police departments should demonstrate in its plan what progress has been made in implementing its community policing program. The Department will monitor results of the HA's plan and timetable.

(*1*) Community policing has a variety of definitions; however, for the purposes of this program, it is defined as follows: Community policing is a method of providing law enforcement services that stresses a partnership among residents, police, schools, churches, government services, the private sector, and other local, state, Tribal, and Federal law enforcement agencies to prevent crime by addressing the conditions and problems that lead to crime and the fear of crime.

(*2*) This method of policing involves a philosophy of proactive measures, such as foot patrols, bicycle patrols and citizen contacts. This concept empowers police officers at the beat and zone level and residents in neighborhoods in an effort to: reduce crime and fear of crime; assure the maintenance of order; provide referrals of residents, victims, and the homeless to social services and government agencies; assure feedback of police actions to victims of crime; and promote a law enforcement value system on the needs and rights of residents.

(J) HA police departments funded under this program that are not nationally or state accredited must submit a plan and timetable for such accreditation. HAs may use either their state accreditation program, if one exists, or the Commission on Accreditation for Law Enforcement Agencies (CALEA) for this purpose.

(*1*) The law enforcement community developed a body of standards in 1981 against which law enforcement agencies could be evaluated. While some states have their own law enforcement accreditation program, the nationwide accreditation program is managed by the

CALEA, which is located in Fairfax, VA. The purpose of accreditation is to reduce liability exposure of agencies and personnel, and to assure that law enforcement agencies meet a uniform body of standards.

(*2*) The accreditation concept emphasizes a voluntary, self-motivated approach by which organizations seek to achieve and maintain objectively verified high quality operations through periodic evaluations conducted by an independent, non-governmental body that has established standards for its ''clientele''. In simple terms, ''to accredit'' means to recognize or vouch for an agency as conforming to a body of standards related to a specific discipline—in this instance, law enforcement.

(*3*) The process for CALEA consists of formal application, mutual aid contract, an in-depth self assessment, an on-site assessment by Commission-selected practitioner assessors from outside the state of the requesting agency, and final Commission review and decision. Self-assessment enables an agency to establish proofs of compliance with standards specific to the agency to review its organization, management, operations, and administrative activities to determine if it believes it meets the requirements. Certain standards are mandatory based on health, life, safety, and importance to the community and the agency.

(*4*) Use of grant funds for public housing police department accreditation activities IS PERMITTED. HAs under section I.(c)(1)(ii) (public housing police departments) of this NOFA ARE PERMITTED to hire a public housing police department accreditation specialist to manage the accreditation program. HA police departments must submit a plan and timetable in order to be funded for this activity. Any public housing police department funded under the FY 1994/1995 PHDEP should demonstrate in its plan what progress has been made in implementing its accreditation program. The Department will monitor outcomes of the HA's plan and timetable.

(*5*) FUNDING IS PERMITTED. HAs that have been identified by HUD in section I.(c)(1)(ii) above of this NOFA as having authorized public housing police departments ARE PERMITTED to use PHDEP funds to purchase or lease any law enforcement clothing or equipment, such as, vehicles, uniforms, ammunition, firearms/weapons, police vehicles; including cars, vans, buses, and protective vests, or any other supportive equipment, etc. that supports the HA's crime prevention and security mission. HAs NOT IDENTIFIED by HUD in section I.(c)(1)(ii) above of this NOFA as having an authorized public housing police department ARE NOT PERMITTED to use PHDEP funds to directly purchase such clothing or equipment for use by local police departments.

(K) Expenditures for activities under this section will not be incurred by the HA (grantee) and/or funds released by the local HUD Field Office until the grantee has met all the above requirements.

(L) In order to assist HAs to develop and administer relevant, fair, and productive law enforcement service contracts with local police departments for the delivery of effective security services to the HA/residents, a sample contract for law enforcement services is provided with the application kit. A sample contract may be obtained by calling HUD's Drug Information and Strategy Clearinghouse, telephone: 1–800–578–3472.

(2) Reimbursement of Local Law Enforcement Agencies for Additional Security and Protective Services. (i) For HAs THAT DO NOT HAVE an authorized public housing police department as defined in section I.(c)(1)(ii) above, additional security and protective services ARE PERMITTED under this program but must be over and above the local police department's current level of baseline services. Local police department baseline services are defined as ordinary and routine services provided to residents as a part of the overall, city and county-wide deployment of police resources, to respond to crime and other public safety incidents, including 911 communications, processing calls for service, routine patrol, police officer response to calls for service and investigative follow-up of criminal activity.

(ii) An applicant seeking funding for this activity must first define the current local police department's level of baseline services to the HA/residents (which should be the same city/county-wide) to include the number of officers and equipment and the actual percent of their time assigned to the HA/development(s) proposed for funding and then demonstrate in its plan to what extent the funded activity will represent an increase over and above these baseline services.

(iii) Reimbursement (For purposes of this section of the NOFA a contractual agreement between the grantee and the local law enforcement agency) of local law enforcement agencies for additional protective services for communications and security equipment to improve collection, analysis, and use of information about drug-related crime and other criminal activities associated with drug-related problems in HAs/development(s), such as surveillance equipment (e.g., Closed Circuit Television (CCTV), software, cameras, monitors, components and supporting equipment), computers accessing national, Tribal, state or local government security networks and databases, facsimile machines, telephone equipment, bicycles, and motor scooters is permitted IF USED EXCLUSIVELY for the HA/development's crime prevention and comprehensive security efforts, AND in connection with the establishment of a law enforcement substation/presence on the funded premises or scattered site developments of the HA. The reimbursement shall be provided in accordance with a contractual agreement between the grantee and the local law enforcement agency.

(iv) The local law enforcement agency shall collect police officer activity (not just hours of work) information for the HA. The agency must use a HA approved activity form for the collection, analysis and reporting of activities by officers funded under this section. Reimbursement of local law enforcement agencies for additional protective services for computers, software, and associated equipment ARE PERMITTED AS ELIGIBLE ITEMS in support of HA crime and workload data collection activities to support its comprehensive crime prevention, security and safety mission.

(v) Funding That is not Permitted. Has not identified by HUD in section I.(c)(1)(ii) of this NOFA as having an authorized public housing police department ARE NOT PERMITTED to use PHDEP funds to directly purchase or lease any military or law enforcement clothing or equipment, such as vehicles, uniforms, ammunition, firearms/weapons, military or police vehicles; including cars, vans, buses, protective vests, and any other supportive equipment, etc.

(vi) Expenditures for activities under this section will not be incurred by the HA (grantee) and/or funds released by the local HUD Field Office until the grantee and the local law enforcement agency execute a contract for the additional law enforcement services.

(vii) In order to assist HAs to develop and administer relevant, fair, and productive protective services or law enforcement contracts with local police departments for the delivery of effective services to HAs and residents, a sample contract for law enforcement services is provided with the application kit. A sample contract may be obtained by

calling HUD's Drug Information and Strategy Clearinghouse, telephone (800) 578–3472.

(viii) The Department ENCOURAGES local community collaborations, between HAs and local police departments, regarding elimination of drug-related crime and other criminal activities associated with drug-related problems to improve safety and security for residents in HAs. This strategy should include implementation of community policing programs. For additional background on community policing, see the discussion at section I.(c), above.

(ix) The Department ENCOURAGES HAs to work closely with local police departments to permit the admission to public housing of police officers and other security personnel, whose visible presence may serve as a deterrent to drug-related crime and other criminal activities associated with drug-related problems. Section 519 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437a-1) permits HAs to allow police officers and other security personnel not otherwise eligible for occupancy to reside in public or Indian housing dwelling units under a plan that will increase security for residents while minimizing both the reduction of available dwelling units and loss of HA income. HUD's final rule implementing section 519 was published on August 2, 1994 (59 FR 39402). For assistance regarding this program contact the local HUD Field Office or AONAPs.

(3) Physical Improvements To Enhance Security. (i) Physical improvements that are specifically designed to enhance security ARE PERMITTED under this program. These improvements may include (but are not limited to) the installation of barriers, lighting systems, fences, surveillance equipment (e.g., Closed Circuit Television (CCTV), speed bumps, software, fax, cameras, monitors, components and supporting equipment etc.) bolts, locks; the landscaping or reconfiguration of common areas so as to discourage drug-related crime and other criminal activities associated with drug-related problems in the HA and development(s) proposed for funding.

(ii) An activity that is funded under any other HUD program, such as the modernization program at 24 CFR part 968, shall not also be funded by this program.

(iii) FUNDING IS NOT PERMITTED for physical improvements that involve the demolition of any units in a development.

(iv) FUNDING IS NOT PERMITTED for any physical improvements that would result in the displacement of persons.

(v) FUNDING IS NOT PERMITTED for the acquisition of real property.

(vi) All physical improvements must also be accessible to persons with disabilities. For example, some types of locks, buzzer systems, doors, etc., are not accessible to persons with limited strength, mobility, or to persons who are hearing impaired. All physical improvements must meet the accessibility requirements of 24 CFR part 8.

(4) Employment of Investigators. (i) Employment of and equipment for one or more individuals IS PERMITTED under this program to:

(A) Investigate drug-related crime and other criminal activities associated with drug-related problems ''in or around'' the real property comprising any HA/development(s); and

(B) Provide evidence relating to any such crime in any administrative or judicial proceedings.

(ii) HAs that employ investigators funded by this program must meet and demonstrate compliance with all relevant Federal, Tribal, state or local government insurance, licensing, certification, training, bonding, or other similar law enforcement requirements.

(iii) The HA (Grantee), and cooperating local law enforcement agency are required to enter into and execute a written agreement that describes the following:

(A) The nature of the activities to be performed by the HA investigators, their scope of authority, reports to be completed, established policies, procedures, and practices that will govern their performance (i.e., a Policy Manual as described in section I.(c)(1)(ii)) and how HA investigators will coordinate their activities with the local, state, Tribal, and Federal law enforcement agencies; and

(B) The types of activities that the HA investigators are expressly prohibited from undertaking.

(iv) Under this section, reimbursable costs associated with the investigation of drug-related crime and other criminal activities associated with drug-related problems (e.g., travel directly related to the investigator's activities, or costs associated with the investigator's testimony at judicial or administrative proceedings) may only be those incurred by the investigator.

(v) HA investigators funded under this program shall be guided by a policy manual that regulates, directs, and controls their conduct and activities. All HA investigators must be trained at a minimum in the areas described below in paragraph (B) of this section.

(A) An up-to-date policy manual, which contains the policies, procedures, and general orders that regulate conduct and describe in detail must exist prior to execution of this agreement.

(B) Areas that MUST BE COVERED IN THE MANUAL INCLUDE BUT ARE NOT LIMITED TO: use of force, resident contacts, enforcement of HA rules, response criteria to calls, pursuits, arrest procedures, reporting of crimes and workload, feedback procedures to victims, citizens complaint procedures, internal affairs investigations, towing of vehicles, authorized weapons and other equipment, radio procedures internally and with local police, training requirements, patrol procedures, scheduling of meetings with residents, daily activity reports to be completed, record keeping and position descriptions on every class of personnel, post and assignments.

(vi) HA investigator(s) shall report on drug-related crime and other criminal activities associated with drug-related problems in the HA/developments. HAs shall establish, implement and maintain a system of records management that ensures confidentiality of criminal records and information. HA approved activity forms must be used for the collection, analysis and reporting of activities by HA investigators funded under this section. Computers, software, and associated equipment ARE ELIGIBLE ITEMS in support of HA crime and workload data collection activity and its crime prevention and security mission.

(vii) FUNDING IS PERMITTED for HAs to use PHDEP funds for investigator activities to purchase or lease any law enforcement clothing or equipment, such as vehicles, uniforms, ammunition, firearms/weapons, or vehicles; including cars, vans, buses, protective vests, and any other supportive equipment, etc, to support the mission of the HA's investigator activities.

(viii) Expenditures for activities under this section will not be incurred by the HA (grantee) and/or funds released by the local HUD Field Office until the grantee has met all the above requirements.

(5) Voluntary Tenant Patrols. Active voluntary tenant patrols activities to include purchase of uniforms, equipment and related training ARE PERMITTED under this section. For the purposes of this section, the elimination of drug-related crime and other criminal activities associated with drug-related problems within the HA/developments requires the active involvement and commitment of residents and their organizations.

(i) The provision of training and equipment (including all season uniforms and equipment) for use by active voluntary tenant patrols acting in cooperation with officials of local law enforcement agencies IS PERMITTED under this program. Members must be volunteers and must be tenants/residents of the HA/development(s). Voluntary tenant patrols established under this program are expected to patrol in the HA/development(s) proposed for assistance, and to report illegal activities to appropriate HA staff, and local, state, Tribal, and Federal law enforcement agencies, as appropriate. HAs are required to obtain liability insurance to protect themselves and the members of the voluntary tenant patrol against potential liability for the activities of the patrol under this program. The cost of this insurance is an eligible program expense.

(ii) The HA (Grantee) and cooperating local law enforcement agency, and the members of the voluntary tenant patrol are required, prior to expending any grant funds, to enter into and execute a written HA/local police department agreement that describes the following:

(A) The nature of the activities to be performed by the voluntary tenant patrol, the patrol's scope of authority, assignment, the established policies, procedures, and practices that will govern the voluntary tenant patrol's performance and how the patrol will coordinate its activities with the local law enforcement agency;

(B) The types of activities that a voluntary tenant patrol is expressly prohibited from undertaking including, but not limited to, the carrying or use of firearms or other weapons, nightstick, clubs, handcuffs, or mace in the course of their duties under this program;

(C) The initial and follow-up voluntary tenant patrol training the members receive from the local law enforcement agency (training by the local law enforcement agency is required before putting the voluntary tenant patrol into effect); and

(D) Voluntary tenant patrol members must be advised that they may be subject to individual or collective liability for any actions undertaken outside the scope of their authority and that such acts are not covered under a HA's liability insurance.

(iii) Uniforms, communication and related equipment eligible for funding under this program shall be reasonable, necessary, justified and related to the operation of the voluntary tenant patrol and that is otherwise permissible under local, state, Tribal, or Federal law.

(iv) Under this program, bicycles, motor scooters, all season uniforms and associated equipment (voluntary tenant patrol uniforms and equipment must be identified with specific HA/development identification/markings) to be used, exclusively, by the members of the HA/development(s) voluntary tenant patrol ARE ELIGIBLE ITEMS.

(v) PHDEP grant funds may not be used for any type of financial compensation, such as any full-time wages or salaries for voluntary tenant patrol participants. Funding for HA personnel or resident(s) to be hired to coordinate this activity IS PERMITTED.

(6) Programs (Drug Prevention, Intervention and Drug Treatment) To Reduce the Use of Illegal Drugs. Programs that eliminate the use and distribution of illegal drugs ''in or around'' the premises of the HA/development(s), including drug abuse prevention, intervention, referral and treatment programs, ARE PERMITTED under this program. For purposes of this section, the goals of this program are best served by focusing resources directly upon HA resident/families. The program should facilitate drug prevention, intervention and treatment efforts, to include outreach to community resources and youth activities, and facilitate bringing these resources onto the premises, or providing resident referrals to treatment programs or transportation to out-patient treatment programs away from the premises. FUNDING IS PERMITTED for reasonable, necessary and justified purchasing or leasing of vehicles (whichever can be documented as the most cost effective) for grant administration, resident youth, adult education and training activities directly related to ''programs to reduce the use of illegal drugs'' under this section. Alcohol-related activities/programs ARE NOT ELIGIBLE for funding under this program. FUNDING IS PERMITTED for reasonable, necessary and justified program costs, such as meals, beverages and transportation, incurred only for training and education activities directly related to ''drug prevention programs to reduce/eliminate the use of illegal drugs.'' Activities that should be included in these programs are:

(i) Drug Crime Prevention. Drug crime prevention programs that will be considered for funding under this part must provide a comprehensive drug prevention approach for the HA/residents that will address the individual resident and his or her relationship to family, peers, and the community. Prevention programs must include activities designed to identify and change the factors present in HAs that lead to drug-related crime and other criminal activities associated with drug-related problems, and thereby lower the risk of drug usage. Many components of a comprehensive approach, such as refusal and restraint skills training programs or drug-related family counseling, may already be available in the community of the applicant's housing developments, and the applicant must act to bring those available program components onto the premises.

(A) Drug Education Opportunities. The causes and effects of illegal drug usage must be discussed in a formal setting to provide both young people and adults the working knowledge and skills they need to make informed decisions to confront the potential and immediate dangers of illegal drugs. Grantees may contract (in accordance with 24 CFR 85.36) with professionals to provide appropriate training or workshops. The professionals contracted to provide these services shall be required to base their services upon the needs assessment and program plan of the grantee. These educational opportunities may be a part of resident meetings, youth activities, or other gatherings of public and Indian housing residents.

(B) Family and Other Support Services. For purposes of this section, the term ''supportive services'' means new or significantly expanded services to provide HA families with access to educational and employment opportunities such as, child care; employment training; literacy training; computer skills training; remedial education; drug abuse counseling; assistance in the attainment of certification of high school equivalency; and other appropriate services. In addition, drug and other prevention programs must demonstrate that they will provide directly or otherwise make available services designed to distribute drug education information, to foster effective parenting skills, and to provide referrals for treatment and other available support services in the development or the community for HA families.

(C) Youth services. Drug and other crime prevention programs must demonstrate that they have included groups composed of young people as a part of their prevention programs. These groups must be coordinated by adults with the active participation of youth to organize youth leadership, sports, recreational, cultural and other activities involving HA youth. The dissemination of drug education information, the development of peer leadership skills and other drug

prevention activities must be a component of youth services.

(D) Economic and Educational Opportunities for Residents and Youth. Prevention programs must demonstrate a capacity to provide HA/development(s) residents the opportunities for interaction with or referral to established higher education or vocational institutions with the goal of developing or building on the residents' skills to pursue educational, vocational and economic goals. The program must also demonstrate the ability to provide HA residents the opportunity to interact with private sector businesses in their immediate community for the same desired goals.

(ii) Intervention. The aim of intervention is to identify HA resident drug users and assist them in modifying their behavior and in obtaining early treatment, if necessary. The applicant must establish a program with the goal of preventing drug-related crime and other criminal activities associated with drug-related problems once detected.

(iii) Drug Treatment. (A) Treatment funded under this program shall be ''in or around'' the premises of the HA/development(s) proposed for funding. The Department has determined that the term ''in or around'' means within, or adjacent to, the physical boundaries of a public or Indian housing development. The intent of this definition is to make certain that program funds and program activities are targeted to benefit, as directly as possible, public and Indian housing developments, the intended beneficiaries of the program under the authorizing statute. The goals of this program are best served by focusing its resources directly upon HAs/development(s).

(B) Funds awarded under this program shall be targeted towards the development and implementation of drug referral treatment services and long range aftercare, or the improvement of, or expansion of such program services for HA residents.

(C) Each proposed drug program must address but is not limited to the following goals:

(*1*) Increase resident accessibility to drug treatment services;

(*2*) Decrease drug-related crime and other criminal activity associated with drug-related problems ''in or around'' the HA/development(s) by reducing illicit drug use among residents; and

(*3*) Provide services designed for youth and/or maternal drug abusers, e.g., prenatal and postpartum care, specialized counseling in women's issues, parenting classes, or other drug supportive services.

(D) Approaches that have proven effective with similar populations will be considered for funding. Programs should meet the following criteria:

(*1*) Applicants may provide the service of formal referral arrangements to other treatment programs where the resident is able to obtain treatment costs from sources other than this program.

(*2*) Provide family and collateral counseling.

(*3*) Provide linkages to educational and vocational counseling.

(*4*) Provide coordination of services from/to appropriate Tribal or local drug agencies, HIV-related service agencies, and mental health and public health programs.

(E) Applicants must demonstrate a working partnership with the Single State Agency or current Tribal or state license provider or authority with drug/prevention program coordination responsibilities to coordinate, develop and implement the drug treatment proposal.

(F) The Single State Agency or authority with drug/prevention program coordination responsibilities must certify that the drug/prevention treatment proposal is consistent with the state treatment plan; and that the treatment service meets all local and state licensing requirements.

(G) FUNDING IS NOT PERMITTED for treatment of residents at any in-patient medical treatment program and facility.

(H) FUNDING IS NOT PERMITTED for detoxification procedures, short term or long term, designed to reduce or eliminate the presence of toxic substances in the body tissues of a patient.

(I) FUNDING IS NOT PERMITTED for maintenance drug programs. Maintenance drugs are medications that are prescribed regularly for a short/long period of supportive therapy (e.g. methadone maintenance), rather than for immediate control of a disorder.

(7) Resident Management Corporations (RMCs), Resident Councils (RCs), and Resident Organizations (ROs). Funding under this program IS PERMITTED for HAs to contract with RMCs and incorporated RCs and ROs to develop security and drug abuse prevention programs involving site residents. Such programs may include (but are not limited to) voluntary tenant patrol activities, drug education, drug intervention, youth programs, referral, and outreach efforts. For the purposes of this section, the elimination of drug-related crime and other criminal activities associated with drug-related problems within HAs/developments requires the active involvement and commitment of public housing residents and their organizations. To enhance the ability of HAs to combat drug-related crime and other criminal activity associated with drug-related problems within their developments, Resident Councils (RCs), Resident Management Corporations (RMCs), and Resident Organizations (ROs) will be permitted to undertake management functions specified in this part, notwithstanding the otherwise applicable requirements of 24 CFR parts 950 and 964. In order to implement the activity, the HA must enter into a sub-contract with the RMC/RC/RO setting forth the amount of funds, applicable terms, conditions, financial controls, payment mechanism, schedule, and special conditions, including sanctions for violation of the agreement. Expenditures for activities under this section will not be incurred by the HA (grantee) and/or funds released by the local HUD Field Office until the grantee has met all the above requirements.

(8) Program Performance. HUD will evaluate an applicant's performance under any previous Drug Elimination Program grants. Subject to evaluation and review are the applicant's financial and program performance; reporting and special condition compliance; accomplishment of stated goals and objectives under the previous grant; and program adjustments made in response to previous ineffective performance. If the evaluation discloses a pattern under past grants of ineffective performance with no corrective measures attempted, it will result in a deduction of points from the current application. Since this is a competitive program, HUD does not guarantee continued funding of any previously funded Drug Elimination Program grant.

(9) PHA-Owned Housing. Funding may be used for the activities described in sections I.(c)(1) through (7) (eligible activities) of this NOFA, to eliminate drug-related crime and other criminal activities associated with drug-related problems in housing owned by public housing agencies that is not public housing that is assisted under the United States Housing Act of 1937 and is not otherwise federally assisted (for example, housing that receives tenant subsidies under Section 8 is federally assisted and would not qualify, but housing that receives only state, Tribal or local assistance would qualify), but only if they meet all of the following:

(i) The housing is located in a high intensity drug trafficking area designated pursuant to section 1005 of the Anti-Drug Abuse Act of 1988; and

(ii) The PHA owning the housing demonstrates, on the basis of

information submitted in accordance with the requirements of sections I.(d)(1), below, of this NOFA, that drug-related crime and other criminal activities associated with drug-related problems at the housing has a detrimental affect on or about the housing.

The High Intensity Drug Trafficking Areas (HIDTA) are areas identified as having the most critical drug trafficking problems that adversely impact the rest of the country. These areas are designed as HIDTA by the Director, Office of National Drug Control Policy pursuant to the Anti-Drug Abuse Act of 1988. As of February 1996 the following areas were confirmed by the Office of National Drug Control Policy Office, as designated high intensity drug trafficking areas:

—Washington, DC—Baltimore, MD which includes: Washington, DC, Alexandria, Arlington County (Cty), Fairfax Cty, Montgomery Cty, Prince George's Cty, Charles Cty, Anne Arundel Cty, Howard Cty, Baltimore Cty, and Baltimore, MD.
—New York City (and a surrounding area that includes Nassau Cty, Suffolk County, and Westchester Cty, New York, and all municipalities therein; and Union Cty, Hudson Cty, and Essex Cty, New Jersey, and all municipalities therein).
—Los Angeles (and a surrounding area that includes Los Angeles Cty, Orange Cty, Riverside Cty, and San Bernadino Cty, and all municipalities therein).
—Miami (and a surrounding area that includes Broward Cty, Dade County, and Monroe Cty, and all municipalities therein).
—Houston (and a surrounding area that includes Harris Cty, Galveston Cty, and all municipalities therein).
—The Southwest Border (and adjacent areas that include San Diego and Imperial Cty, California, and all municipalities therein; Yuma Cty, Maricopa Cty, Pinal Cty, Pima Cty, Santa Cruz Cty, and Cochise Cty, Arizona, and all municipalities therein; Hidalgo Cty, Grant County, Luna County, Dona Ana Cty, Eddy Cty, Lea Cty, and Otero Cty, New Mexico, and all municipalities therein; El Paso Cty, Hudspeth Cty, Culberson Cty, Jeff Davis Cty, Presidio County, Brewster Cty, Pecos Cty, Terrell Cty, Crockett Cty, Val Verde Cty, Kinney Cty, Maverick Cty, Zavala Cty, Dimmit Cty, La Salle Cty, Webb County, Zapata County, Jim Hogg County, Starr County, Hildago Cty, Willacy Cty, and Cameron Cty, Texas, and all municipalities therein).
—U. S. Virgin Islands and Puerto Rico.

For further information on high intensity drug trafficking areas contact Rich Yamamoto, at the Office of National Drug Control Policy (ONDCP), Executive Office of the President, Washington, DC 20500. He may be reached on (202) 395–6755.

(10) Ineligible Activities. PHDEP funding IS NOT PERMITTED for any of the activities listed below, UNLESS OTHERWISE SPECIFIED IN THIS NOFA.

(i) FUNDING IS NOT PERMITTED under this NOFA for costs incurred before the effective date of the grant agreement (Form HUD–1044), including, but not limited to, consultant fees related to the development of an application or the actual writing of the application.

(ii) FUNDING IS NOT PERMITTED under this NOFA for the purchase of controlled substances for any purpose. Controlled substance shall have the meaning provided in section 102 of the Controlled Substance Act (21 U.S.C. 802).

(iii) FUNDING IS NOT PERMITTED under this NOFA for compensating informants, including confidential informants.

(iv) FUNDING IS NOT PERMITTED under this NOFA for the direct purchase of any law enforcement or military clothing or equipment, including cars, vans, buses, and motorcycles etc. Exceptions are set forth in section I.(c) of this NOFA.

(v) FUNDING IS NOT PERMITTED under this NOFA for any wages or salaries for voluntary tenant patrol participants. HAs ARE PERMITTED to fund HA/resident coordinators to be hired for this activity.

(vi) FUNDING IS NOT PERMITTED under this NOFA for the costs of leasing, acquiring, or constructing any facility space in a building or unit.

(vii) FUNDING IS NOT PERMITTED under this NOFA for organized fund raising, advertising, financial campaigns, endowment drives, solicitation of gifts and bequests, rallies, marches, community celebrations and similar expenses.

(viii) FUNDING IS NOT PERMITTED under this NOFA for the costs of entertainment, amusements, or social activities and for the expenses of items such as meals, beverages, lodgings, rentals, transportation, and gratuities related to these ineligible activities. However, under section I.(c)(6) of this NOFA, funding IS PERMITTED for reasonable, necessary and justified program costs, such as meals, beverages and transportation, incurred only for training, and education activities directly related to ''drug prevention programs.''

(ix) FUNDING IS NOT PERMITTED under this NOFA for the costs (court costs, attorneys fees, etc.) related to screening or evicting residents for drug-related crime and other criminal activities associated with drug-related problems. However, HA investigators funded under this program may participate in judicial and administrative proceedings as provided in section I.(c)(4) (Employment of Investigators) of this NOFA.

(x) Although participation in activities with Federal drug interdiction or drug enforcement agencies is encouraged, the transfer of PHDEP grant funds to any Federal agency IS NOT PERMITTED under this NOFA.

(xi) Alcohol-related activities and programs ARE NOT ELIGIBLE for funding under this program. Controlled substance shall have the meaning provided in Section 102 of the Controlled Substance Act (21 U.S.C. 802). Since this definition of controlled substance does not include alcohol, alcohol-related activities are not eligible.

(xii) FUNDING IS NOT PERMITTED under this NOFA for establishing councils, resident associations, resident organizations, and resident corporations since HUD funds these activities under a separate NOFA.

(xiii) Indirect costs as defined in OMB Circular A–87 ARE NOT PERMITTED under this program. Only direct costs are permitted.

(xiv) FUNDING IS NOT PERMITTED under this NOFA for any cash awards.

(xv) Grant funds under this NOFA SHALL NOT BE USED to supplant existing positions or programs.

(d) Selection Criteria. HUD will review each application that it determines meets the requirements of this NOFA and evaluate it by assigning points in accordance with the selection criteria. An application for funding under this program may be for one or more eligible activities.

An applicant may submit only one application under each Notice of Funding Availability (NOFA). Joint applications ARE NOT PERMITTED under this program with the following EXCEPTION: HAs under a single administration (such as HAs managing another HA under contract or HAs sharing a common executive director) may submit a single application, even through each HA has its own operating budget.

The number of points that an application receives will depend on the extent to which the application is responsive to the information requested in the selection criteria. An application must receive a score of at least 70 points out of the maximum of 100 points that may be awarded under this competition to be eligible for funding.

After applications have been scored, Headquarters will rank the applications on a national basis. Awards will be made in ranked order until all funds are expended. HUD will select the highest

ranking applications that can be fully funded. Applications with tie scores will be selected in accordance with the procedures in section I.(e) (Ranking Factors). The terms ''housing'' and ''development(s)'' as used in the application selection criteria and submission requirements may include, as appropriate, housing described in section I.(c)(9) (PHA-Owned Housing), above, of this NOFA. Each application submitted for a grant under this NOFA will be evaluated on the basis of the following selection criteria:

(1) First Criterion: The Extent of the Drug-Related Crime Associated With Drug-Related Crime Problems in the Applicant's Development or Developments Proposed for Assistance. (MAXIMUM POINTS: 40) To permit HUD to make an evaluation on the basis of this criterion, an application must include a description of the extent and nature of drug-related crime and other criminal activities associated with drug-related problems, ''in or around'' the HA/development(s) proposed for funding. An applicant must explain, in the application, in what way a problem claimed to be associated with drug-related crime and other criminal activities associated with drug-related problems is a result of drug-related crime and those other criminal activities. The description should provide the following information:

(i) Objective Data. The best available objective data on the nature, source, and frequency of the problem of drug-related crime and other criminal activities associated with drug-related problems. This data may include (but not necessarily be limited to):

(A) The nature and frequency of drug-related crime and other criminal activities associated with drug-related problems as reflected by crime statistics and other data from Federal, State, Tribal, or local law enforcement agencies.

(B) Information from records on the types and sources of drug-related crime and other criminal activities associated with drug-related problems in the HA/development(s) proposed for assistance.

(C) Descriptive data as to the types of offenders committing drug-related crime and other criminal activities associated with drug-related problems in the applicant's HA/development(s) (e.g., age, residence, etc.).

(D) The number of lease terminations or evictions for drug-related crime or arrests and other criminal activities associated with drug-related problems.

(E) The number of emergency room admissions for drug use or that result from drug-related crime and other criminal activities associated with drug-related problems. Such information may be obtained from police departments and/or fire departments, emergency medical services agencies and hospitals.

(F) The number of police calls for service from HAs (not just drug-related crime) such as resident initiated calls, officer-initiated calls, domestic violence calls, drug distribution complaints, found drug paraphernalia, gang activity, graffiti that reflects drugs or gang-related activity, vandalism, drug arrests, and abandoned vehicles.

(G) The number of residents placed in treatment for drug-related substance abuse, the number of residents that successfully completed treatment, and number of residents that successfully completed short or long range after-care treatment for substance abuse.

(H) Where appropriate, the statistics should be reported both in real numbers and as an annual percentage of the residents in each development (e.g., 20 arrests in a two-year for distribution of heroin in a development with 100 residents reflects a 20% occurrence rate). The data should cover the most recent two-year period. If the data from the most recent two-year period is not used, an explanation must be provided. To the extent feasible, the data provided should be compared with data from a prior two year period to show whether the current data reflects a percentage increase or decrease in drug-related crime and other criminal activities associated with drug-related problems during that prior period of time within HAs.

(I) A reduction in drug-related crime and other criminal activities associated with drug-related problems in the HA/development(s) where previous PHDEP grants have been in effect will not be considered a disadvantage to the applicant.

(J) If funding is being sought for housing owned by public housing agencies that is not public housing assisted under the United States Housing Act of 1937 and is not otherwise federally assisted, the application must demonstrate that the housing is located in a high intensity drug trafficking area designated pursuant to section 1005 of the Anti-Drug Abuse Act of 1988, and the application must demonstrate that drug-related activity and other criminal activities associated with drug-related problems at the housing has a detrimental affect on or about the real property comprising the public or other federally assisted low-income housing. For the purposes of this NOFA ''in or around'' means: on the premises or immediately adjacent to the premises of the real property comprising the public or other Federally-assisted housing.

(ii) Other Data on the extent of drug-related crime and other criminal activities associated with drug-related problems. To the extent that objective data as described above may not be available, or to complement that data, the assessment may use data from other sources that have a direct bearing on drug-related crime and other criminal activities associated with drug-related problems in the developments proposed for assistance under this program. However, if other relevant information is to be used in place of, rather than to complement, objective data, the application must indicate the reasons why objective data could not be obtained and what efforts were made to obtain it. Examples of these data include (but are not necessarily limited to):

(A) Resident and staff surveys on drug-related crime and other criminal activities associated with drug-related problems or on-site reviews to determine drug activity; and local government or scholarly studies or other research in the past year that analyze drug activity in the targeted developments.

(B) Vandalism cost, to include elevator vandalism (where appropriate) and other vandalism attributable to drug-related crime and other criminal activities associated with drug-related problems.

(C) Information from schools, health service providers, residents and Federal, state, and Tribal officials, and the opinions and observations of individuals having direct knowledge of drug-related crime and other criminal activities associated with drug-related problems concerning the nature and frequency of these problems in the developments proposed for assistance. (These individuals may include Federal, state, Tribal, and local government law enforcement officials, resident or community leaders, school officials, community medical officials, drug treatment or counseling professionals, or other social service providers.)

(D) The school dropout rate and level of absenteeism for youth that the applicant can relate to drug-related crime and other criminal activities associated with drug-related problems. If crime or other statistics are not available at the development or precinct level the applicant may use other reliable, objective data.

(iii) In awarding points, HUD will evaluate the extent to which the applicant has provided the above data that reflects drug-related crime and other criminal activities associated with drug-related problems, both in terms of

the frequency and nature of the drug-related crime and other criminal activities associated with drug-related problems in the HA/development(s) proposed for funding as reflected by information submitted under paragraphs (1)(i) (objective data), and (ii) (other data) of this section; and the extent to which such data reflects an increase in drug-related crime and other criminal activities associated with drug-related problems over a period of two year(s) in the HA/development(s) proposed for assistance. (MAXIMUM POINTS UNDER PARAGRAPHS (i) AND (ii) OF THIS SECTION: 15)

(iv) In awarding points, HUD will evaluate the extent to which the applicant has analyzed the data compiled under paragraphs (1)(i) and (ii) of this section, and has clearly articulated its needs, performance measurements, and strategies for reducing drug-related crime and other criminal activities associated with drug-related problems in the HA/development(s) proposed for assistance. (MAXIMUM POINTS: 5)

(v) In awarding points, HUD will evaluate and assign points according to the extent and availability of standardized data on the following specific Part I crime activities as defined by the Uniform Crime Reporting (UCR) system: (1) criminal homicide, (2) forcible rape, (3) robbery, and (4) aggravated assault. This data must cover both the frequency and nature of the crime in the HA/development(s) proposed for assistance. The community data will be taken from current Uniform Crime Reports (UCRs) of the U. S. Department of Justice (FBI crime data) and will be at the HA/city/county level, when available. The crime data and the point values will be computed by HUD. (MAXIMUM TOTAL POINTS: 10).

(vi) In awarding points, HUD will evaluate and assign points according to the extent and availability of standardized data on the Part II crime activity of drug abuse violations [state, Tribal and local offenses relating to the unlawful possession, sale, use, growing, and manufacturing of narcotic drugs], as defined by the Uniform Crime Reporting (UCR) system. This data must cover both the frequency and nature of the crime in the HA/development(s) proposed for assistance. The community data will be taken from current Uniform Crime Reports (UCRs) of the U. S. Department of Justice (FBI crime data) and will be at the HA/city/county level, when available. The crime data and the point values will be computed by HUD. (MAXIMUM POINTS: 10)

(2) Second Criterion: The Quality of the Plan To Address the Crime Problem in the Public or Indian Housing Developments Proposed for Assistance, Including the Extent to Which the Plan Includes Initiatives That Can Be Sustained Over a Period of Several Years. (MAXIMUM POINTS: 35) In assessing this criterion, HUD will consider the following factors:

(i) To permit HUD to make an evaluation on the basis of this criterion, an application must include the applicant's plan for addressing drug-related crime and other criminal activities associated with drug-related problems. This means a narrative description of the applicant's activities for addressing (solutions/prevention) drug-related crime and other criminal activities associated with drug-related problems in each of the developments proposed for assistance under this part must be included in the application. The activities eligible for funding under this program are listed in section I.(c) of this NOFA, above, although the applicant's plan must include all of the activities that will be undertaken to address the problem, whether or not they are funded under this program. If the same activities are proposed for all of the developments that will be covered by the plan, the activities do not need to be described separately for each development. Where different activities are proposed for different developments, these activities and the developments where they will take place must be separately described.

The description of the plan in the application must include (but not necessarily be limited to) the following information:

(A) A narrative describing each activity proposed for PHDEP funding in the applicant's plan, any additional relevant activities being undertaken by the applicant (e.g., a drug treatment program for residents funded by an agency other than HUD), and how all of these activities interrelate. The applicant should specifically address whether it plans to implement a comprehensive strategy relating to illegal drug activities, drug-related crime and other criminal activities associated with drug-related problems. The strategy must include (as applicable) management practices, enforcement/law enforcement techniques (such as community policing), and a combination of drug abuse prevention, intervention, referral, and treatment programs. In addition, the applicant must indicate how its proposed activities will complement, and be coordinated with, current activities.

(B) If grant amounts are to be used for contracting for/or employment of security guard personnel services in HAs/development(s), the application must describe how the requirements of section I.(c)(1)(i) (Employment of Security Personnel) of this NOFA will be met.

(C) If grant amounts are to be used for HA police department equipment and personnel, the application must describe how the requirements of section I.(c)(1)(ii) (Housing Authority Police Departments) of this NOFA will be met.

(D) If grant amounts are to be used for reimbursement of local law enforcement agencies for additional security and protective services, the application must describe how the requirements of section I.(c)(2) (Reimbursement of Local Law Enforcement Agencies) of this NOFA will be met.

(E) If grant amounts are to be used for physical improvements in HA/developments proposed for funding under section I.(c)(3) (Physical Improvements) of this NOFA, the application must describe how these improvements will be coordinated with the applicant's modernization program, if any, under 24 CFR part 950, subpart I, or 24 CFR part 968.

(F) If grant amounts are to be used for employment of investigators, the application must describe how the requirements of section I.(c)(4) (Employment of Investigators) of the NOFA will be met.

(G) If grant amounts are to be used for voluntary tenant patrols, the application must describe how the requirements of section I.(c)(5) (Voluntary Tenant Patrol) of this NOFA will be met.

(H) If grant amounts are to be used for a ''Program to reduce illegal drugs'' i.e.; prevention, intervention or treatment programs to eliminate the use of illegal drugs ''in or around'' the premises of the HA/development(s) as provided in I.(c)(6) of this NOFA, the application must discuss the nature of the program, how the program represents a prevention or intervention strategy, and how the program will further the HA's strategy to eliminate drug-related crime and other criminal activities associated with drug-related problems in the HA/development(s) proposed for assistance in the plan, a description of how funding decisions were reached (specifically how costs were determined for each element of each activity in the same format as shown in the application kit) and financial and other resources (including funding under this program, and from other resources) that may reasonably be expected to be available to carry out each activity.

(I) Implementation timetable that includes tasks, deadlines, budget cost,

expected outcomes, desired results, and persons responsible for implementing (beginning, achieving identified milestones, and completing) each activity in the plan.

(J) The resources that the applicant may reasonably expect to be available at the end of the grant term to continue the plan, and how they will be allocated to plan activities that can be sustained over a period of years.

(K) A discussion of how the applicant's plan will serve to provide training and employment or business opportunities for lower income persons and businesses located in, or substantially owned by persons residing within the area of the section 3 covered project (as defined in 24 CFR part 135) in accordance with 24 CFR 761.40 and 24 CFR part 5, subpart A. HAs are encouraged to hire qualified residents in all positions.

(L) Program evaluation. The plan must specifically demonstrate how the activities funded under this program will be evaluated by the applicant, so that the program's progress can be measured. Performance measurements must be developed to demonstrate the relationship between the extent of the crime detailed in Selection Criterion 1, section I(d)(1) of this NOFA, and the comprehensive crime reduction/elimination described in the implementation of the plan. The evaluation shall also be used to modify activities to make them more successful or to identify unsuccessful strategies. The evaluation must identify the types of information the applicant will use to measure the plan's success (e.g., tracking changes in identified crime statistics); and indicate the method the applicant will use to gather and analyze this information.

(ii) In assessing this criterion, HUD will consider the quality and thoroughness of an applicant's plan in terms of the information requested in section I.(d)(2)(i), ''Quality of the plan,'' of this NOFA, including the extent to which:

(A) The applicant's plan clearly describes the activities that are being proposed by the applicant, including those activities to be funded under this program and those to be funded from other sources, and indicates how these proposed activities provide for a comprehensive approach to reduce/eliminate drug-related crime and other criminal activities associated with drug-related problems (as described under selection criterion 1, section I.(d)(1), ''The extent of the drug-related crime associated with drug-related crime problems'' of this NOFA, above) in the HA/development(s) proposed for funding. (MAXIMUM POINTS: 10)

(B) The applicant's plan provides a budget narrative with supporting documentation (specifically how costs were determined for each element of each activity in the same format as shown in the application kit) for each activity and describes the financial and other resources (under this program and other sources) that may reasonably be expected to be available to Carry out each activity. (MAXIMUM POINTS: 5)

(C) The applicant's plan is realistic in terms of time, personnel, and other resources, considering the applicant's timetable for beginning and completing each component of the plan and the amount of funding requested under this program and other identified resources available to the applicant. (MAXIMUM POINTS: 2)

(D) As described in the plan, other entities (e.g., Tribal, local and state governments and community organizations) are involved in planning and carrying out the applicant's plan. (MAXIMUM POINTS: 2)

(E) The plan includes activities that can be sustained over a period of years and identifies resources that the applicant may reasonably expect to be available for the continuation of the activities at the end of the grant term. (MAXIMUM POINTS: 2)

(F) The applicant's plan will serve to provide training and employment or business opportunities for lower income persons and businesses located in, or substantially owned by persons residing within the area of the section 3 covered project (as defined in 24 CFR part 135) in accordance with 24 CFR 761.40 and 24 CFR part 5, subpart A. (MAXIMUM POINTS: 2)

(G) The applicant's plan contains a clear description of its process to collect, maintain and analyze specific drug-related crime and other criminal activities associated with drug-related problems and workload as defined by the Uniform Crime Reporting (UCR) system in specific Part I/II crimes as detailed in selection criterion 1, sections I.(d)(1)(v) and (vi) of this NOFA, as well as other police workload data to include all calls for service on the HA/development(s) proposed for funding. (MAXIMUM POINTS: 5)

(H) The applicant's plan includes an evaluation process with specific performance measurements that demonstrate results relative to crime workload detailed in Selection Criterion 1, section I.(d)(1) of this NOFA, in the HA/development(s) proposed for funding. (MAXIMUM POINTS: 7)

(3) Third Criterion: the Capability of the Applicant to carry out the Plan. (MAXIMUM POINTS: 15) In assessing this criterion, HUD will consider the following factors:

(i) The extent of the applicant's successful and effective administrative capability to manage its HA, as measured by its performance with respect to operative HUD requirements under the ACC or ACA and the Public Housing Management Assessment Program at 24 CFR part 901. In evaluating administrative capability under this factor, HUD will also consider, and the application must include in the form of a narrative discussion, the following information:

(A) Whether there are any unresolved findings from prior HUD reports (e.g. performance or finance), reviews or audits undertaken by HUD, the Office of the Inspector General, the General Accounting Office, or independent public accountants;

(B) Whether the applicant is operating under court order. (MAXIMUM POINTS UNDER PARAGRAPH (3)(I) (A) AND (B) OF THIS SECTION: 2)

(ii) The application must demonstrate, as authorized by applicable local, state, Tribal, and Federal law, the extent to which the applicant has formed a collaboration with the local, state, Tribal, and Federal law enforcement officials and courts to gain access regarding the criminal conviction records of applicants for, or tenants of, HAs regarding applicant screening, lease enforcement, and eviction. The application must demonstrate the extent to which the applicant has implemented effective screening procedures to determine an individual's suitability for public housing (consistent with the requirements of 42 U.S.C. 3604(f), 24 CFR 100.202, 29 U.S.C. 794 and 24 CFR 8.4 which deal with individuals with disabilities); implemented a plan to reduce vacancies; implemented eviction and lease enforcement procedures in accordance with 24 CFR part 966, subpart B, 25 CFR 950.340 and Section 503 of NAHA; or undertaken other management actions to eliminate drug-related crime and other criminal activities associated with drug-related problems in its developments. (MAXIMUM POINTS: 2)

(iii) The application must identify the applicant's participation in HUD grant programs (such as CGP, CIAP, youth sports, child care, resident management, PHDEP, HOPE VI, Tenant Opportunities Program (TOP), Family Investment Centers (FIC) grants etc.) within the preceding three years, and discuss the degree of the applicant's success in implementing and managing these grant programs. (MAXIMUM POINTS: 4)

(iv) The local HUD Field Office/AONAPs shall evaluate the extent of the applicant's success or failure in implementing and managing an effective program under previous PHDEP grants and/or other grants (preceding three years). This evaluation will be based upon (but not limited to) HUD's Line of Credit Control System (LOCCS) reports, PHDEP and/or other HUD program performance and financial reports, audits, and HUD reviews. (MAXIMUM POINTS: 7 POINTS)

(4) Fourth Criterion: The Extent to Which Tenants, the Local Government and the Local Community Support and Participate in the Design and Implementation of the Activities Proposed To Be Funded Under the Application. (MAXIMUM POINTS: 10) In assessing this criterion, HUD will consider the following factors:

(i) The application must include a discussion of the extent to which community representatives and Tribal, local, state and Federal government officials are actively involved in the design and implementation of the applicant's plan, as evidenced by descriptions of planning meetings held with community representatives and local government officials, letters of commitment to provide funding, staff, or in-kind resources, or written comments on the applicant's planned activities. (MAXIMUM POINTS: 3)

(ii) The application must discuss the extent to which the relevant governmental jurisdiction has met its law enforcement obligations under the Cooperation Agreement with the applicant (as required by the grantee's Annual Contributions Contract with HUD). The application must also include a certification by the Chief Executive Officer (CEO) of a state or a unit of general local government in which the developments proposed for assistance are located that the locality is meeting its obligations under the Cooperation Agreement with the HA, particularly with regard to the current level of baseline law enforcement services. If the jurisdiction is not meeting its obligations under the Cooperation Agreement, the CEO should identify any special circumstances relating to its failure to do so. Whether or not a locality is meeting its obligations under the Cooperation Agreement with the applicant, the applicant must describe the current level of baseline law enforcement services being provided to the HA/development(s) proposed for assistance. (MAXIMUM POINTS: 3)

(iii) The extent to which HA/development residents, and an RMC, RC or RO, where they exist, are involved in the planning and development of the grant application and plan strategy, and support and participate in the design and implementation of the activities proposed to be funded under the application. The application must include a summary of written resident and resident organization meetings, with supporting documentation that addresses (but is not limited to) subject matter, names of residents on committees, copies of resident surveys and evaluations etc., as required by 24 CFR 761.25, and the applicant's response to and action on these comments. If there are no resident or resident organization comments, the applicant must provide an explanation of the steps taken to encourage participation, even though they were not successful. (MAXIMUM POINTS: 2)

(iv) The extent to which the applicant is already undertaking, or has undertaken, participation in local, state, Tribal or Federal anti-drug related crime efforts, such as Operation Weed and Seed, and Operation Safe Home, and/or has successfully coordinated its law enforcement activities with local, state, Tribal or Federal law enforcement agencies. (MAXIMUM POINTS: 2)

(e) Ranking Factors. (1) Each application for a grant award that is submitted in a timely manner to the local HUD Field Office with delegated public housing responsibilities or, in the case of IHAs, to the appropriate AONAPs, that otherwise meets the requirements of this NOFA, will be evaluated in accordance with the selection criteria specified above.

(2) An application must receive a score of AT LEAST 70 POINTS OUT OF THE MAXIMUM OF 100 POINTS that may be awarded under this competition to be eligible for funding.

(3) After applications have been scored, Headquarters will rank the applications on a national basis.

(4) In the event that two eligible applications receive the same score, and both cannot be funded because of insufficient funds, the application with the highest score in SELECTIVE CRITERION 3 ''THE CAPABILITY OF THE APPLICANT TO CARRY OUT THE PLAN'' will be selected. If Selection Criterion 3 is scored identically for both applications, the scores in Selection Criteria 1, 2, and 4 will be compared in this order, one at a time, until one application scores higher in one of the factors and is selected. If the applications score identically in all factors, the application that requests less funding will be selected.

(5) All awards will be made to fund fully an application, except as provided in section I.(b)(4) (Reduction of Requested Grant Amounts and Special Conditions).

(f) General Grant Requirements. (1) Each grantee is responsible for ensuring that grant funds are administered in accordance with the requirements of 24 CFR part 761, any specific Notices of Funding Availability (NOFAs) issued for these programs, 24 CFR part 85 (as applicable), applicable laws and regulations, applicable OMB circulars, HUD fiscal and audit controls, grant agreements, grant special conditions, the grantee's approved budget (SF–424A), and supporting budget narrative, plan, and activity timetable.

(2) Applicability of OMB Circulars and HUD fiscal and audit controls. The policies, guidelines, and requirements of this NOFA, 24 CFR part 761, 24 CFR part 85, 24 CFR part 84, and OMB Circular A–87 apply to the acceptance and use of assistance by grantees under this program; and OMB Circular Nos. A–110 and A–122 apply to the acceptance and use of assistance by private nonprofit organizations (including RMCs, RCs and ROs). In addition, grantees and sub-grantees must comply with fiscal and audit controls and reporting requirements prescribed by HUD, including the system and audit requirements under the Single Audit Act, OMB Circular No. A–128 and HUD's implementing regulations at 24 CFR part 44; and OMB Circular No. A–133.

(3) *Cost Principles.* Specific guidance in this NOFA, 24 CFR part 761, 24 CFR part 85, 24 CFR part 84, OMB Circular A–87, other applicable OMB cost principles, HUD program regulations, Notices, HUD Handbooks, and the terms of grant/special conditions and subgrant agreements will be followed in determining the reasonableness and allocability of costs. All costs must be reasonable, necessary and justified with cost analysis. PHDEP Funds must be disbursed by the grantee within SEVEN CALENDAR DAYS AFTER RECEIPT OF DRAWDOWN. Grant funds must be used only for Drug Elimination Program purposes. Direct costs are those that can be identified specifically with a particular activity or function in this NOFA and cost objectives in OMB Circular A–87. Indirect cost ARE NOT PERMITTED in this program. Administrative requirements for the Public Housing Drug Elimination Program grants will be in accordance with 24 CFR part 85. Acquisition of property or services shall be in accordance with 24 CFR 85.36. All equipment acquisitions will remain the property of the grantee in accordance

with 24 CFR 85.32. ONAP procurement standards are in 24 CFR part 950.

(4) Grant Staff Personnel. (i) All persons or entities compensated by the grantee for services provided under a PHDEP grant must meet all applicable personnel or procurement requirements and shall be required as a condition of employment to meet all relevant state, local and Tribal government, insurance, training, licensing, or other similar standards and requirements.

(ii) Compensation for personnel relative to grant administrative support (including supervisory personnel, such as a grant administrator(s), public housing police department accreditation specialist under section I.(c)(1)(ii) of this NOFA, drug/sports/voluntary tenant patrol program coordinators, and support staff (such as counselors and clerical staff) hired for grant activities IS PERMITTED and may include wages, salaries, and fringe benefits.

(iii) All grant personnel must be necessary, reasonable and justified. Job descriptions must be provided, in the application, for all grant personnel. Excessive staffing IS NOT PERMITTED.

(iv) HA staff responsible for management/coordination of PHDEP programs shall be compensated with grant funds only for work performed directly for PHDEP grant-related activities and shall document the time and activity involved in accordance with 24 CFR 85.20.

(5) Grant Agreement. After an application has been approved, HUD and the applicant shall enter into a grant agreement (Form HUD–1044) setting forth the amount of the grant and its applicable terms, conditions, financial controls, payment mechanism, schedule, and special conditions, including sanctions for violation of the agreement. The grant agreement will be effective upon execution of Form HUD–1044 by the Director, Office of Public Housing or Administrator, AONAPs.

(6) Term of Grant Agreement. Terms of the grant agreement may not exceed 24 months, unless an extension (Form HUD–1044) is approved by the local HUD Field Office or AONAPs. Any funds not expended at the end of the grant term shall be remitted to HUD. Once the award is executed, HUD Field Offices or AONAPs, using Form HUD–1044, may approve a PHDEP grant extension for any project up to and including a maximum period of 6 months beyond the original grant agreement. Grantees desiring an extension beyond 6 months must make a request through the local HUD Field Office or AONAPs to the Assistant Secretary for Public and Indian Housing (ATTN: Office of Community Relations and Involvement, Crime Prevention and Security Division) for a waiver of 24 CFR part 761. Any funds not expended at the end of the grant term, unless an extension has been approved, shall be remitted to HUD.

(7) Grant extension. Local HUD Field Offices or AONAPs may grant an extension of the grant term in response to a written request for an extension stating the need for the extension and indicating the additional time required. Local HUD Field Offices or AONAPs will not consider requests for retroactive extension of program periods. HUD will permit only one extension. Local HUD Field Offices or AONAPs will only consider extensions if the grantee meets the extension criteria of paragraph (b)(3) of this section at the time the grantee submits for approval the request for the extension. The maximum extension allowable for any PHDEP grant period is 6 months.

(i) Receipt. The request must be received by the local HUD Field Office or AONAPs prior to the termination of the grant, and requires approval by the local HUD Office or AONAPs with jurisdiction over the grantee.

(ii) Extension criteria. The following criteria must be met by the grantee when submitting a request to extend the expenditure deadline for a program or set of programs.

(iii) Performance and Financial Status Reports. There must be on file with the local HUD Field Office or AONAPs current and acceptable Performance and Financial Status Reports, SF–269As.

(iv) Grant agreement special conditions. The grantee must have satisfied all grant agreement special conditions except those conditions that the grantee must fulfill in the remaining period of the grant. This also includes the performance and resolution of audit findings in a timely manner.

(v) Justification. The grantee must submit a narrative justification with the program extension request. The justification must provide complete details, including the circumstances that require the proposed extension, and an explanation of the impact of denying the request.

(vi) HUD action. The local HUD Field Office or AONAPs will attempt to take action on any proposed extension request within 15 days after receipt of the request.

(8) Duplication of funds. To prevent duplicate funding of any activity, the grantee must establish controls to assure that an activity or program that is funded by other HUD programs, or programs of other Federal agencies, shall not also be funded by the Drug Elimination Program. The grantee must establish an auditable system to provide adequate accountability for funds that it has been awarded. The grantee is responsible for ensuring that there is no duplication of funds.

(9) Insurance. Each grantee shall obtain adequate insurance coverage to protect itself against any potential liability arising out of the eligible activities under this part. In particular, applicants shall assess their potential liability arising out of the employment or contracting of security personnel, law enforcement personnel, investigators, and drug treatment providers, and the establishment of voluntary tenant patrols; evaluate the qualifications and training of the individuals or firms undertaking these functions; and consider any limitations on liability under Tribal, State, or local law. Grantees shall obtain liability insurance to protect the members of the voluntary tenant patrol against potential liability as a result of the patrol's activities under § 761.15(b)(5). Voluntary tenant patrol liability insurance costs are eligible program expenses. Subgrantees shall obtain their own liability insurance.

(10) Failure to implement program(s). If the grant plan, approved budget, and timetable, as described in the approved application, are not operational within 90 days of the grant agreement date, the grantee must report by letter to the local HUD Field Office or the local AONAPs the steps being taken to initiate the plan and timetable, the reason for the delay, and the expected starting date. Any timetable revisions that resulted from the delay must be included. The local HUD Field Office or AONAPs will determine if the delay is acceptable, approve/disapprove the revised plan and timetable, and take any additional appropriate action.

(11) Sanctions. (1) HUD may impose sanctions if the grantee:

(i) Is not complying with the requirements of this part or of other applicable Federal law;

(ii) Fails to make satisfactory progress toward its drug elimination goals, as specified in its plan and as reflected in its performance and financial status reports;

(iii) Does not establish procedures that will minimize the time elapsing between drawdowns and disbursements;

(iv) Does not adhere to grant agreement requirements or special conditions;

(v) Proposes substantial plan changes to the extent that, if originally submitted, the applications would not have been selected for funding;

(vi) Engages in the improper award or administration of grant subcontracts;

(vii) Does not submit reports; or

(viii) Files a false certification.

(12) HUD may impose the following sanctions:

(i) Temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee;

(ii) Disallow all or part of the cost of the activity or action not in compliance;

(iii) Wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program;

(iv) Require that some or all of the grant amounts be remitted to HUD;

(v) Condition a future grant and elect not to provide future grant funds to the grantee until appropriate actions are taken to ensure compliance;

(vi) Withhold further awards for the program; or

(vii) Take other remedies that may be legally available.

(g) Periodic Reports. In accordance with 24 CFR part 85, grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity of the grant or sub-grant.

(1) Semiannual grant performance status reporting requirements. Grantees are required to provide the local HUD Field Office or AONAPs with a semiannual performance report that evaluates the grantee's overall performance against its plan. This report shall include in summary form (but is not limited to) the following: any change or lack of change in crime statistics or other indicators drawn from the applicant's plan assessment (such as vandalism, etc.) and an explanation of any difference; successful completion of any of the strategy components identified in the applicant's plan; a discussion of any problems encountered in implementing the plan and how they were addressed; an evaluation of whether the rate of progress meets expectations; a discussion of the grantee's efforts in encouraging resident participation; a description of any other programs that may have been initiated, expanded or deleted as a result of the plan, with an identification of the resources and the number of people involved in the programs and their relation to the plan.

(2) Semiannual grant financial status reporting requirements. The grantee shall submit a semiannual financial status report to the local HUD Field Office or AONAPs. The grantee shall use the SF–269A to report the status of funds for nonconstruction programs. The grantee shall use SF–269A, Block 12, ''Remarks,'' to report on the status of programs, functions, or activities within the program.

(3) Semiannual grant performance and financial status reporting period and due dates. The semiannual performance and financial status report shall cover the periods ending June 30 and December 31, and must be submitted to the local HUD Field Office or AONAPs by July 30 and January 31 of each year.

(4) Final grant performance status report. Grantees are required to provide the local HUD Field Office or AONAPs with a final cumulative performance report that evaluates the grantee's overall performance against its plan. This report shall include in summary form (but is not limited to) the following:

(i) Any change or lack of change in crime statistics or other indicators drawn from the applicant's plan assessment (such as vandalism, etc.) and an explanation of any difference;

(ii) Successful completion of any of the strategy components identified in the applicant's plan;

(iii) A discussion of any problems encountered in implementing the plan and how they were addressed;

(iv) An evaluation of whether the rate of progress meets expectations;

(v) A discussion of the grantee's efforts in encouraging resident participation; and

(vi) A description of any other programs that may have been initiated, expanded or deleted as a result of the plan, with an identification of the resources and the number of people involved in the programs and their relation to the plan.

(5) Final financial status report (SF–269A). The final report will be a cumulative summary of expenditures to date and must indicate the exact balance of unexpended funds. The grantee shall remit all Drug Elimination Program funds, including any unexpended funds, owed to HUD within 90 days after the termination of the grant agreement.

(6) Final grant performance status report and financial status report (SF–269A) reporting period. The final performance and financial status report shall cover the period from the date of the grant agreement, to include any extensions, to the termination date of the grant agreement. The report is due to the local HUD Field Office or AONAPs within 90 days after the termination of the grant agreement.

(7) Report submission. The grantee shall submit all required reports to the local HUD Field Office or AONAPs as required.

II. Application Process

(a) Application Kit: An application kit may be obtained, and assistance provided, from the local HUD Field Office with delegated public housing responsibilities over an applying public housing agency, or from the AONAPs having jurisdiction over the Indian housing authority making an application, or by calling HUD's Community Relations and Involvement Clearinghouse, telephone (800) 578–3472. The application kit contains information on all exhibits and certifications required under this NOFA.

(b) Application Submission: Applications are due on or before FRIDAY, JUNE 14, 1996, AT 3:00 PM, LOCAL TIME. Applications (original and two identical copies of the original application) must be received by the deadline at the local HUD Field Office with responsibilities over the applying public housing authorities. This application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

Applications (original and two identical copies of the original application) must be physically received by the deadline at the local HUD Field Office with delegated public housing responsibilities Attention: Director, Office of Public Housing, or, in the case of IHAs, to the local HUD AONAPs Attention: Administrator, AONAPs, as appropriate. It is not sufficient for an application to bear a postage date within the submission time period. Applications submitted by facsimile are not acceptable.

APPLICATIONS RECEIVED AFTER THE DEADLINE DATE AND HOUR, FRIDAY, JUNE 14, 1996, AT 3:00 PM, LOCAL TIME, WILL NOT BE CONSIDERED.

III. Checklist of Application Submission Requirements

To qualify for a grant under this program, the application submitted to HUD shall include, in addition to those requirements listed under section I.(d) (Selection Criteria) of this NOFA, including the plan to address the problem of drug-related crime and other criminal activities associated with drug-

related problems in the developments proposed for funding, at least the following items:

(a) Applicant Grant Data Form. The applicant must complete the form for HUD's application database entry. The form, with example, is provided in the application kit.

(b) Application for Federal Assistance, Standard Form SF–424. The SF–424 is the face sheet for the application. The applicant must complete and sign the form. The form, with example, is provided in the application kit.

(c) Standard Form SF–424A Budget Information, (non-construction programs), with attached budget narrative(s) with supporting justification and documentation (specifically showing how costs were determined for each element of each activity in the same format as shown in the application kit). The SF–424A, with attached budget narrative, must be completed and the applicant must describe each major activity proposed for funding, e.g., employment of security personnel (contracted security personnel services and housing authority police departments), reimbursement of local law enforcement services, physical improvements, employment of investigators, voluntary tenant (resident) patrols, programs to reduce the use of drugs i.e. drug prevention, intervention, and treatment programs. The form, with example, is provided in the application kit.

(d) Applicants must verify their unit count with the local HUD Field Office/ AONAPs prior to submitting the application. In accordance with sections I.(b)(2) (i) through (iii) of this NOFA, applicants must compute the maximum grant award amount for which they are eligible (eligible dollar amount per unit x (times) number of units and compare it with the dollar amount requested in the application to make certain the amount requested does not exceed the permitted maximum grant award.

(e) Standard Form SF–424B, Assurances, (non-construction programs) for pre-award assurances. The applicant must complete and sign the form. The form and example are provided in the application kit.

(f) Certifications. Applications must include the following certifications (certifications are provided in the application kit):

(1) A certification that the applicant will maintain a drug-free workplace in accordance with the requirements of the Drug-Free Workplace Act of 1988, 24 CFR part 24, subpart F. (Applicants may submit a copy of their most recent drug-free workplace certification, which must be dated within the past year.)

(2) A certification and disclosure in accordance with the requirements of section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) and the implementing regulations at 24 CFR part 87. These authorities generally prohibit recipients and subrecipients of Federal contracts, grants, cooperative agreements and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. INDIAN HOUSING AUTHORITIES ESTABLISHED BY AN INDIAN TRIBE AS A RESULT OF THE EXERCISE OF THEIR SOVEREIGN POWER ARE EXCLUDED FROM COVERAGE, BUT INDIAN HAS ESTABLISHED UNDER STATE LAW ARE NOT EXCLUDED FROM COVERAGE.

(3) If applying for drug treatment program funding, a certification by the applicant that the applicant has notified and consulted with the relevant local Tribal commission, Single State Agency or other local authority with drug program coordination responsibilities concerning its application; and that the proposed drug prevention/treatment program has been reviewed by the relevant local Tribal commission, Single State Agency or other local authority and is consistent with the Tribal or State treatment plan.

(4) A certification (provided in the application kit) by the Chief Executive Officer (CEO) of a state, Tribe, or a unit of general local government in which the developments proposed for assistance are located that:

(i) Grant funds provided under this program will not substitute for activities currently being undertaken on behalf of the applicant by the jurisdiction to address drug-related crime and other criminal activities associated with drug-related problems;

(ii) Any reimbursement of local law enforcement agencies for additional security and protective services to be provided under section I.(c)(2) of this NOFA meets the requirements of that section.

(5) A certification, (An example is provided in the application kit), from the chief of the local law enforcement agency:

(i) *If* the application is for employment of security services, that the law enforcement agency has entered into, or will enter into, an agreement with the applicant and the provider of the security services in accordance with the requirements of section I.(c)(1) (Employment of security personnel) of this NOFA;

(ii) *If* the application is for employment of investigators, that the law enforcement agency has entered into, or will enter into, an agreement with the applicant and the investigators, in accordance with the requirements of section I.(c)(4) (Employment of investigators) of this NOFA;

(iii) *If* the application is for voluntary tenant (resident) patrol funding, that the law enforcement agency has entered into, or will enter into, an agreement with the applicant and the voluntary tenant patrol, in accordance with the requirements of section I.(c)(5) (voluntary tenant (resident) patrol) of this NOFA.

(6) A certification (An example is provided in the application kit) by the RMC, RC or RO, or other involved resident group where an RMC, RC or RO does not exist, that the residents participated in the preparation of the grant application with the applicant, and that the applicant's description of the activities and program evaluation that the resident group will implement under the program is accurate and complete.

(g) HUD Form 2880, Applicant Disclosures. The form, with example, is provided in the application kit.

IV. Corrections to Deficient Applications

(a) HUD will notify an applicant, in writing, of any curable technical deficiencies in the application. The applicant must submit corrections in accordance with the information specified in HUD's letter within 14 calendar days from the date of HUD's letter notifying the applicant of any such deficiency.

(b) Curable technical deficiencies relate to items that:

(i) Are not necessary for HUD review under selection criteria/ranking factors; and

(ii) Would not improve the quality of the applicant's program proposal.

(c) An example of a curable technical deficiency would be the failure of an applicant to submit a required assurance, budget narrative, certification, applicant data form, summaries of written resident comments, incomplete forms such as the SF–424 or lack of required signatures, appendixes and documentation referenced in the application or a computational error based on the use of an incorrect number(s) such as incorrect unit counts. These items are discussed in the application kit and samples, as appropriate, are provided.

(d) An example of a non-curable defect or deficiency would be a missing SF–424A (Budget Information).

V. Other Matters

(a) Nondiscrimination and Equal Opportunity. The following nondiscrimination and equal opportunity requirements apply:

(1) The requirements of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3600–20 (Fair Housing Act) and implementing regulations issued at subchapter A of title 24 of the Code of Federal Regulations, as amended by 54 FR 3232 (published January 23, 1989); Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107; and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR Part 1;

(2) The Indian Civil Rights Act (ICRA) (Title II of the Civil Rights Act of 1968, 25 U.S.C. 1301–1303) provides, among other things, that ''no Indian tribe in exercising powers of self- government shall * * * deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law.'' The Indian Civil Rights Act applies to any Tribe, band, or other group of Indians subject to the jurisdiction of the United States in the exercise of recognized powers of self-government. The ICRA is applicable in all cases where an IHA has been established by exercise of Tribal powers of self-government.

(3) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and implementing regulations at 24 CFR part 146, and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8;

(4) The requirements of Executive Order 11246 (Equal Employment Opportunity) and the regulations issued under the Order at 41 CFR Chapter 60;

(5) The requirements of Executive Orders 11625, 12432, and 12138. Consistent with HUD's responsibilities under these Orders, recipients must make efforts to encourage the use of minority and women's business enterprises in connection with funded activities.

(b) Environmental Impact. Grants under this program are categorically excluded from review under the National Environmental Policy Act of 1969 (NEPA) in accordance with 24 CFR 50.20(p). However, prior to an award of grant funds, HUD will perform an environmental review to the extent required by HUD's environmental regulations at 24 CFR part 50, including the applicable related authorities at 24 CFR 50.4.

(c) Federalism Impact. The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, FEDERALISM, has determined that the policies contained in this NOFA will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the states, or on the distribution of power and responsibilities among the various levels of government and, therefore, the provisions of this NOFA do not have ''Federalism implications'' within the meaning of the Order. The NOFA implements a program that encourages housing authorities to develop a plan for addressing the problem of drug-related crime and other criminal activities associated with drug-related problems, and makes available grants to housing authorities to help them carry out their plans. As such, the program would help housing authorities combat serious drug-related crime problems in their developments, thereby strengthening their role as instrumentalities of the States. In addition, further review under the Order is unnecessary, since the NOFA generally tracks the statute and involves little implementing discretion.

(d) Family Impact. The General Counsel, as the Designated Official for Executive Order 12606, THE FAMILY, has determined that the provisions of this NOFA have the potential for a positive, although indirect, impact on family formation, maintenance and general well-being within the meaning of the Order. This NOFA would implement a program that would encourage HAs to develop a plan for addressing the problem of drug-related crime and other criminal activities associated with drug-related problems, and to make available grants to help housing authorities to carry out this plan. As such, the program is intended to improve the quality of life of public and Indian housing development residents, including families, by reducing the incidence of drug-related crime.

(e) Section 102 HUD Reform Act—Documentation and Public Access Requirements; Applicant/Recipient Disclosures.

DOCUMENTATION AND PUBLIC ACCESS. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly Federal Register notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 24 CFR 12.16(b), and the notice published in the Federal Register on January 16, 1992 (57 FR 1942), for further information on these requirements.)

DISCLOSURES. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in the Federal Register on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

(f) Section 103 HUD Reform Act. HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 was published May 13, 1991 (56 FR 22088) and became effective on June 12, 1991. That regulation, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are limited by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific

program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Office Counsel or Headquarters Counsel for the program to which the question pertains.

(g) Section 112 HUD Reform Act. Section 13 of the Department of Housing and Urban Development Act contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the Federal Register on May 17, 1991 (56 FR 22912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in appendix A of the rule.

(h) Prohibition Against Lobbying Activities. The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (The ''Byrd Amendment'') and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative branches of the federal government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying.

Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no federal funds have been or will be spent on lobbying activities in connection with the assistance. Indian Housing Authorities established by an Indian Tribe as a result of the exercise of their sovereign power are excluded from coverage, but has established under state law are not excluded from coverage.

Authority: Sec. 5127, Public Housing Drug Elimination Act of 1988 (42 U.S.C. 11901 et. seq.); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Appendix A: Local HUD Office Addresses and Phone Numbers

HUD—New England: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Massachusetts State Office

Office of Public Housing, DHUD—Massachusetts State Office, Thomas P. O'Neill, Jr. Federal Building, 10 Causeway Street, Room 553, Boston, MA 02222–1092, (617) 565–5196, TTY Number: (617) 565–5453, Office hours: 8:30 am–5:00 pm local time

Connecticut State Office

Office of Public Housing, DHUD—Connecticut Sate Office, 330 Main Street, Hartford, Connecticut 06106–1860, (860) 240–4522, TTY Number: (203) 240–4665, Office hours: 8:00 am–4:30 pm local time

New Hampshire State Office

Office of Public Housing, DHUD—New Hampshire State Office, Norris Cotton Federal Building, 275 Chestnut Street, Manchester, New Hampshire 03101–2487, (603) 666–7681, TTY Number: (603) 666–7518, Office hours: 8:00 am–4:30 pm local time

Rhode Island State Office

Office of Public Housing, DHUD—Rhode Island State Office, 10 Weybosset Street, Sixth Floor, Providence, Rhode Island 02903–2808, (401) 528–5351, TTY Number: (401) 528–5364, Office hours: 8:00 am–4:30 pm local time

HUD—New York, New Jersey

New York State Office

Office of Public Housing, DHUD—New York State Office, 26 Federal Plaza, Suite 3237, New York, New York 10278–0068, (212) 264–6500 TTY Number: (212) 264–0927, Office hours: 8:30 am–5:00 pm local time

Buffalo State Office

Office of Public Housing, DHUD—Buffalo State Office, Lafayette Court, 5th Floor, 465 Main Street, Buffalo, New York 14203–1780, (551) 846–5755, TTY Number: (716) 551–5787, Office hours: 8:00 am–4:30 pm local time

New Jersey State Office

Office of Public Housing, DHUD—New Jersey State Office, One Newark Center—12th Floor, Newark, New Jersey 07102–5260, (201) 622–7900, TTY Number: (201) 645–6649, Office hours: 8:30 am–5:00 pm local time

HUD—Midatlantic: Pennsylvania, District of Columbia, Maryland, Delaware, Virginia, West Virginia

Pennsylvania State Office

Office of Public Housing, DHUD—Pennsylvania State Office, The Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107–3390, (215) 597–2560, TTY Number: (215) 597–5564, Office hours: 8:00 am–4:30 pm local time

District of Columbia Office (Washington, DC)

Office of Public Housing, DHUD—District of Columbia Office, 820 First Street NE., Washington, DC 20002–4502, (202) 275–9200, TTY Number: (202) 275–0967, Office hours: 8:00 am–4:30 pm local time

Maryland State Office

Office of Public Housing, DHUD—Maryland State Office, City Crescent Building, 10 South Howard Street, 5th Floor, Baltimore, Maryland 21201–2505, (401) 962–2520, TTY Number: (410) 962–0106, Office hours: 8:00 am–4:30 pm local time

Pittsburgh Area Office

Office of Public Housing, DHUD—Pittsburgh Area Office, 339 Sixth Avenue, Sixth floor, Pittsburgh, Pennsylvania 15222–2515, (412) 644–6428, TTY Number: (412) 644–5747, Office hours: 8:00 am–4:30 pm local time

Virginia State Office

Office of Public Housing, DHUD—Virginia State Office, The 3600 Centre, 3600 West Broad Street, P.O. Box 90331, Richmond, Virginia 23230—0331, (804) 278–4507, TTY Number: (804) 278–4501, Office hours: 8:00 am–4:30 pm local time

West Virginia State Office

Office of Public Housing, DHUD—West Virginia State Office, 405 Capitol Street, Suite 708, Charleston, West Virginia 25301–1795, (304) 347–7000, TTY Number: (304) 347–5332, Office hours: 8:00 am–4:30 pm local time

HUD—Southeast: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Caribbean, Virgin Islands

Georgia State Office

Office of Public Housing, DHUD—Georgia State Office, Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303–3388, (404) 331–5136, TTY Number: (404) 730–2654, Office hours: 8:00 am–4:30 pm local time

Alabama State Office

Office of Public Housing, DHUD—Alabama State Office, 600 Beacon Parkway West, Suite 300, Birmingham, Alabama 35209–3144, (205) 290–7601, TTY Number: (205) 290–7624, Office hours: 8:00 am–4:30 pm local time

Kentucky State Office

Office of Public Housing, DHUD—Kentucky State Office, 601 West Broadway, P.O. Box 1044, Louisville, Kentucky 40201–1044, (502) 582–6161, TTY Number: (502) 582–5139

Mississippi State Office

Office of Public Housing, DHUD—Mississippi State Office, Doctor A.H. McCoy Federal Building, 100 West Capitol Street, Room 910, Jackson, Mississippi 39269–1096, (601) 975–4746, TTY Number: (601) 975–4717, Office hours: 8:00 am–4:45 pm local time

North Carolina State Office

Office of Public Housing, DHUD—North Carolina State Office, 2306 West Meadowview Road, Greensboro, North Carolina 27407–3707, (919) 547–4000, TTY Number: 919–547–4055, Office hours: 8:00 am–4:45 pm local time

Caribbean Office

Office of Public Housing, DHUD—Caribbean Office, New San Office Building, 159 Carlos East Chardon Avenue, Room 305, San Juan, Puerto Rico 00918–1804, (809) 766–6121, TTY Number: Number not available, Office hours: 8:00 am–4:30 pm local time

South Carolina State Office

Office of Public Housing, DHUD—South Carolina State Office, Strom Thurmond Federal Building, 1835 Assembly Street, Columbia, South Carolina 29201–2480, (803) 765–5831, TTY Number: Number not available, Office hours: 8:00 am–4:45 pm local time

Tennessee State Office

Office of Public Housing, DHUD—Tennessee State Office, John J. Duncan Federal Building, 710 Locust Street, S.W., Third Floor, Knoxville, Tennessee 37902–2526, (423) 545–4389, TTY Number: (615) 545–4379, Office hours: 7:30 am–4:15 pm local time

Nashville, Tennessee Area Office

Office of Public Housing, DHUD—Tennessee Area Office, 251 Cumberland Bend Drive, Suite 200, Nashville, Tennessee 37228–1803, (615) 736–5213, TTY Number: (615) 736–2886, Office hours: 7:45am–4:15 pm local time

Florida Area Office

Office of Public Housing, DHUD—Florida Area Office, Southern Bell Towers, 301 West Bay Street, Suite 2200, Jacksonville, Florida 32202–5121, (904) 232–2626, TTY Number: (904) 232–2357, Office hours: 7:45am–4:30 pm local time

HUD—Midwest: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Illinois State Office

Office of Public Housing, DHUD—Illinois State Office, Ralph H. Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604–3507, (312) 353–5680, TTY Number: (312) 353–7143, Office hours: 8:15am–4:45 pm local time

Michigan State Office

Office of Public Housing, DHUD—Michigan State Office, Patrick V. McNamara Federal Building, 477 Michigan Avenue, Detroit, Michigan 48226–2592, (313) 226–6880, TTY Number: (313) 226–7812, Office hours: 8:00 am–4:30 pm local time

Indiana State Office

Office of Public Housing, DHUD—Indiana State Office, 151 North Delaware Street, Suite 1200, Indianapolis, Indiana 46204–2526, (317) 226–6303, TTY Number: (317) 226–7081, Office hours: 8:00 am–4:45 pm local time

Grand Rapids, Michigan Area Office

Office of Public Housing, DHUD—Grand Rapids Area Office, Trade Center Building, 50 Louis, N.W, Grand Rapids, Michigan 49503–2648, (616) 456–2127, TTY Number: Number not available, Office hours: 8:00 am–4:45 pm local time

Minnesota State Office

Office of Public Housing, DHUD—Minnesota State Office, Bridge Place Building, 220 South Second Street, Minneapolis, Minnesota 55401–2195, (612) 370–3000, TTY Number: (612) 370–3186, Office hours: 8:00 am–4:30 pm local time

Cincinnati, Ohio Area Office

Office of Public Housing, DHUD—Cincinnati Area Office, 525 Vine Street, Suite 700, Cincinnati, Ohio 45202–3188, (513) 684–2884, TTY Number: (513) 684–6180, Office hours: 8:00 am–4:45 pm local time

Cleveland, Ohio Area Office

Office of Public Housing, DHUD—Cleveland Area Office, Renaissance Building, 1350 Euclid Avenue, 500, Cleveland, Ohio 44115–1815, (216) 522–4065, TTY Number: Number not available, Office hours: 8:00 am–4:40 pm local time

Ohio State Office

Office of Public Housing, DHUD—Ohio State Office, 200 North High Street, Columbus, Ohio 43215–2499, (614) 469–5737, TTY Number: Number not available, Office hours: 8:30 am–4:45 pm local time

Wisconsin State Office

Office of Public Housing, DHUD—Wisconsin State Office, Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Suite 1380, Milwaukee, Wisconsin 53203–2289, (414) 291–3214, TTY Number: Number not available, Office hours: 8:00 am–4:30 pm local time

HUD—Southwest: Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Texas State Office

Office of Public Housing, DHUD—Texas State Office, 1600 Throckmorton Street, Room 304, P.O. Box 2905, Fort Worth, Texas 76113–2905, (817) 885–5934, TTY Number: (817) 885–5447, Office hours: 8:00 am–4:30 pm local time

Houston, Texas Area Office

Office of Public Housing, DHUD—Houston Area Office, Norfolk Tower, 2211 Norfolk, Suite 200, Houston, Texas 77098–4096, (713) 834–3235, TTY Number: Number not available, Office hours: 7:45am–4:30pm local time

San Antonio, Texas Area Office

Office of Public Housing, DHUD—San Antonio Area Office, Washington Square, 800 Dolorosa Street, San Antonio, Texas 78207–4563, (512) 229–6783, TTY Number: (512) 229–6783, Office hours: 8:00am–4:30pm local time

Arkansas State Office

Office of Public Housing, DHUD—Arkansas State Office, TCBY Tower, 425 West Capitol Avenue, Room 900, Little Rock, Arkansas 72201–3488, (501) 324–5935, TTY Number: (501) 324–5931, Office hours: 8:00am–4:30pm local time

Louisiana State Office

Office of Public Housing, DHUD—Louisiana State Office, 501 Magazine Street, Ninth Floor, New Orleans, Louisiana 70130, (504) 589–7251, TTY Number: Number not available, Office hours: 8:00am–4:30pm local time

Oklahoma State Office

Office of Public Housing, DHUD—Oklahoma State Office, 500 West Main Street, Oklahoma City, Oklahoma 73102, (504) 589–7233, TTY Number: None, Office hours: 8:00am–4:30pm local time

New Mexico State Office

Office of Public Housing, DHUD—New Mexico State Office, 625 Truman Street N.E., Albuquerque, NM 87110–6472, (505) 262–6463, TTY Number: (505) 262–6463, Office hours: 7:45am–4:30pm local time

Great Plains: Iowa, Kansas, Missouri, Nebraska

Kansas/Missouri State Office

Office of Public Housing, DHUD—Kansas/Missouri State Office, Gateway Tower II, 400 State Avenue, Kansas City, Kansas 66101–2406, (913) 551–5488, TTY Number: (913) 551–5815, Office hours: 8:00am–4:30pm local time

Nebraska State Office

Office of Public Housing, DHUD—Nebraska State Office, Executive Tower Centre, 10909 Mill Valley Road, Omaha, Nebraska 68154–3955, (402) 492–3100, TTY Number: (402) 492–3183, Office hours: 8:00am–4:30pm local time

St. Louis, Missouri Area Office

Office of Public Housing, DHUD—St. Louis Area Office, Robert A. Young Federal Building, 1222 Spruce Street, St. Louis, Missouri 63103–2836, (314) 539–6503, TTY Number: (314) 539–6331, Office hours: 8:00am–4:30pm local time

Iowa State Office

Office of Public Housing, DHUD—Iowa State Office, Federal Building, 210 Walnut Street, Des Moines, Iowa 50309–2155, (515) 284–4512, TTY Number: (515) 284–4728, Office hours: 8:00am–4:30pm local time

HUD—Rocky Mountains: Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

Colorado State Office

Office of Public Housing, DHUD—Colorado State Office, First Interstate Tower North, 633 17th Street, Denver, CO 80202–3607, (303) 672–5376, TTY Number: (303) 672–5248, Office hours: 8:00am–4:30pm local time

HUD—Pacific/Hawaii: Arizona, California, Hawaii, Nevada, Guam, America Samoa

California State Office

Office of Public Housing, DHUD–California State Office, Philip Burton Federal Building/Courthouse, 450 Golden Gate Avenue, P.O. Box 36003, San Francisco, California 94102–3448, (415) 436–6532,

TTY Number: (415) 436–6594, Office hours: 8:15 am–4:45 pm local time

Los Angeles, California Area Office

Office of Public Housing, DHUD–Los Angeles Area Office, 1615 West Olympic Boulevard, Los Angeles, California 90015–3801, (213) 251–7122, TTY Number: (213) 251–7038, Office hours: 8:00 am–4:30 pm local time

Sacramento, California Area Office

Office of Public Housing, DHUD–Sacramento Area Office,
777 12th Avenue, Suite 200, P.O. Box 1978, Sacramento, California 95814–1997, (916) 498–5270, TTY Number: (916) 498–5220, Office hours: 8:00 am–4:30 pm local time

Arizona State Office

Office of Public Housing, DHUD–Arizona State Office, Two Arizona Center,
400 North 5th Street, Suite 1600, Phoenix, Arizona 85004–2361, (602) 261–4434, TTY Number: (602) 379–4461, Office hours: 8:00 am–4:30 pm local time

HUD—Northwest/Alaska: Alaska, Idaho, Oregon, Washington

Washington State Office

Office of Public Housing,DHUD–Washington State Office, Seattle Federal Office Building, 909 First Avenue, Suite 200, Seattle, WA 98104–1000, (206) 220–5292, TTY Number: (206) 220–5185, Office hours: 8:00 am–4:30 pm local time

Oregon State Office

Office of Public Housing, DHUD–Oregon State Office, 520 Southwest Sixth Avenue, Portland, Oregon 97203–1596, (503) 326–2561, TTY Number: (503) 326–3656, Office hours: 8:00 am–4:30 pm local time

DHUD Area Offices of Native American Programs

Eastern/Woodlands—Tribes and IHAs: East of the Mississippi River, Includion All of Minnesota and Iowa

Eastern/Woodlands HUD Area Office of Native American Programs

Eastern/Woodlands Office of Native American Programs, Ralph H. Metcalfe Federal Building, 77 West Jackson Boulevard, Room 2400, Chicago, IL 60604,
(312) 353–1282 or (800) 735–3239, TTY Number: (312) 886–3741 or (800) 927–9275, Office hours: 8:15 am–4:45 pm local time

Southern Plains—Tribes and IHAs: Louisiana, Missouri, Kansas, Oklahoma, and Texas, Except for Isleta Del Sur in Texas

DHUD Area Office of Native American Programs

Southern Plains Office of Native American Programs, 500 West Main Street, Oklahoma City, Oklahoma 73102, (405) 553–7428, TTY Number: (405) 231–4891 or (405) 231–4181, Office hours: 8:00 am–4:30 pm local time

Northern Plains—Tribes and IHAs: Colorado, Montana, Nebraska, North Dakota, South Dakota, and Wyoming

DHUD Area Office of Native American Programs

Northern Plains Office of Native American Programs, First Interstate Tower North, 633 17th Street, 14th Floor, Denver, CO 80202–3607, (303) 672–5462,
TTY Number: (303) 844–6158, Office hours: 8:00 am–4:30 pm local time

Southwest—Tribes and IHAs: Arizona, California, New Mexico, Nevada, and Isleta Del Sur in Texas

DHUD Area Office of Native American Programs

Southwest Office of Native American Programs, Two Arizona Center, 400 North 5th Street, Suite 1650, Phoenix, Arizona 85004–2361, (602) 379–4156,
TTY Number: (602) 379–4461, Office hours: 8:15 am–4:45 pm local time

or

Albuquerque Office of Native American Programs, Albuquerque Plaza, 201 3rd Street, NW, Suite 1830, Albuquerque, New Mexico 87102–3368, (505) 766–1372, TTY Number: None available, Office hours: 7:45 am–4:30 pm local time

or

Northern California Office of Native American Programs, 450 Golden Gate Avenue, 8th Floor, Box 36003, San Francisco, CA 94102–3448, (415) 436–8121, TTY Number: (415) 556–8357

Northwest Region—Tribes and IHAs: Idaho, Oregon, and Washington

DHUD Area Office of Native American Programs

Northwest Office of Native American Programs, Seattle Federal Office Building, 909 First Avenue, Suite 300, Seattle, WA 98104–1000, (206) 220–5270, TTY Number: (206) 220–5185, Office hours: 8:00 am–4:30 pm local time

Alaska—Tribes and IHAs: Alaska

DHUD Area Office of Native American Programs

Alaska Office of Native American Programs, University Plaza Building,
949 East 36th Avenue, Suite 401, Anchorage, Alaska 99508–4399, (907) 271–4633, TTY Number: (907) 271–4328

Dated: March 20, 1996.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

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Federal Register

Vol. 61, No. 68

Monday, April 8, 1996

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FEDERAL REGISTER PAGES AND DATES, APRIL

14233–14464 1
14465–14606 2
14607–14948 3
14949–15176 4
15177–15362 5
15363–15964 8

CFR PARTS AFFECTED DURING APRIL

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:
6874 14233
6875 14603
6876 14605
6877 15177
6878 15363

Executive Orders:
12997 14949

Administrative Orders:

Presidential Determinations:
No. 96–19 of March 19, 1996 14235

5 CFR

890 15177

7 CFR

353 15365
354 15365
1208 14951

Proposed Rules:
330 15201
1002 14514
1004 14514
3550 15395

9 CFR

78 14237
92 14239
98 15180

Proposed Rules:
77 14982
91 14982
92 14268
94 ..... 14999, 15201

10 CFR

Proposed Rules:
50 15427

12 CFR

219 14382
226 14952

13 CFR

301 15371

14 CFR

25 ..... 14607, 15372
39 ..... 14240, 14242, 14608, 14960, 14961, 15184

Proposed Rules:
25 14684
39 ..... 14269, 14271, 14273, 14275, 14515, 15000, 15002, 15430
71 ..... 15432, 15434

15 CFR

769 14243
902 14465
922 14963

16 CFR

Proposed Rules:
239 14688
254 14685
406 14686
700 14688
701 14688
702 14688

17 CFR

200 15338

21 CFR

Ch. I 14478
1 14244
5 14375
172 14481
173 14481
175 14481
176 14481
177 ..... 14481, 14964
178 14481
180 14481
181 14481
189 14481
520 15185
522 14482
558 14483
814 15186

Proposed Rules:
25 14922
71 14690
170 14690
171 14690
510 15003
886 14277
900 ..... 14856, 14870, 14884, 14898, 14908

22 CFR

92 14375
514 15372

23 CFR

230 14615

24 CFR

0 15350
4 14448
12 14448
100 14378
103 14378
109 14378
200 ..... 14396, 14410
207 14396
213 14396
215 14396
219 14396
220 14396
221 14396

222.....14396
231.....14396
232.....14396, 14410
233.....14396
234.....14396
236.....14396
237.....14396
241.....14396, 14410
242.....14396
244.....14396
248.....14396
265.....14396
267.....14396
811.....14456
3500.....14617

Proposed Rules:
50.....15340

26 CFR

1.....14247, 14248
602.....14248

Proposed Rules:
1.....14517, 15204

28 CFR

Proposed Rules:
553.....14440

29 CFR

1625.....15374

Proposed Rules:
1904.....15435
1910.....15205
1915.....15205
1926.....15205
1952.....15435
2509.....14690
2520.....14690
2550.....14690

30 CFR

914.....15378
943.....15380

Proposed Rules:
745.....15005
900.....15005
901.....15005
906.....15005
913.....15005
914.....15435
925.....14517
926.....15005
931.....15005
934.....15005
935.....15005
936.....15005, 15435
944.....15005
946.....15005
948.....15005
950.....15005

31 CFR

103 .....14248, 14382, 14383, 14386
535.....15382

Proposed Rules:
321.....14444

32 CFR

706 .....14966, 14967, 14968, 14969

Proposed Rules:
117.....15437
619.....15010

33 CFR

100.....14249
117.....14970
175.....15162
179.....15162
181.....15162

Proposed Rules:
165.....14518

34 CFR

76.....14483
81.....14483

36 CFR

7.....14617
223.....14618
292.....14621
1253.....14971

Proposed Rules:
242.....15014

38 CFR

1.....14596
21.....15190

39 CFR

Proposed Rules:
111.....15205

40 CFR

52 .....14484, 14487, 14489, 14491, 14493, 14634, 14972, 14974, 14975
60.....14634
81.....14496
148.....15566, 15660
167.....14497
180.....14637, 15192
186.....15192
268.....15566, 15660
271.....15566
403.....15566, 15660
716.....14596

Proposed Rules:
52 .....14520, 14521, 14522, 14694, 15020
59.....14531
81.....14522
180.....14694
261.....14696
300.....14280

41 CFR

101–25.....14978

42 CFR

405.....14640
491.....14640

44 CFR

64.....14497
65.....14658, 14661
67.....14665

Proposed Rules:
62.....14709
67.....14715

45 CFR

74.....15564
1633.....14250
1634.....14252
1635.....14261

46 CFR

2.....15162
159.....15162
160.....15162
514.....14979

Proposed Rules:
10.....15438
12.....15438
15.....15438

47 CFR

Ch. I.....14672
0.....14499
2.....14500, 15382
15.....14500
21.....115387
64.....14979
73 .....14503, 14676, 14981
76.....15387, 15388
97.....15382

Proposed Rules:
Ch. I.....14717
1.....15439
2.....15206
15.....15206
36.....15208
64.....15020
68.....15441
69.....15208
73 .....14733, 15022, 15439, 15442, 15443
74.....15439

48 CFR

1425.....15389
1452.....15389
1516.....14504
1523.....14506
1535.....14264
1552 .....14264, 14504, 14506
1604.....15196
1652.....15196

Proposed Rules:
9.....14946
15.....14944
17.....14944
31.....14944
35.....14946
37.....14946
52.....14944

49 CFR

382.....14677
383.....14677
390.....14677
391.....14677
392.....14677
395.....14677
533.....14680
538.....14507
541.....15390
800.....14512

Proposed Rules:
393.....14733
544.....15443
571.....15446, 15449
1002.....15208
1100.....14735
1101.....14735
1102.....14735
1103.....14735
1104.....14735
1105.....14735
1106.....14735
1107.....14735
1108.....14735
1109.....14735
1110.....14735
1111.....14735
1112.....14735
1113.....14735
1114.....14735
1115.....14735
1116.....14735
1117.....14735
1118.....14735
1119.....14735
1120.....14735
1121.....14735
1122.....14735
1123.....14735
1124.....14735
1125.....14735
1126.....14735
1127.....14735
1128.....14735
1129.....14735
1130.....14735
1131.....14735
1132.....14735
1133.....14735
1134.....14735
1135.....14735
1136.....14735
1137.....14735
1138.....14735
1139.....14735
1140.....14735
1141.....14735
1142.....14735
1143.....14735
1144.....14735
1145.....14735
1146.....14735
1147.....14735
1148.....14735
1149.....14735

50 CFR

251.....14682
611.....14465
625.....15199
641.....14683
655.....14465
663.....14512

Proposed Rules:
17.....15452
23.....14543
100.....15014
630.....15212
646.....14735
651.....14284
676.....14547
681.....15452

REMINDERS

The rules and proposed rules in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT TODAY

COMMERCE DEPARTMENT

Economic Development Administration

Federal regulatory review:

Public works impact program areas designation; regulations simplification and streamlining; correction; published 4-8-96

DEFENSE DEPARTMENT

Grants:

Military recruiting on campus; published 3-8-96

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Missouri; published 2-6-96

Rhode Island; published 2-6-96

Air quality planning purposes; designation of areas:

South Dakota; published 2-6-96

Hazardous waste program authorizations:

Michigan; published 2-8-96

Hazardous waste:

Land disposal restrictions--

Decharacterized wastewaters, carbamate wastes, and spent potliners (Phase III); published 4-8-96

Decharacterized wastewaters, carbamate wastes, and spent potliners (Phase III); partial withdrawal and amendment; published 4-8-96

FEDERAL COMMUNICATIONS COMMISSION

Television broadcasting:

Telecommunications Act of 1996; broadcast networks and cable television systems; cross-ownership restrictions elimination, etc.; published 4-8-96

Television stations; table of assignments:

New Mexico; published 3-1-96

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Mortgage and loan insurance programs, etc.:

Elderly and persons with disabilities; consolidated pet ownership requirements; Federal regulatory review; published 3-8-96

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

Indiana; published 4-8-96

LABOR DEPARTMENT

Occupational Safety and Health Administration

Safety and health standards:

Grain handling facilities; published 3-8-96

PERSONNEL MANAGEMENT OFFICE

Employment:

Career and career-conditional--

Former overseas employees; noncompetitive employment; published 3-8-96

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle theft prevention standard:

High theft lines for 1997 model year; listing; published 4-8-96

TREASURY DEPARTMENT

Customs Service

Customs bonds:

Warehouse withdrawals; aircraft fuel supplies; pipeline transportation in bondof merchandise; published 2-22-96

UNITED STATES INFORMATION AGENCY

Exchange visitor program:

Program extension procedures, research programs design and conduct, etc.; published 4-8-96

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Crop insurance regulations:

Florida citrus endorsement; comments due by 4-15-96; published 3-15-96

AGRICULTURE DEPARTMENT

Farm Service Agency

Conservation and environmental programs:

1986-1990 conservation reserve program; comments due by 4-15-96; published 3-15-96

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Foreign and domestic fishing--

Scientific research activity and exempted fishing; comments due by 4-15-96; published 3-15-96

Northeast multispecies; comments due by 4-15-96; published 3-5-96

Permits:

Marine mammals; comments due by 4-18-96; published 3-22-96

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Consumer products; energy conservation program:

Fluorescent and incandescent lamp test procedures; comment period reopening; comments due by 4-15-96; published 2-28-96

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Alabama; comments due by 4-18-96; published 3-19-96

Colorado; comments due by 4-18-96; published 3-19-96

Illinois; comments due by 4-18-96; published 3-19-96

Indiana; comments due by 4-18-96; published 3-19-96

Missouri; comments due by 4-17-96; published 3-18-96

Montana; comments due by 4-18-96; published 3-19-96

Tennessee; comments due by 4-18-96; published 3-19-96

Virginia; comments due by 4-18-96; published 3-19-96

Hazardous waste program authorizations:

Illinois; comments due by 4-15-96; published 3-15-96

Higher education institutions, hospitals, and nonprofit organizations; uniform administrative requirements for grants and agreements (Circular A-110); comments due by 4-15-96; published 2-15-96

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Avermectin B1 and its delta-8,9-isomer; comments due by 4-19-96; published 3-20-96

Superfund program:

National oil and hazardous substances contingency plan--

National priorities list update; comments due by 4-17-96; published 3-8-96

National priorities list update; comments due by 4-17-96; published 3-8-96

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Interstate, interexchange telecommunications service providers; tariff filing requirements for non-dominant interexchange carriers for domestic services; comments due by 4-19-96; published 4-3-96

Satellite communications--

Telecommunications Act; direct-to-home video services including direct broadcast satellite service; nongovernmental restrictions preempting; comments due by 4-15-96; published 3-15-96

Personal communications services:

Broadband D, E, and F blocks; license awards; comments due by 4-15-96; published 3-26-96

Radio frequency devices:

Biomedical telemetry devices; comments due by 4-16-96; published 1-31-96

FEDERAL TRADE COMMISSION

Industry guides:

Mirror industry; comments due by 4-15-96; published 3-15-96

GENERAL SERVICES ADMINISTRATION

Federal regulatory review:

Commercial items; comments due by 4-16-96; published 2-16-96

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food for human consumption:

Food labeling--

Nutrient content claims and health claims; special requirements; comments due by 4-17-96; published 2-2-96

Nutrient content claims and health clams; special requirements; correction; comments due by 4-17-96; published 3-26-96

Medical devices:

Cigarettes and smokeless tobacco products; restriction of sale and distribution to protect children and adolescents

Comment period reopened; comments due by 4-19-96; published 3-20-96

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Low income housing:

Housing assistance payments (Section 8)--

Single room occupancy program for homeless individuals; comments due by 4-15-96; published 2-14-96

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

Utah; comments due by 4-19-96; published 3-20-96

Virginia; comments due by 4-17-96; published 3-18-96

JUSTICE DEPARTMENT

Prisons Bureau

Inmate control, custody, care, etc.:

Correspondence; restricted special mail procedures; comments due by 4-15-96; published 2-14-96

LABOR DEPARTMENT

Federal Contract Compliance Programs Office

Affirmative action and nondiscrimination obligations of contractors and subcontractors regarding individuals with disabilities; comments due by 4-15-96; published 2-14-96

LABOR DEPARTMENT

Wage and Hour Division

Migrant and seasonal agricultural worker protection:

Workers' compensation information disclosure and transportation liability insurance requirements; comments due by 4-17-96; published 3-18-96

NUCLEAR REGULATORY COMMISSION

Rulemaking petitions:

Portland General Electric Co.; comments due by 4-16-96; published 2-1-96

RAILROAD RETIREMENT BOARD

Railroad Retirement Act:

Railroad employers' reports and responsibilities; comments due by 4-15-96; published 2-15-96

SOCIAL SECURITY ADMINISTRATION

Authority citation revisions; comments due by 4-15-96; published 2-15-96

STATE DEPARTMENT

Foreign missions protection guidelines; CFR part removed; comments due by 4-15-96; published 3-14-96

TRANSPORTATION DEPARTMENT

Coast Guard

Ports and waterways safety:

Arrivals, departures, and certain dangerous cargoes; advance notice; comments due by 4-16-96; published 1-17-96

TRANSPORTATION DEPARTMENT

Large air carriers; international data submissions; changes; comments due by 4-15-96; published 2-15-96

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Air carriers certification and operations:

Flight time limitations and rest requirements for flight crew members; comments due by 4-19-96; published 12-20-95

Airworthiness directives:

Glaser-Dirks Flugzeugbau GmbH; comments due by 4-19-96; published 2-23-96

Jetstream; comments due by 4-18-96; published 3-8-96

Learjet; comments due by 4-17-96; published 3-7-96

SAAB; comments due by 4-19-96; published 3-21-96

Class E airspace; comments due by 4-18-96; published 3-11-96

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards and consumer information:

Truck-camper loading; comments due by 4-15-96; published 2-14-96

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration

Hazardous materials:

Federal regulatory review; comments due by 4-19-96; published 2-20-96

Pipeline safety:

Hazardous liquid and carbon dioxide pipelines; hydrostatic pressure testing; comments due by 4-15-96; published 3-8-96

TRANSPORTATION DEPARTMENT

Surface Transportation Board

Practice and procedure:

Pipeline common carriers; rate change and other service terms; disclosure and notice; comments due by 4-15-96; published 3-14-96

TREASURY DEPARTMENT

Thrift Supervision Office

Lending and investment; comments due by 4-16-96; published 1-17-96

LIST OF PUBLIC LAWS

This is a list of public bills from the 104th Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. 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. 2854/P.L. 104–127

Federal Agriculture Improvement and Reform Act of 1996 (Apr. 4, 1996; 110 Stat. 888)

Last List April 2, 1996

CFR CHECKLIST

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–028–00001–1)	$4.25	Feb. 1, 1996
3 (1994 Compilation and Parts 100 and 101)	(869–026–00002–6)	40.00	[1] Jan. 1, 1995
4	(869–028–00003–7)	5.50	Jan. 1, 1996
5 Parts:			
1–699	(869–026–00004–2)	23.00	Jan. 1, 1995
700–1199	(869–028–00005–3)	20.00	Jan. 1, 1996
*1200–End, 6 (6 Reserved)	(869–028–00006–1)	25.00	Jan. 1, 1996
7 Parts:			
0–26	(869–026–00007–7)	21.00	Jan. 1, 1995
27–45	(869–026–00008–5)	14.00	Jan. 1, 1995
46–51	(869–028–00009–6)	13.00	Jan. 1, 1996
52	(869–026–00010–7)	30.00	Jan. 1, 1995
53–209	(869–026–00011–5)	25.00	Jan. 1, 1995
210–299	(869–026–00012–3)	34.00	Jan. 1, 1995
300–399	(869–026–00013–1)	16.00	Jan. 1, 1995
400–699	(869–028–00014–2)	22.00	Jan. 1, 1996
700–899	(869–026–00015–8)	23.00	Jan. 1, 1995
900–999	(869–026–00016–6)	32.00	Jan. 1, 1995
1000–1059	(869–026–00017–4)	23.00	Jan. 1, 1995
1060–1119	(869–026–00018–2)	15.00	Jan. 1, 1995
1120–1199	(869–026–00019–1)	12.00	Jan. 1, 1995
1200–1499	(869–026–00020–4)	32.00	Jan. 1, 1995
1500–1899	(869–026–00021–2)	35.00	Jan. 1, 1995
1900–1939	(869–026–00022–1)	16.00	Jan. 1, 1995
1940–1949	(869–026–00023–9)	30.00	Jan. 1, 1995
1950–1999	(869–026–00024–7)	40.00	Jan. 1, 1995
2000–End	(869–028–00023–1)	15.00	Jan. 1, 1996
8	(869–026–00026–3)	23.00	Jan. 1, 1995
9 Parts:			
1–199	(869–026–00027–1)	30.00	Jan. 1, 1995
200–End	(869–026–00028–0)	23.00	Jan. 1, 1995
10 Parts:			
0–50	(869–026–00029–8)	30.00	Jan. 1, 1995
51–199	(869–026–00030–1)	23.00	Jan. 1, 1995
200–399	(869–026–00031–0)	15.00	[6] Jan. 1, 1993
400–499	(869–026–00032–8)	21.00	Jan. 1, 1995
500–End	(869–028–00031–2)	34.00	Jan. 1, 1996
11	(869–026–00034–4)	14.00	Jan. 1, 1995
12 Parts:			
1–199	(869–026–00035–2)	12.00	Jan. 1, 1995
200–219	(869–026–00036–1)	16.00	Jan. 1, 1995
220–299	(869–026–00037–9)	28.00	Jan. 1, 1995
300–499	(869–026–00038–7)	23.00	Jan. 1, 1995
500–599	(869–026–00039–5)	19.00	Jan. 1, 1995
600–End	(869–026–00040–9)	35.00	Jan. 1, 1995
13	(869–026–00041–7)	32.00	Jan. 1, 1995
14 Parts:			
1–59	(869–026–00042–5)	33.00	Jan. 1, 1995
60–139	(869–026–00043–3)	27.00	Jan. 1, 1995
140–199	(869–026–00044–1)	13.00	Jan. 1, 1995
200–1199	(869–026–00045–0)	23.00	Jan. 1, 1995
1200–End	(869–026–00046–8)	16.00	Jan. 1, 1995
15 Parts:			
0–299	(869–026–00047–6)	15.00	Jan. 1, 1995
300–799	(869–026–00048–4)	26.00	Jan. 1, 1995
800–End	(869–028–00047–9)	18.00	Jan. 1, 1996
16 Parts:			
0–149	(869–028–00048–7)	6.50	Jan. 1, 1996
150–999	(869–026–00051–4)	19.00	Jan. 1, 1995
1000–End	(869–026–00052–2)	25.00	Jan. 1, 1995
17 Parts:			
1–199	(869–026–00054–9)	20.00	Apr. 1, 1995
200–239	(869–026–00055–7)	24.00	Apr. 1, 1995
240–End	(869–026–00056–5)	30.00	Apr. 1, 1995
18 Parts:			
1–149	(869–026–00057–3)	16.00	Apr. 1, 1995
150–279	(869–026–00058–1)	13.00	Apr. 1, 1995
280–399	(869–026–00059–0)	13.00	Apr. 1, 1995
400–End	(869–026–00060–3)	11.00	Apr. 1, 1995
19 Parts:			
1–140	(869–026–00061–1)	25.00	Apr. 1, 1995
141–199	(869–026–00062–0)	21.00	Apr. 1, 1995
200–End	(869–026–00063–8)	12.00	Apr. 1, 1995
20 Parts:			
1–399	(869–026–00064–6)	20.00	Apr. 1, 1995
400–499	(869–026–00065–4)	34.00	Apr. 1, 1995
500–End	(869–026–00066–2)	34.00	Apr. 1, 1995
21 Parts:			
1–99	(869–026–00067–1)	16.00	Apr. 1, 1995
100–169	(869–026–00068–9)	21.00	Apr. 1, 1995
170–199	(869–026–00069–7)	22.00	Apr. 1, 1995
200–299	(869–026–00070–1)	7.00	Apr. 1, 1995
300–499	(869–026–00071–9)	39.00	Apr. 1, 1995
500–599	(869–026–00072–7)	22.00	Apr. 1, 1995
600–799	(869–026–00073–5)	9.50	Apr. 1, 1995
800–1299	(869–026–00074–3)	23.00	Apr. 1, 1995
1300–End	(869–026–00075–1)	13.00	Apr. 1, 1995
22 Parts:			
1–299	(869–026–00076–0)	33.00	Apr. 1, 1995
300–End	(869–026–00077–8)	24.00	Apr. 1, 1995
23	(869–026–00078–6)	22.00	Apr. 1, 1995
24 Parts:			
0–199	(869–026–00079–4)	40.00	Apr. 1, 1995
200–219	(869–026–00080–8)	19.00	Apr. 1, 1995
220–499	(869–026–00081–6)	23.00	Apr. 1, 1995
500–699	(869–026–00082–4)	20.00	Apr. 1, 1995
700–899	(869–026–00083–2)	24.00	Apr. 1, 1995
900–1699	(869–026–00084–1)	24.00	Apr. 1, 1995
1700–End	(869–026–00085–9)	17.00	Apr. 1, 1995
25	(869–026–00086–7)	32.00	Apr. 1, 1995
26 Parts:			
§§ 1.0-1–1.60	(869–026–00087–5)	21.00	Apr. 1, 1995
§§ 1.61–1.169	(869–026–00088–3)	34.00	Apr. 1, 1995
§§ 1.170–1.300	(869–026–00089–1)	24.00	Apr. 1, 1995
§§ 1.301–1.400	(869–026–00090–5)	17.00	Apr. 1, 1995
§§ 1.401–1.440	(869–026–00091–3)	30.00	Apr. 1, 1995
§§ 1.441-1.500	(869-026-00092-1)	22.00	Apr. 1, 1995
§§ 1.501–1.640	(869–026–00093–0)	21.00	Apr. 1, 1995
§§ 1.641–1.850	(869–026–00094–8)	25.00	Apr. 1, 1995
§§ 1.851–1.907	(869–026–00095–6)	26.00	Apr. 1, 1995
§§ 1.908–1.1000	(869–026–00096–4)	27.00	Apr. 1, 1995
§§ 1.1001–1.1400	(869–026–00097–2)	25.00	Apr. 1, 1995
§§ 1.1401–End	(869–026–00098–1)	33.00	Apr. 1, 1995
2–29	(869–026–00099–9)	25.00	Apr. 1, 1995
30–39	(869–026–00100–6)	18.00	Apr. 1, 1995
40–49	(869–026–00101–4)	14.00	Apr. 1, 1995

Title	Stock Number	Price	Revision Date
50–299	(869–026–00102–2)	14.00	Apr. 1, 1995
300–499	(869–026–00103–1)	24.00	Apr. 1, 1995
500–599	(869–026–00104–9)	6.00	[4] Apr. 1, 1990
600–End	(869–026–00105–7)	8.00	Apr. 1, 1995
27 Parts:			
1–199	(869–026–00106–5)	37.00	Apr. 1, 1995
200–End	(869–026–00107–3)	13.00	[7] Apr. 1, 1994
28 Parts:			
1-42	(869–026–00108–1)	27.00	July 1, 1995
43-end	(869-026-00109-0)	22.00	July 1, 1995
29 Parts:			
0–99	(869–026–00110–3)	21.00	July 1, 1995
100–499	(869–026–00111–1)	9.50	July 1, 1995
500–899	(869–026–00112–0)	36.00	July 1, 1995
900–1899	(869–026–00113–8)	17.00	July 1, 1995
1900–1910 (§§ 1901.1 to 1910.999)	(869–026–00114–6)	33.00	July 1, 1995
1910 (§§ 1910.1000 to end)	(869–026–00115–4)	22.00	July 1, 1995
1911–1925	(869–026–00116–2)	27.00	July 1, 1995
1926	(869–026–00117–1)	35.00	July 1, 1995
1927–End	(869–026–00118–9)	36.00	July 1, 1995
30 Parts:			
1–199	(869–026–00119–7)	25.00	July 1, 1995
200–699	(869–026–00120–1)	20.00	July 1, 1995
700–End	(869–026–00121–9)	30.00	July 1, 1995
31 Parts:			
0–199	(869–026–00122–7)	15.00	July 1, 1995
200–End	(869–026–00123–5)	25.00	July 1, 1995
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	(869–026–00124–3)	32.00	July 1, 1995
191–399	(869–026–00125–1)	38.00	July 1, 1995
400–629	(869–026–00126–0)	26.00	July 1, 1995
630–699	(869–026–00127–8)	14.00	[5] July 1, 1991
700–799	(869–026–00128–6)	21.00	July 1, 1995
800–End	(869–026–00129–4)	22.00	July 1, 1995
33 Parts:			
1–124	(869–026–00130–8)	20.00	July 1, 1995
125–199	(869–026–00131–6)	27.00	July 1, 1995
200–End	(869–026–00132–4)	24.00	July 1, 1995
34 Parts:			
1–299	(869–026–00133–2)	25.00	July 1, 1995
300–399	(869–026–00134–1)	21.00	July 1, 1995
400–End	(869–026–00135–9)	37.00	July 5, 1995
35	(869–026–00136–7)	12.00	July 1, 1995
36 Parts			
1–199	(869–026–00137–5)	15.00	July 1, 1995
200–End	(869–026–00138–3)	37.00	July 1, 1995
37	(869–026–00139–1)	20.00	July 1, 1995
38 Parts:			
0–17	(869–026–00140–5)	30.00	July 1, 1995
18–End	(869–026–00141–3)	30.00	July 1, 1995
39	(869–026–00142–1)	17.00	July 1, 1995
40 Parts:			
1–51	(869–026–00143–0)	40.00	July 1, 1995
52	(869–026–00144–8)	39.00	July 1, 1995
53–59	(869–026–00145–6)	11.00	July 1, 1995
60	(869-026-00146-4)	36.00	July 1, 1995
61–71	(869–026–00147–2)	36.00	July 1, 1995
72–85	(869–026–00148–1)	41.00	July 1, 1995
86	(869–026–00149–9)	40.00	July 1, 1995
87–149	(869–026–00150–2)	41.00	July 1, 1995
150–189	(869–026–00151–1)	25.00	July 1, 1995
190–259	(869–026–00152–9)	17.00	July 1, 1995
260–299	(869–026–00153–7)	40.00	July 1, 1995
300–399	(869–026–00154–5)	21.00	July 1, 1995
400–424	(869–026–00155–3)	26.00	July 1, 1995
425–699	(869–026–00156–1)	30.00	July 1, 1995
700–789	(869–026–00157–0)	25.00	July 1, 1995
790–End	(869–026–00158–8)	15.00	July 1, 1995
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
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101	(869–026–00160–0)	29.00	July 1, 1995
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42 Parts:			
1–399	(869–026–00163–4)	26.00	Oct. 1, 1995
400–429	(869–026–00164–2)	26.00	Oct. 1, 1995
430–End	(869–026–00165–1)	39.00	Oct. 1, 1995
43 Parts:			
1–999	(869–026–00166–9)	23.00	Oct. 1, 1995
1000–3999	(869–026–00167–7)	31.00	Oct. 1, 1995
4000–End	(869–026–00168–5)	15.00	Oct. 1, 1995
44	(869–026–00169–3)	24.00	Oct. 1, 1995
45 Parts:			
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200–499	(869–026–00171–5)	14.00	Oct. 1, 1995
500–1199	(869–026–00172–3)	23.00	Oct. 1, 1995
1200–End	(869–026–00173–1)	26.00	Oct. 1, 1995
46 Parts:			
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41–69	(869–026–00175–8)	17.00	Oct. 1, 1995
70–89	(869–026–00176–6)	8.50	Oct. 1, 1995
90–139	(869–026–00177–4)	15.00	Oct. 1, 1995
140–155	(869–026–00178–2)	12.00	Oct. 1, 1995
156–165	(869–026–00179–1)	17.00	Oct. 1, 1995
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500–End	(869–026–00182–1)	13.00	Oct. 1, 1995
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[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, 1995. 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, 1995. 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, 1994. The CFR volume issued January 1, 1993, should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 1994 to March 31, 1995. The CFR volume issued April 1, 1994, should be retained.