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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 319 and 322

[Docket No. 89–117–4]

RIN 0579–AA37

Honeybees and Honeybee Semen From New Zealand

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the honeybee and honeybee semen regulations to allow honeybees and honeybee semen from New Zealand to transit the United States, subject to certain conditions. This action relieves certain restrictions on the movement of honeybees and honeybee semen from New Zealand through the United States without presenting a significant risk of introducing harmful diseases or parasites of honeybees into the United States.

EFFECTIVE DATE: March 3, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. James Fons, Operations Officer, Port Operations Staff, Plant Protection and Quarantine, APHIS, USDA, P.O. Drawer 810, Riverdale, MD 20738. The telephone number for the agency contact will change when agency offices in Hyattsville, MD, move to Riverdale, MD, during January or February. Telephone: (301) 436–8295 (Hyattsville); (301) 734–8295 (Riverdale).

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 322 (referred to below as the regulations) govern the importation into the United States of honeybees and honeybee semen. These regulations were established pursuant to the Honeybee Act (7 U.S.C. 281 *et seq.*). The Honeybee Act was designed to prevent the movement into the United States of diseases and parasites harmful to honeybees, and to prevent their spread within the United States. In addition, the Honeybee Act was designed to prevent the movement into the United States of undesirable species or subspecies of honeybees, such as *Apis mellifera scutellata*, commonly known in the United States as the African honeybee.

In this regard, 7 U.S.C. 281 provides, in relevant part, that:

> (a) IN GENERAL.—The Secretary of Agriculture is authorized to prohibit or restrict the importation or entry of honeybees and honeybee semen into or through the United States in order to prevent the introduction and spread of diseases and parasites harmful to honeybees, the introduction of genetically undesirable germ plasm of honeybees, or the introduction and spread of undesirable species or subspecies of honeybees and the semen of honeybees.

Under the regulations, honeybees may be imported into the United States from New Zealand only by the United States Department of Agriculture (USDA) and only for experimental or scientific purposes. Honeybee semen may be imported into the United States from New Zealand only under a permit issued by the USDA and in accordance with specific marking and shipping requirements.

On February 6, 1990, we published in the **Federal Register** (55 FR 3968–3969, Docket No. 89–117) a proposal to amend the regulations by removing these restrictions on honeybees and honeybee semen imported into the United States from New Zealand. We believed that the proposal was warranted because it had been determined that New Zealand was free of diseases and parasites harmful to honeybees in the United States, and undesirable species or subspecies of honeybees. This determination was made based on USDA review of the scientific literature; an ongoing sampling program of New Zealand honeybees by the USDA; an ongoing exchange of information between New Zealand and the United States relating to bee diseases, bee parasites, and undesirable species and subspecies of honeybees; and a review by USDA of the bee enforcement program in New Zealand.[1]

However, we recognized that shipments of honeybees or honeybee semen from New Zealand could, during transit through countries from which honeybees and honeybee semen may not be imported into the United States, come in contact with foreign honeybees that may be diseased. We therefore proposed to allow honeybees and honeybee semen to be imported from New Zealand into the United States only if they were shipped to the United States nonstop and if they were accompanied by a certificate issued by the New Zealand Department of Agriculture certifying that the honeybees and honeybee semen were of New Zealand origin. We also proposed to amend § 322.2 to add a definition for ''certificate of origin.''

We solicited comments concerning the 1990 proposal for 15 days ending February 21, 1990. In response to a comment, we published a notice in the **Federal Register** on March 2, 1990 (55 FR 7499, Docket No. 90–025), that extended the comment period to April 2, 1990. We received 37 comments by that date. We did not at that time publish a final rule, but have since determined that we wish to proceed with rulemaking. On July 18, 1994, we published in the **Federal Register** (59 FR 36373–36374, Docket No. 89–117–3) a notice to reopen and extend the comment period on the proposal to August 17, 1994. We received an additional 20 comments by that date. The comments were from apiaries, queen breeders, beekeeper associations, State departments of agriculture, and agriculture departments of foreign governments. Of the total comments received, 11 were in favor of the proposed rule. The remaining comments raised objections or concerns, which are discussed below by topic.

Comments Resulting in a Change to the Rule

A number of commenters were concerned about a disorder called half moon syndrome (HMS) that has been reported in New Zealand honeybee colonies. Commenters said there are reports that HMS may have been

[1] Additional information may be obtained by writing to the person listed under **FOR FURTHER INFORMATION CONTACT**.

introduced into Canada from shipments of New Zealand honeybees.

According to our information, HMS is not known to be present in any country other than New Zealand. In 1984, ARS researchers visited New Zealand to study honeybees and honeybee diseases there, and specifically to study HMS. Field tests conducted in New Zealand by ARS researchers to determine the communicability of HMS indicated that the symptoms of the syndrome could not be reproduced in a healthy colony, even when the healthy colony was given a massive inoculum (a comb containing larvae with HMS). In laboratory tests, no pathogen or other causative agent of HMS could be found. Field observations of New Zealand colonies also showed that symptoms of HMS appeared to clear up in time without assistance or treatment. Further, ARS has imported honeybees from New Zealand (50 queens and 20 packages of honeybees from a variety of sources) under a USDA permit on three occasions over the past 10 years, and HMS was not observed in any colony. On the basis of these observations and tests, ARS concluded that HMS is not a highly communicable disease.

In addition, over the past 5 years, Canada has imported approximately 80,500 packages of honeybees and 143,350 queens from New Zealand. When New Zealand honeybees were first imported into Canada, beekeepers receiving the honeybees were specifically requested to look for any abnormal developments that resembled HMS in their colonies. One case was reported, but the presence of the syndrome was never confirmed. Agriculture Canada continues to allow the importation of New Zealand honeybees into Canada because they have concluded that if HMS is present in New Zealand stock, it is not communicable to Canadian honeybees, or there would be ample evidence of its presence by now.

However, it is true that we do not know what causes HMS, nor do we know how the syndrome was communicated in those instances where it has occurred. Also, because we have not found a causative agent of HMS, we do not know for certain whether or not the syndrome would be communicable in the varied climates of the United States.

Commenters had other disease concerns regarding New Zealand honeybees, in addition to HMS. Specifically, commenters cited reports of a high incidence of chalk-brood disease in New Zealand. Some other commenters were concerned that a number of diseases that may be present in New Zealand honeybees, such as chronic paralysis virus, Kashmir bee virus, melanosis, and *Malpighamoeba mellificae*, could be introduced into the State of Hawaii. We also received a comment stating that the proposal conflicts with a law of the State of Hawaii which prohibits importation of live honeybees into Hawaii because of disease and pest concerns. Our reports indicate that chalk-brood and the other diseases mentioned by commenters are present in New Zealand. These diseases are also found in U.S. apiaries, but may not be present in every State. In response to commenters' concerns, we have determined that, because of lack of information at this time, we cannot be certain that the introduction or spread of HMS and the other diseases mentioned by commenters into certain States would not prove harmful to U.S. honeybees. We plan to continue to research HMS and to conduct surveys to ascertain the scope of other diseases such as chalk-brood in the United States, to help us determine whether or not New Zealand honeybees can safely be imported. We encourage interested persons who may have information in this regard to share that information with us.

In response to comments, and until we have conducted further research, we are changing the proposed rule to allow only the transit of New Zealand honeybees and honeybee semen through the United States en route to another country, and only in accordance with specific requirements to help ensure that the New Zealand honeybees do not escape while in transit through the United States. We believe that allowing New Zealand honeybees and honeybee semen to transit the United States will enable New Zealand to ship its honeybees to foreign markets without posing a significant risk of introducing or spreading harmful diseases or parasites to apiaries in the United States.

We will require that the honeybees transiting the United States be contained in cages that are completely enclosed by screens with mesh fine enough to prevent the honeybees from passing through, and that each pallet of cages be covered by an escape-proof net that is secured tightly to the pallet so that no honeybees can escape from underneath the net. The honeybees will have to be shipped by air through a port staffed by an inspector.[2] The honeybees may be transloaded from one aircraft to another at the port of arrival in the United States, provided the transloading is done under the supervision of an inspector and the area used for any storage of the honeybees between flights is within an enclosed building. These requirements will help ensure that no honeybees escape from the shipment while in the United States. Lastly, we will require that, at least 2 days prior to the expected date of arrival at a port in the United States, the shipper must notify the Animal and Plant Health Inspection Service (APHIS) Officer in Charge at the port of arrival of the following: The dates of arrival and departure; the name and address of both the shipper and receiver; the quantity of queens and the number of cages of package honeybees in the shipment; and, the name of the airline carrying the shipment. Notification of arrival will ensure that an inspector is available to supervise any necessary transloading, and to certify that the shipment is moving in compliance with the regulations.

Other Comments

Some commenters stated that we do not know whether honeybees from New Zealand are susceptible to tracheal mite. New Zealand has never been infested with tracheal mite, and so, commenters said, the honeybees have not had selection for resistance to these mites. They believe it would be a disservice to U.S. beekeepers to allow them to buy stock that is susceptible to tracheal mites.

This comment introduces the question of the quality of New Zealand honeybees. The Honeybee Act, under which this rule is being issued, is designed to prevent the movement into the United States of diseases and parasites harmful to honeybees, and undesirable species or subspecies of honeybees and their semen. New Zealand honeybees are free from tracheal mite, and so their importation would not pose a significant risk of introducing or spreading tracheal mite within the United States. Further, even though U.S. apiaries have been plagued by tracheal mite for a number of years, honeybees in the United States are still susceptible to the mite and there is no research or experience that indicates honeybees from New Zealand would be more susceptible to tracheal mites than U.S. honeybees.

A few commenters stated that Canadian beekeepers report a high incidence of supersedure in New Zealand queens. This comment also voices a concern about the quality of New Zealand honeybees. Researchers from USDA's Agricultural Research

[2] For a list of ports staffed by inspectors, contact the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737–1236.

Service (ARS) have examined the issue of supersedure in queens from New Zealand and have concluded that there does not seem to be a genetic reason for the difficulty. Rather, stress from travelling overseas or damage or injury to the queens during travel is the likely cause of supersedure of New Zealand queens. In accordance with the Honeybee Act, our regulations impose only those restrictions necessary to prevent the spread of diseases and parasites harmful to honeybees, and undesirable species or subspecies of honeybees and their semen.

A few commenters asserted that, although ARS may have checked samples of honeybees from New Zealand, no raw data is available to the beekeeping community. Commenters were concerned that the sampling levels may not have been representative of all the honeybees in New Zealand.

ARS researchers traveled to New Zealand in 1984, where they conducted both field and laboratory tests and observations to determine the health status of New Zealand honeybees. To supplement their on-site studies in New Zealand, ARS imported 50 queens from six different sources in April, 1985. After one year, the resulting colonies showed no symptoms of any exotic diseases or parasites. In April, 1987, ARS imported 10 3-pound packages of honeybees from New Zealand; again, after one year, the package honeybees were all in good condition with no signs of any exotic diseases or parasites. In May, 1988, ARS imported 20 2-pound fibertube packages of honeybees from New Zealand, which also exhibited no signs of exotic parasites or diseases. In general, the honeybees imported by ARS arrived in good condition with very few dead honeybees in the shipping containers.

Many commenters expressed frustration over the embargo Canada and other major importing countries have placed on U.S. queens. They said the U.S. queen rearing industry is in financial difficulty because of shrinking markets, and competition from New Zealand could seriously hurt it further. We believe it would be unlikely that New Zealand would provide significant competition to U.S. producers if their honeybees were imported into the United States. It was determined in the regulatory flexibility analysis for the proposed rule that the price disadvantage for New Zealand exporters, combined with the lack of demand in the United States for New Zealand honeybees, would make it difficult for New Zealand honeybees to have a significant impact on U.S. markets. However, under this final rule, honeybees and honeybee semen from New Zealand will not be imported into the United States, and therefore, there is no potential impact on U.S. honeybee producers from competition in the U.S. market.

One commenter said that, while it is true that the mainland United States does not ship queens until late March or early April, Hawaii produces and ships queens beginning in February, significantly overlapping the New Zealand honeybee shipping season. According to our information, New Zealand queens can be produced from September through April. New Zealand's September to November queen production is fully absorbed domestically and by exports to some Middle East and Pacific Island markets. The February to April production is fully committed to Canadian markets. That only leaves a production window in December and January when New Zealand producers would have honeybees available for U.S. markets. This window would not overlap the Hawaiian season. Even so, as this final rule will not permit the importation of New Zealand honeybees into the United States, this rule will have no economic impact on U.S. producers in Hawaii or any other State.

Finally, one commenter suggested that a system of permits should be instituted until experience proves that importation of honeybees from New Zealand is hazard-free. If a problem develops, the honeybees could then be traced to their location of origin in New Zealand. However, as set forth above, this final rule will not permit the importation of New Zealand honeybees into the United States, and will impose strict precautions to be taken during the honeybees' transit of the United States. This final rule also requires that shipments of honeybees and honeybee semen from New Zealand be accompanied by a certificate issued by the New Zealand Department of Agriculture certifying that the shipment originated in New Zealand, and the honeybees or honeybee semen will have to be shipped nonstop to the United States. We believe these precautions will ensure that the transit of honeybees and honeybee semen from New Zealand poses no significant threat to U.S. honeybees, and that, therefore, a permit system appears to be unnecessary.

Miscellaneous

We are making a change to the proposed rule by removing the proposed definition of ''certificate of origin.'' In order to make the requirement more clear, we are instead stating in the rule that ''the honeybees or honeybee semen must be accompanied by a certificate issued by the New Zealand Department of Agriculture certifying that the honeybees or honeybee semen were derived in or shipped from an apiary in New Zealand.''

We are also making two editorial changes to the regulations. The first removes the footnote in § 322.1 that quotes a part of the Honeybee Act. Prior to January 1, 1995, the Honeybee Act contained criteria for determining which countries could be listed in the regulations as countries from which honeybees or honeybee semen could be imported into the United States. The Honeybee Act, as amended by the implementing legislation for the General Agreement on Tariffs and Trade, no longer contains those criteria and, therefore, no longer needs to be set forth in the regulations. The second change is to the Foreign Quarantine Notices, contained in 7 CFR part 319. The regulations in 7 CFR 319.76–2 refer to the Honeybee Act. Specifically, footnote 1 in § 319.76–2 states, in part, that ''The Honeybee Act * * * prohibits the importation into the United States of any live honeybees of the genus *Apis* * * *'' We are amending this footnote to reflect the January 1, 1995, amendments to the Honeybee Act discussed above.

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 the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This final rule allows honeybees and honeybee semen from New Zealand to transit the United States en route to foreign destinations, subject to certain conditions. This rule will primarily affect the package bee and queen industry in New Zealand. Currently, the lack of economical shipping routes outside the United States for New Zealand honeybees makes shipments from New Zealand to many foreign destinations cost prohibitive. The provisions of this rule will provide honeybee producers in New Zealand with economically feasible access to these foreign destinations. However, because the honeybees and honeybee semen will not be imported into the United States, there is no potential impact on U.S. honeybee producers from competition in the U.S. market.

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 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 the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0072.

List of Subjects

7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

7 CFR Part 322

Bees, Honey, Imports, Reporting and recordkeeping requirements.

Accordingly, 7 CFR parts 319 and 322 are amended as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, and 450; 21 U.S.C. 136 and 136a; 7 CFR 2.17, 2.51, and 371.2(c).

Subpart—Exotic Bee Diseases and Parasites

§ 319.76 [Amended]

2. In § 319.76–2, footnote 1 is revised to read ''Regulations regarding the importation of live honeybees of the genus *Apis* are set forth in 7 CFR part 322.''.

PART 322—HONEYBEES AND HONEYBEE SEMEN

3. The authority citation for part 322 continues to read as follows:

Authority: 7 U.S.C. 281; 7 CFR 2.17, 2.51, and 371.2(c).

§ 322.1 [Amended]

4. Section 322.1 is amended as follows:

a. Footnote 1 and the reference to footnote 1 are removed.

b. In paragraph (c), ''New Zealand'' is removed.

c. Paragraph (e) is redesignated as paragraph (f) and a new paragraph (e) is added to read as set forth below:

§ 322.1 Importation of honeybees and honeybee semen.

* * * * *

(e) Honeybees and honeybee semen from New Zealand may transit the United States en route to another country under the following conditions:

(1) The honeybees or honeybee semen must be accompanied by a certificate issued by the New Zealand Department of Agriculture certifying that the honeybees or honeybee semen were derived in or shipped from an apiary in New Zealand;

(2) The honeybees or honeybee semen must be shipped nonstop to the United States for transit to another country;

(3) The honeybees must be contained in cages that are completely enclosed by screens with mesh fine enough to prevent the honeybees from passing through. Each pallet of cages must then be covered by an escape-proof net that is secured tightly to the pallet so that no honeybees can escape from underneath the net;

(4) The honeybees must be shipped by air through a port staffed by an inspector.[1] The honeybees may be transloaded from one aircraft to another at the port of arrival in the United States, provided the transloading is done under the supervision of an inspector and the area used for any storage of the honeybees between flights is within a completely enclosed building.

(5) At least 2 days prior to the expected date of arrival of honeybees at a port in the United States, the shipper must notify the APHIS Officer in Charge at the port of arrival of the following: the date of arrival and departure; the name and address of both the shipper and receiver; the quantity of queens and the number of cages of package honeybees in the shipment; and, the name of the airline carrying the shipment.

* * * * *

[1] For a list of ports staffed by inspectors, contact the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737–1236.

Done in Washington, DC, this 26th day of January 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–2449 Filed 1–31–95; 8:45 am]

BILLING CODE 3410–34–M

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7 CFR Part 372

[Docket No. 93–165–3]

RIN 0579–AA33

National Environmental Policy Act Implementing Procedures

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: These final procedures set forth the principles and practices the Animal and Plant Health Inspection Service will follow to comply with the National Environmental Policy Act of 1969, the Council on Environmental Quality regulations, and the U.S. Department of Agriculture regulations implementing the National Environmental Policy Act. These procedures replace APHIS Guidelines Concerning Implementation of NEPA Procedures.

EFFECTIVE DATE: March 3, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Pizel, Branch Chief, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, P.O. Drawer 810, Riverdale, MD 20738. The telephone number for the agency contact will change when agency offices in Hyattsville, MD, move to Riverdale, MD, during January 1995. Telephone: (301) 436–8565 (Hyattsville); (301) 734–8565 (Riverdale).

SUPPLEMENTARY INFORMATION:

Background

The regulations of the President's Council on Environmental Quality (CEQ) implementing section 102(2) of the National Environmental Policy Act (hereinafter referred to as NEPA) are applicable to and binding on all agencies of the Federal Government. Pursuant to the CEQ implementing regulations, the Animal and Plant Health Inspection Service (APHIS) is implementing procedures to ensure that its planning and decisionmaking are in accordance with the policies and purposes of NEPA. The CEQ implementing regulations direct that agencies shall include, at a minimum, procedures required by 40 CFR 1501.2(d), 1502.9(c)(3), 1505.1, 1506.6(e), 1507.3(b)(2), and 1508.4

(1992). APHIS' procedures supplant the APHIS Guidelines Concerning Implementation of NEPA Procedures originally published in the **Federal Register** on August 28, 1979 (44 FR 50381–50384) and corrections as published in the **Federal Register** on August 31, 1979 (44 FR 51272–51274).

On June 3, 1994, we published in the **Federal Register** (59 FR 28814–28821, Docket No. 93–165–1) proposed procedures implementing CEQ's NEPA regulations. Comments on the proposed procedures were required to be received on or before July 18, 1994. During the comment period, we received a request from the Association of Natural Biocontrol Producers that we extend the comment period. The comment stated that additional time was necessary to allow interested parties to evaluate fully and respond to the proposed procedures. In response to this comment, we published a notice in the **Federal Register** on July 22, 1994 (59 FR 37442, Docket No. 93–165–2), reopening and extending the comment period until August 2, 1994.

We received seven comments by August 2, 1994, from the following commenters: American Veterinary Medical Association; Asgrow Seed Company; Association of Natural Biocontrol Producers; Environmental Defense Fund; State of California, Department of Food and Agriculture; The Humane Society of the United States; and the Office of the Secretary of the U.S. Department of the Interior. We carefully considered all of the comments we received. Noteworthy issues that were raised in comments—whether or not they prompted changes to the proposed procedures—are developed below either under the appropriate section headings or, if they do not fit within a section heading, under the ''miscellaneous'' heading that follows. Sections 372.1 through 372.3 and 372.7 through 372.10 were not addressed in comments and, except where language was modified to improve clarity or eliminate, insofar as possible, ''jargon,'' remain as originally proposed.

Discussion of Issues

Definitions (Section 372.4)

One commenter, concerned that some language in the procedures is too species-specific, has suggested that APHIS broaden significantly its definition of ''environment.'' The term ''environment'' is not defined in these procedures. CEQ's regulations provide that the term '' 'human environment' shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment.'' [1] In evaluating impacts of agency proposals and exploring alternatives under NEPA, we are guided by CEQ's interpretation of the term ''human environment.'' In certain cases, limiting language is used in these procedures, not to circumscribe the scope of required NEPA analysis, but in recognition of program jurisdictional constraints. In no case is language employed to limit APHIS' environmental responsibilities.

Classification of Actions (Section 372.5)

One commenter has criticized the failure of this section to distinguish consistently between specific criteria for and identification of classes of action. He has also urged that examples and classes of action be presented with much greater specificity. We agree and have rewritten this section (the substance of which has not been changed) in an attempt to accommodate those concerns and for general clarification.

Categorically Excluded Actions

One commenter has asked who will make the decisions regarding what is or is not categorically excluded. The decision in the first instance belongs to program personnel who should be greatly assisted in that effort through the rewrite of this section.

Another commenter is ''concerned about the possibility that APHIS may, under the language now proposed, consider the seizure or removal of wild animals from a population for such purposes as disease testing as actions which are categorically excluded.'' The fact is that such seizures or removals, which are generally very limited in scope and humanely pursued, would seldom have the potential to affect significantly the quality of the human environment.[2]

One commenter has inquired whether small-scale field tests of genetically engineered plants is included as a categorically excluded action under paragraph (c)(2), which provides an exclusion for ''[a]ctivities that are carried out in laboratories, facilities, or other areas designed to eliminate the potential for harmful environmental effects.'' In fact, the environmental assessment process has been undertaken for hundreds of permits that have been issued to conduct small-scale (or ''confined,'' as expressed in current biotechnology literature) field tests of genetically engineered plants. In every case a finding of no significant impact was reached, reason enough to conclude that such tests ought to be categorically excluded. To eliminate any confusion, this action (including ''notifications,'' which are little more than logical extensions) will be described separately as an example of categorical exclusions under a retitled paragraph (c)(3). We emphasize, in response to concerns raised by another commenter on this subject, that this categorical exclusion applies only to confined field tests; unconfined testing would not qualify for categorical exclusion.

Two other commenters maintain that the movement and release of at least some nonindigenous species also would qualify for categorical exclusion under the same exclusion theory as small-scale field tests of genetically engineered plants. We agree that categorical exclusion of some nonindigenous species activities—movement to and from ''containment,'' as well as the release into a State's environment of pure cultures of organisms that are either native or are established introductions—is appropriate. These actions also will be described separately as examples of categorical exclusions under paragraph (c)(3).

Finally, the substance of paragraph (c)(3) of the proposed procedures is provided as an example under paragraph (c)(1) of these final procedures. The substance of paragraph (c)(5) of the proposed procedures appears in these final procedures as paragraph (c)(3), which has been retitled ''Licensing and permitting'' and expanded to include activities described in the preceding two paragraphs.

Early Planning for Applicants and Non-APHIS Entities (Section 372.6)

One commenter has complained that the failure to develop ''the necessary environmental data needs'' leaves potential applicants in the dark. This situation, according to the commenter, could lead to imposition of inconsistent and burdensome requirements. Data requirements have indeed been developed for some agency programs.[3] Other programs are in the process of incorporating such requirements into their guidance.

[1] 40 CFR 1508.14.

[2] If the animals to be tested were listed as endangered or threatened by the Federal Government or otherwise protected (by treaty, for example), then categorical exclusion would clearly not be appropriate. In that case, the environmental assessment or environmental impact statement process (as well as any other required consultation or process) would be undertaken.

[3] See for example, 7 CFR 340.4 (data requirements for applications seeking authorization to introduce genetically engineered organisms into the environment).

Miscellaneous

Appeals

One commenter has expressed concern about ''the absence of proposed procedures to provide the public with an opportunity to appeal APHIS decisions with which it disagrees.'' The appeal procedures, according to that commenter, should be made a part of the agency's NEPA procedures so that the public will not be forced ''to seek judicial review as the first and only response to inadequate NEPA documents.''

We do not believe that the agency's NEPA procedures should be the vehicle through which APHIS decisions may be appealed. These procedures are designed to complement the CEQ regulations and to ensure that the NEPA process aids this agency's decisionmaking and contributes to public understanding of APHIS' duties and functions at all levels of administrative action. It is through NEPA's public process that the best possible documentation will be prepared; turning that process into a form of adjudication will do nothing to enhance document quality.

Emergencies

The agency has been urged by one commenter to address ''emergencies'' in its NEPA procedures. It has been recommended that (1) the term ''emergency'' be defined as ''a situation or occurrence of an extremely serious nature that has developed suddenly and unexpectedly and requires immediate action to address a serious threat to life or property,'' and (2) a provision be added to the procedures that would require the agency to consult with CEQ in emergency circumstances ''as soon as possible about alternative arrangements for compliance with NEPA.''

The CEQ regulations, which deal expressly with ''emergency circumstances,'' have been (and will continue to be) complied with by APHIS as necessary. Duplicating the CEQ ''emergency'' regulations here would serve no useful purpose; indeed, we are discouraged from doing so.[4]

Compliance Issues

One commenter has expressed concern that Executive Order 12778 ''moves all decision making and document preparation to the highest possible level—USDA national staff in Hyattsville'' and that the executive order is at ''odds with CEQA [California Environmental Quality Act], and leaves [California citizens and officials] open to limitation under CEQA despite having met NEPA standards.''

The notice of proposed rulemaking merely recited how these procedures are affected by Executive Order 12778, which we cannot disavow. But the fact is that APHIS has not centralized environmental decisionmaking; on the contrary, environmental decisionmaking at this agency is in the process of being decentralized. Furthermore, it is doubtful that California's CEQA would be found to be in ''conflict'' with this agency's procedures. Nevertheless, principles of federalism permit suits to be brought in State court under State law whether or not there is compliance with a counterpart Federal statute.

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.

These procedures satisfy the requirement to implement CEQ's NEPA regulations and have been designed to reduce to a minimum the regulatory burden on small entities and all other individuals and organizations, public and private.

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

Executive Order 12372

This program/activity is listed in the catalogy of Federal Domestic Assistance under No. 10.025 and is subject to Executive 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 in conflict with these procedures; (2) has no retroactive effect; and (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

The National Environmental Policy Act

Implementation of these procedures willl not significantly impact the quality of the human environment.

Paperwork Reduction Act

These procedures contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.).*

List of Subjects in 7 CFR Part 372

Administrative practice and procedure, Environmental assessment, Environmental impact statement, and National Environmental Policy Act.

Accordingly, title 7, chapter III, of the Code of Federal Regulations is amended by adding a new part 372 to read as follows:

PART 372—NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING PROCEDURES

Sec.
372.1 Purpose.
372.2 Designation of responsible APHIS official.
372.3 Information and assistance.
372.4 Definitions.
372.5 Classification of actions.
372.6 Early planning for applicants and non-APHIS entities.
372.7 Consultation.
372.8 Major planning and decision points and public involvement.
372.9 Processing and use of environmental documents.
372.10 Supplementing environmental impact statements.

Authority: 42 U.S.C. 4321 *et seq.*; 40 CFR parts 1500–1508; 7 CFR parts 1b, 2.17, 2.51, 371.2, 371.2(m), 371.13(d), and 371.14(b).

§ 372.1 Purpose.

These procedures implement section 102(2) of the National Environmental Policy Act by assuring early and adequate consideration of environmental factors in Animal and Plant Health Inspection Service planning and decisionmaking and by promoting the effective, efficient integration of all relevant environmental requirements under the National Environmental Policy Act. The goal of timely, relevant environmental analysis will be secured principally by adhering to the National Environmental Policy Act implementing regulations (40 CFR parts 1500–1508), especially provisions pertaining to timing (§ 1502.5), integration (§ 1502.25), and scope of analysis (§ 1508.25).

§ 372.2 Designation of responsible APHIS official.

The Administrator of APHIS, or an agency official to whom the Administrator may formally delegate the task, is responsible for overall review of APHIS' NEPA compliance.

[4] See 40 CFR 1507.3 (''Such procedures shall not paraphrase these regulations').

§ 372.3 Information and assistance.

Information, including the status of studies, and the availability of reference materials, as well as the informal interpretations of APHIS' NEPA procedures and other forms of assistance, will be made available upon request to Environmental Analysis and Documentation, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, P.O. Drawer 810, Riverdale MD 20738, (301) 436–8565 (Hyattsville) or (301) 734–8565 (Riverdale).

§ 372.4 Definitions.

The terminology set forth in the Council on Environmental Quality's (CEQ) implementing regulations at 40 CFR part 1508 is incorporated herein. In addition, the following terms, as used in these procedures, are defined as follows:

APHIS. The Animal and Plant Health Inspection Service (APHIS).

Decisionmaker. The agency official responsible for executing findings of no significant impact in the environmental assessment process and the record of decision in the environmental impact statement process.

Department. The United States Department of Agriculture (USDA).

Environmental unit. Environmental Analysis and Documentation, the analytical unit in Biotechnology, Biologics, and Environmental Protection responsible for coordinating APHIS' compliance with the National Environmental Policy Act and other environmental laws and regulations.

§ 372.5 Classification of actions.

(a) *Actions normally requiring environmental impact statements.* This class of policymakings and rulemakings seeks to establish programmatic approaches to animal and plant health issues. Actions in this class typically involve the agency, an entire program, or a substantial program component and are characterized by their broad scope (often global or nationwide) and potential effect (impacting a wide range of environmental quality values or indicators, whether or not affected individuals or systems may be completely identified at the time). Ordinarily, new or untried methodologies, strategies, or techniques to deal with pervasive threats to animal and plant health are the subjects of this class of actions. Alternative means of dealing with those threats usually have not been well developed. Actions in this class include:

(1) Formulation of contingent response strategies to combat future widespread outbreaks of animal and plant diseases; and

(2) Adoption of strategic or other long-range plans that purport to adopt for future program application a preferred course of action.

(b) *Actions normally requiring environmental assessments but not necessarily environmental impact statements.* This class of APHIS actions may involve the agency as a whole or an entire program, but generally is related to a more discrete program component and is characterized by its limited scope (particular sites, species, or activities) and potential effect (impacting relatively few environmental values or systems). Individuals and systems that may be affected can be identified. Methodologies, strategies, and techniques employed to deal with the issues at hand are seldom new or untested. Alternative means of dealing with those issues are well established. Mitigation measures are generally available and have been successfully employed. Actions in this class include:

(1) Policymakings and rulemakings that seek to remedy specific animal and plant health risks or that may affect opportunities on the part of the public to influence agency environmental planning and decisionmaking. Examples of this category of actions include:

(i) Development of program plans that seek to adopt strategies, methods, and techniques as the means of dealing with particular animal and plant health risks that may arise in the future;

(ii) Implementation of program plans at the site-specific, action level, except for actions that are categorically excluded, as provided in paragraph (c) of this section.

(2) Planning, design, construction, or acquisition of new facilities, or proposals for modifications to existing facilities.

(3) Disposition of waste and other hazardous or toxic materials at laboratories and other APHIS facilities, except for actions that are categorically excluded, as provided in paragraph (c) of this section.

(4) Approvals and issuance of permits for proposals involving genetically engineered or nonindigenous species, except for actions that are categorically excluded, as provided in paragraph (c) of this section.

(5) Research or testing that:

(i) Will be conducted outside of a laboratory or other containment area (field trials, for example); or

(ii) Reaches a stage of development (e.g., formulation of premarketing strategies) that forecasts an irretrievable commitment to the resulting products or technology.

(c) *Categorically excluded actions.* This class of APHIS actions shares many of the same characteristics—particularly in terms of the extent of program involvement, as well as the scope, effect of, and the availability of alternatives to proposed actions—as the class of actions that normally requires environmental assessments but not necessarily environmental impact statements. The major difference is that the means through which adverse environmental impacts may be avoided or minimized have actually been built right into the actions themselves. The efficacy of this approach generally has been established through testing and/or monitoring. The Department of Agriculture has also promulgated a listing of categorical exclusions that are applicable to all agencies within the department unless their procedures provide otherwise. Those categorical exclusions, codified at 7 CFR 1b.3(a), are entirely appropriate for APHIS. Other actions in this class include:

(1) *Routine measures.* (i) Routine measures, such as identifications, inspections, surveys, sampling that does not cause physical alteration of the environment, testing, seizures, quarantines, removals, sanitizing, inoculations, control, and monitoring employed by agency programs to pursue their missions and functions. Such measures may include the use—according to any label instructions or other lawful requirements and consistent with standard, published program practices and precautions—of chemicals, pesticides, or other potentially hazardous or harmful substances, materials, and target-specific devices or remedies, provided that such use meets all of the following criteria (insofar as they may pertain to a particular action):

(A) The use is localized or contained in areas where humans are not likely to be exposed, and is limited in terms of quantity, i.e., individualized dosages and remedies;

(B) The use will not cause contaminants to enter water bodies, including wetlands;

(C) The use does not adversely affect any federally protected species or critical habitat; and

(D) The use does not cause bioaccumulation.

(ii) Examples of routine measures include:

(A) Inoculation or treatment of discrete herds of livestock or wildlife undertaken in contained areas (such as a barn or corral, a zoo, an exhibition, or an aviary);

(B) Pesticide treatments applied to infested plants at a nursery; and

(C) Isolated (for example, along a highway) weed control efforts.

(2) *Research and development activities.* (i) Activities that are carried out in laboratories, facilities, or other areas designed to eliminate the potential for harmful environmental effects—internal or external—and to provide for lawful waste disposal.

(ii) Examples of this category of actions include:

(A) The development and/or production (including formulation, repackaging, movement, and distribution) of previously approved and/or licensed program materials, devices, reagents, and biologics;

(B) Research, testing, and development of animal repellents; and

(C) Development and production of sterile insects.

(3) *Licensing and permitting.* (i) Issuance of a license, permit, or authorization to ship for field testing previously unlicensed veterinary biological products;

(ii) Permitting, or acknowledgment of notifications for, confined field releases of genetically engineered organisms and products; and

(iii) Permitting of:

(A) Importation of nonindigenous species into containment facilities,

(B) Interstate movement of nonindigenous species between containment facilities, or

(C) Releases into a State's environment of pure cultures of organisms that are either native or are established introductions.

(4) *Rehabilitation of facilities.* Rehabilitation of existing laboratories and other APHIS facilities, functional replacement of parts and equipment, and minor additions to such existing APHIS facilities.

(d) *Exceptions for categorically excluded actions.* Whenever the decisionmaker determines that a categorically excluded action may have the potential to affect ''significantly'' the quality of the ''human environment,'' as those terms are defined at 40 CFR 1508.27 and 1508.14, respectively, and environmental assessment or an environmental impact statement will be prepared. For example:

(1) When any routine measure, the incremental impact of which, when added to other past, present, and reasonably foreseeable future actions (regardless of what agency or person undertakes such actions), has the potential for significant environmental impact;

(2) When a previously licensed or approved biologic has been subsequently shown to be unsafe, or will be used at substantially higher dosage levels or for substantially different applications or circumstances than in the use for which the product was previously approved;

(3) When a previously unlicensed veterinary biological product to be shipped for field testing contains live microorganisms or will not be used exclusively for *in vitro* diagnostic testing; or

(4) When a confined field release of genetically engineered organisms or products involves new species or organisms or novel modifications that raise new issues.

§ 372.6 Early planning for applicants and non-APHIS entities.

Each prospective applicant who anticipates the need for approval of proposed activities classified as normally requiring environmental documentation is encouraged to contact, at the earliest opportunities, APHIS' program staff.

§ 372.7 Consultation.

Prospective applicants are encouraged to contact APHIS programs officials to determine what types of environmental analyses or documentation, if any, need to be prepared. NEPA documents will incorporate, to the fullest extent possible, surveys and studies required by other environmental statutes, such as the Endangered Species Act.

§ 372.8 Major planning and decision points and public involvement.

(a) *Major planning and decisions points.* The NEPA process will be fully coordinated with APHIS planning in cooperation with program personnel. Specific decision points or milestones will be identified and communicated to the public and others in a notice of intent and in the context of the public scoping process.

(b) *Public involvement.* There will be an early and open process for determining the scope of issues to be addressed in the environmental impact statement process.

(1) A notice of intent to prepare an environmental impact statement will be published in the **Federal Register** as soon as it is determined that a proposed major Federal action has the potential to affect significantly the quality of the human environment. The notice may include a preliminary scope of environmental study. All public and other involvement in APHIS' environmental impact statement process, including the scoping process, commenting on draft documents, and participation in the preparation of any supplemental documents, will be pursuant to CEQ's implementing regulations.

(2) Opportunities for public involvement in the environmental assessment process will be announced in the same fashion as the availability of environmental assessments and findings of no significant impact.

(3) Notification of the availability of environmental assessments and findings of no significant impact for proposed activities will be published in the **Federal Register**, unless it is determined that the effects of the action are primarily of regional or local concern. Where the effects of the action are primarily of regional or local concern, notice will normally be provided through publication in a local or area newspaper of general circulation and/or the procedures implementing Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

(4) All environmental documents, comments received, and any underlying documents, including interagency correspondence where such correspondence transmits comments of Federal agencies on the environmental impact of proposals for which documents were prepared (except for privileged or confidential information (50 FR 38561)), will be made available to the public upon request. Materials to be made available will be provided without charge, to the extent practicable, or at a fee not more than the actual cost of reproducing copies required to be sent to other Federal agencies, including CEQ.

§ 372.9 Processing and use of environmental documents.

(a) Environmental assessments will be forwarded immediately upon completion to the decisionmaker for a determination of whether the proposed action may have significant effects on the quality of the human environment, and for the execution, as appropriate, of a finding of no significant impact or a notice of intent to prepare an environmental impact statement.

(1) The availability of environmental assessments will be announced by publishing a notice consistent with the notification provisions of § 372.8.

(2) Comments, if any, will be transmitted, together with any analyses and recommendations, to the APHIS decisionmaker who may then take appropriate action.

(3) Changes to environmental assessments and findings of no significant impact that are prompted by comments, new information, or any other source, will normally be announced in the same manner as the notice of availability (except that all commenters will be mailed copies of changes directly) prior to implementing the proposed action or any alternative.

(b) Environmental impact statements will be processed from inception (publication of the notice of intent) to completion (publication of a final environmental impact statement or a supplement) according to the Council on Environmental Quality implementing regulations.

(c) For rulemaking or adjudicatory proceedings, relevant environmental documents, comments, and responses will be a part of the administrative record.

(d) For all APHIS activity that is subject to the NEPA process, relevant environmental documents, comments, and responses will accompany proposals through the review process.

(e) The APHIS decisionmaker will consider the alternatives discussed in environmental documents in reaching a determination on the merits of proposed actions.

(f) APHIS will implement mitigation and other conditions established in environmental documentation and committed to as part of the decisionmaking process.

§ 372.10 Supplementing environmental impact statements.

Once a decision to supplement an environmental impact statement is made, a notice of intent will be published. The administrative record will thereafter be open. The supplemental document will then be processed in the same fashion (exclusive of scoping) as a draft and a final statement (unless alternative procedures are approved by CEQ) and will become part of the administrative record.

Done in Washington, DC, this 26th day of January 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–2450 Filed 1–31–95; 8:45 am]

BILLING CODE 3410–34–M

Agricultural Marketing Service

7 CFR Part 1032

[DA–95–08]

Milk in the Southern Illinois-Eastern Missouri Marketing Area; Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This document suspends a portion of the pool supply plant definition of the Southern Illinois-Eastern Missouri Federal milk marketing order (Order 32) for the month of January 1995. The proposed suspension was requested by Mid-America Dairymen, Inc., and Prairie Farms, Inc., which contend the proposed action is necessary to ensure that producers' milk historically associated with Order 32 will continue to be priced and pooled under the order.

EFFECTIVE DATE: January 1, 1995, through January 31, 1995.

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

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued December 27, 1994; published January 3, 1995 (60 FR 65).

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

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

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

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

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and of the order regulating the handling of milk in the Southern Illinois-Eastern Missouri marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on January 3, 1995 (60 FR 65) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views and arguments thereon. One comment letter supporting the proposed suspension was received.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that for the period of January 1, 1995, through January 31, 1995, the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1032.7(c), the words ''each of'', the letter ''s'' at the end of the word ''months'', and the words ''through January'' and ''for the months of February''.

Statement of Consideration

This rule suspends a portion of the pool supply plant definition of the Southern Illinois-Eastern Missouri Federal milk order. The suspension allows a supply plant to qualify as a pool plant during the month of January 1995 if it qualified as a pool supply plant during the immediately preceding month of September.

Mid-America Dairymen, Inc. (Mid-America), and Prairie Farms, Inc. (Prairie Farms), jointly requested the suspension. According to the request letter, Mid-America lost a major account with a pool distributing plant regulated under Order 32, effective December 16, 1994. As a result, Mid-America and Prairie Farms contend that much of the producer milk supplying the distributing plant will no longer be needed for Class I use. The proponents assert that the order should not penalize producers who have historically supplied the Class I needs of the market by requiring milk shipments that are not needed.

Mid-America and Prairie Farms filed a comment letter reiterating its support for the proposed suspension. No comments were received in opposition to the proposed action.

The suspension is found to be necessary for the purpose of assuring

that producers whose milk has long been associated with the Southern Illinois-Eastern Missouri marketing area will continue to benefit from pooling and pricing under the order.

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

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

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

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

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

List of Subjects in 7 CFR Part 1032

Milk marketing orders.

For the reasons set forth in the preamble, the following provision in Title 7, Part 1032, is amended as follows:

PART 1032—MILK IN THE SOUTHERN ILLINOIS-EASTERN MISSOURI MARKETING AREA

1. The authority citation for 7 CFR Part 1032 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1032.7 [Suspended in part]

2. In § 1032.7(c), the words ''each of'', the letter ''s'' at the end of the word ''months'', and the words ''through January'' and ''for the months of February'', are suspended for the period of January 1, 1995, through January 31, 1995.

Dated: January 27, 1995.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 95–2447 Filed 1–31–95; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

Montana Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving, with certain exceptions and additional requirements, a proposed amendment to the Montana regulatory program (hereinafter referred to as the ''Montana program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Montana proposed revisions to statutes pertaining to ownership and control of operations, violation history updates, notices of intent for prospecting, and consent to surface mining by surface owner. The amendment is intended to revise the Montana program to be consistent with the corresponding Federal regulations and SMCRA, improve operational efficiency, and comply with a decision by the State Supreme Court.

EFFECTIVE DATE: February 1, 1995.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background on the Montana Program

On April 1, 1980, the Secretary of the Interior conditionally approved the Montana program. General background information on the Montana program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Montana program can be found in the April 1, 1980, **Federal Register** (45 FR 21560). Subsequent actions concerning Montana's program and program amendments can be found at 30 CFR 926.15 and 926.16.

II. Proposed Amendment

By letters dated June 16 and July 28, 1993 (Administrative Record No. MT–11–01), Montana submitted a proposed amendment to its program pursuant to SMCRA.

Montana submitted the proposed amendment in response to statutory changes adopted by the Montana 1993 Legislature regarding notices of intent for ''prospecting,'' ownership and control provisions, violation history updates, surface owner consent, and editorial changes. OSM announced receipt of the proposed amendment in the August 27, 1993, **Federal Register** (58 FR 45303), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (Administrative Record No. MT–11–09). Because no one requested a public hearing or meeting, none was held. The public comment period ended September 27, 1993.

During its review of the amendment, OSM identified concerns relating to the proposed deletion of Montana Code Annotated (MCA) 82–4–224 concerning surface owner consent and the proposed provisions of MCA 82–4–226(8) concerning coal exploration (''prospecting'') under notices of intent. OSM notified Montana of these concerns by letter dated January 19, 1994 (Administrative Record No. MT–11–18).

Montana responded in a letter dated July 28, 1994 (Administrative Record No. MT–11–19) by submitting additional explanatory information for the two statutory provisions noted above and concerning MCA 82–4–203 (definitions).

Based upon the additional explanatory information for the proposed program amendment submitted by Montana, OSM reopened the public comment period in the August 11, 1994, **Federal Register** (59 FR 41262; Administrative Record No. MT–11–20). The public comment period ended on August 26, 1994.

III. Director's Findings

As discussed below, the Director in accordance with SMCRA and 30 CFR 732.15 and 732.17 finds, with certain exceptions and additional requirements, that the proposed program amendment submitted by Montana on June 16 and July 28, 1993, and as clarified by it on July 28, 1994, is no less effective in meeting SMCRA's requirements than the corresponding Federal regulations and no less stringent than SMCRA. Accordingly, the Director approves the proposed amendment, with certain exceptions and additional requirements.

1. Nonsubstantive Revisions to Montana's Statutes

Montana proposed revisions to the following previously-approved statutes that are nonsubstantive in nature and consist of minor editorial, punctuation, or grammatical changes (corresponding Federal regulation and/or SMCRA provisions are listed in parentheses):

82–4–203, MCA, subsections (14), (16), (21), (23), (29), (34), (35), and (36) (SMCRA Section 701, 301 CFR 700.5 & 701.5), definitions;

82–4–226, MCA, subsections (2), (3), (5), and (6) (SMCRA Section 512 and 30 CFR Part 732), coal exploration (''prospecting'') permits and notices of intent; and

82–4–227, MCA, subsections (1), (2), (3), (7), (8), and (9) (SMCRA Section 510), permit approval/denial.

Because the proposed revisions to these previously-approved statutory provisions are nonsubstantive in nature, the Director finds that these proposed Montana statutes are no less effective in meeting SMCRA's requirements than the Federal regulations and no less stringent than SMCRA. The Director approves these proposed statutes.

2. Unintentional Substantive Revision to 82–4–227, MCA, subsection (10)

Montana proposed a revision to 82–4–227(10), MCA, that the State labels, and presumably intended, as a nonsubstantive grammatical change. The provision is proposed to be revised, in part, as follows:

> A permit or major permit revision for a strip- or underground-coal-mining operation may not be issued unless the applicant has affirmatively demonstrated by its coal conservation plan that no failure to conserve coal will not occur.

The last part of this proposal, by requiring the conservation plan to demonstrate that no failure to conserve coal will not occur, would require the conservation plans to demonstrate that all such failures will occur. Such a revision would reverse the meaning of the existing provision, which requires the conservation plan to demonstrate that no failure to conserve coal will occur.

This proposed requirement would contradict one purpose of the Montana statute as stated at MCA 82–4–202(g): ''[i]t is the declared policy of this state and its people to * * * prevent the failure to conserve coal.'' For this reason, OSM believes that the proposal represents an unintended grammatical error, and that Montana either (1) meant to delete the word ''no'' in the phrase ''* * * that no failure to conserve coal * * *'' or (2) did not mean to add the word ''not'' in the phrase ''* * * failure to conserve coal will not occur.'' Based on this believe, the Director is approving the proposed provision, with the understanding that the coal conservation plan must affirmatively demonstrate that failure to conserve coal will be prevented. The Director is also requiring Montana to further revise this provision to clarify this intent.

3. MCA 82–4–224, Consent or Waiver by Surface Owner

Montana proposes to repeal statutory Section 82–4–224, MCA, which provides that:

> [I]n those instances in which the surface owner is not the owner of the mineral estate proposed to be mined by strip-mining operations, the application for a permit shall include the written consent or a waiver by the owner or owners of the surface lands involved to enter and commence strip-mining operations on such land, except that nothing in this section applies when the mineral estate is owned by the federal government in fee or in trust for an Indian tribe.

Montana proposes this action (effective October 1, 1993) in accordance with a decision in the case of *Western Energy Co.* v. *Genie Land Co.*, 227 Mont. 74, 737 P.2d 478 (1987). In that case the Montana Supreme Court found the statutory section, and any rules adopted for the implementation thereof, to be unconstitutional and in violation of the Montana constitution, in that it permitted a taking without due process, permitted the taking of private property without just compensation, and permitted the impairment of the obligation of a contract. This statutory provision was originally approved as a counterpart provision to Section 510(b)(6) of SMCRA (45 FR 21560; April 1, 1980; see Administrative Record No. MT–1, Appendix C).

While Montana has repealed this statutory provision, it continues to provide regulations at ARM 26.4.303(15) and 26.4.405(6)(k) that impose requirements which are substantively equivalent to those imposed by Section 510(b)(6) of SMCRA. SMCRA Section 510(b)(6) requires that in cases where the private mineral estate has been severed from the private surface estate, no permit shall be approved unless the application demonstrates, and the regulatory authority finds, that the applicant has submitted to the regulatory authority either (1) the written consent of the surface owner to coal extraction by surface mining, (2) a conveyance that expressly grants or reserves the right to coal extraction by surface mining, or (3) if the conveyance does not expressly grant the right to coal extraction by surface mining, the surface-subsurface legal relationship shall be determined in accordance with State law.

In cases where the mineral and surface estates are severed, ARM 26.4.303(15) requires each application to contain either (1) a written consent by the surface owner to mineral extraction by strip mining, (2) a conveyance that expressly grants or reserves the right to mineral extraction by strip mining, or (3) if the conveyance does not expressly grant the right to mineral extraction by strip mining, documentation that under Montana law the applicant has the legal right to mineral extraction by strip mining. In those same cases (where the mineral and surface estates are severed), ARM 26.4.405(6)(k) provides that the Department of State Lands (DSL) may not approve a permit unless the application demonstrates, and DSL's findings confirm, that the applicant has submitted the documentation required by ARM 26.4.303.

In its letter of January 19, 1994 (Administrative Record No. MT–11–18), OSM requested that Montana address (1) whether it intended, in response to the Montana Supreme Court decision discussed above, to propose the repeal of ARM 26.4.303(15) and 26.4.405(6)(k), and (2) whether Montana retained the statutory authority to promulgate and enforce those regulations, given the repeal of 82–4–224, MCA.

In its response of July 28, 1994, (Administrative Record No. MT–11–19), DSL's Chief Legal Counsel states that the statutory authority for ARM 26.4.303(15) lies in 82–4–222(1)(d), MCA, which requires that a permit application state the source of the applicant's legal right to mine the mineral on the land affected by the permit. Montana further states that the statutory authority for ARM 26.4.405(6)(k) lies in 82–4–231(4), MCA; that provision requires DSL to determine whether each application is administratively complete, which means, among other things, that it contains information addressing each application requirement in 82–4–222, MCA, and the rules implementing that section. Montana further states that since neither of the two regulatory provisions is based on the repealed statutory section (82–4–224, MCA), Montana has no plans to repeal those regulatory provisions.

In its review of this proposed amendment, OSM noted that the Montana program also contains, at MCA 82–4–203(35) and (36), statutory definitions of ''waiver'' and ''written consent,'' and found no use of these terms other than in the repealed section 82–4–224, MCA. In its January 19, 1994, letter (Administrative Record No. MT–11–18), OSM requested that Montana address the meaning of these terms in the absence of the repealed provision. In its July 28, 1994, response (Administrative Record No. MT–11–19), DSL's Chief Legal Counsel states that these statutory definitions no longer serve any purpose within the statute, but that their presence poses no

problem for the administration of the statute.

Based on Montana's representations in its July 28, 1994, response (Administrative Record No. MT–11–19), OSM finds that the Montana program contains provisions at ARM 26.4.303(15) and 26.4.405(6)(k) that are no less stringent than the requirements of Section 510(b)(6) of SMCRA, and that Montana has adequate statutory authority for the promulgation and enforcement of these regulatory provisions. Therefore the Director finds that the proposed repeal of 82–4–224, MCA, does not render the Montana program any less stringent that SMCRA, and is approving the proposed repeal of that section.

4. MCA 82–4–226(1), Requirement for Prospecting Permit

Montana proposes to delete the introductory phrase ''[o]n and after March 16, 1973,'' from the beginning of this subsection, which (with an exception discussed in Finding No. 5 below) makes it unlawful to prospect on land not included in a valid strip-mining or underground-mining permit without the possession of a valid prospecting permit. Under the proposed revision, the requirement for a prospecting permit would not be limited to the period after March 16, 1973.

Since any current or future prospecting would be subject to this subsection either with or without this time-limiting introductory phrase, the Director finds this proposed revision to be nonsubstantive in nature, and thus that the proposed revised statute is no less effective in meeting SMCRA's requirements than the Federal regulations and no less stringent than SMCRA. The Director approves the proposed revision.

5. MCA 82–4–226(1) and (8), Prospecting Under Notice of Intent

At MCA 82–4–226(1), Montana proposes an exception to the provision that it is unlawful to conduct prospecting operations without a prospecting permit; the exception proposed is provided in proposed new subsection MCA 82–4–226(8). Proposed subsection MCA 82–4–226(8) would provide as follows:

(8) Prospecting that is not conducted in an area designated unsuitable for coal mining pursuant to 82–4–227 or 82–4–228 and that is not conducted for the purpose of determining the location, quality, or quantity of a natural mineral deposit is not subject to subsections (1) through (7). However, a person who conducts this prospecting shall file with the department a notice of intent to prospect, containing the information required by the department, before commencing prospecting operations. If this prospecting substantially disturbs the natural land surface, it must be conducted in accordance with the performance standards of the department's rules regulating the conduct and reclamation of prospecting operations that remove coal. The department may inspect these prospecting and reclamation operations at any reasonable time.

OSM notes that subsections (1) through (7) of MCA 82–4–226 currently specify the requirements for prospecting permits, bonds, and reports; these requirements currently apply to all prospecting operations.

Montana is not at this time proposing as a program amendment any regulations to implement this proposed statutory provision. In its July 28, 1994, letter (Administrative Record No. MT–11–19), Montana expressed its intent to promulgate such rules in the near future. Further, OSM is aware that Montana has in fact initiated State rulemaking proceedings to promulgate such rules. Because Montana is not now proposing regulations to implement these proposed statutory revisions, but has initiated efforts to do so, OSM has reviewed the proposed statutory provisions only in comparison to the requirements of SMCRA, where they exist, rather than in comparison to the requirements of the implementing Federal regulations. Therefore, the Director notes here that, to the extent he approves these statutory provisions (as discussed below), Montana may not implement these statutory provisions concerning prospecting under notices of intent, until such time as Montana proposes, and OSM approves, State regulations that (in conjunction with these statutory provisions) are no less stringent that SMCRA Section 512 and no less effective in achieving those requirements than the implementing Federal regulations at 30 CFR Part 772.

OSM notes that under MCA 82–4–203(20), ''mineral'' means coal and uranium. OSM also notes that it has codified at 30 CFR 926.16(f) a requirement that Montana amend its definition of the term ''prospecting'' to be no less effective in implementing SMCRA's requirements than the Federal definition of the term ''coal exploration.''

a. Prospecting (Coal Exploration) Under Notices of Intent

Section 512(a) of SMCRA requires that each State and Federal program include a requirement that coal exploration operations which substantially disturb the natural land surface be conducted in accordance with exploration regulations issued by the regulatory authority. Moreover, section 512(a) of SMCRA provides that such regulations must include, at a minimum: (1) The requirement that prior to conducting any exploration, a person must file with the regulatory authority notice of intention to explore (including a description of the proposed area and the proposed time period); and (2) provisions of reclamation in accordance with the performance standards of SMCRA Section 515. Section 512(d) requires that no operator shall remove more than 250 tons of coal pursuant to an exploration permit without the specific written approval of the regulatory authority. As noted above, OSM has promulgated regulations implementing these statutory provisions at 30 CFR Part 772; but Montana's proposed statutory provisions are being reviewed in comparison to the statutory requirements of SMCRA rather than to the Federal regulatory requirements.

The proposed Montana statute would prohibit prospecting (coal exploration) under notices of intent on lands designated as unsuitable for mining, and would additionally prohibit prospecting under notices of intent if the prospecting is conducted for the purpose of determining the location, quality, or quantity of a coal deposit, no matter on what lands or the degree of disturbance. There is a prohibition against exploring under a notice of intent on land designated as unsuitable for mining in the Federal regulations at 30 CFR 772.11(a) and 772.12(a), but there is no Federal prohibition against exploring under a notice of intent when the purpose is to determine the location, quality, or quantity of a coal deposit. Under SMCRA Section 505(b), no State law which provides for more stringent land use and environmental controls than SMCRA shall be construed as being inconsistent with SMCRA.

However, SMCRA Section 512(d) explicitly prohibits the removal of more than 250 tons of coal pursuant to exploration activities without the specific written approval of the regulatory authority. OSM interprets this requirement for ''specific written approval,'' together with the title of SMCRA Section 512 (''Coal Exploration Permits''), as a requirement that a coal exploration permit be obtained for exploration activities that will remove more than 250 tons of coal (see 48 FR 40622, 40622, 40626; September 8, 1983). The proposed Montana provision does not correspondingly prohibit prospecting under notices of intent when more than 250 tons of coal will be removed. In its letter of July 28, 1994 (Administrative Record No. MT–11–19),

Montana argues that, while it would be legally possible under its proposed statute for a drilling operation conducted to characterize overburden or an overburden sampling pit to remove more than 250 tons of coal, it is extremely improbable that such an operation would do so, and further that no prospecting operation in Montana has ever done so. However, SMCRA Section 512(d) is a clear and absolute requirement. Montana's proposed provision fails to prohibit the removal of more than 250 tons of coal by prospecting (exploration) activities under a notice of intent, and thus does not contain all applicable provisions of SMCRA Section 512, and hence is inconsistent with SMCRA.

In summary, proposed 82–4–226(1) and the first two sentences of proposed 82–4–226(8), MCA, are as stringent as the provisions of SMCRA in prohibiting prospecting activities under notices of intent on lands designated as unsuitable for mining, and more stringent in prohibiting such activities on any lands when the purpose is to determined the location, quality, or quantity of a coal deposit. However, these proposed Montana provisions are less stringent than SMCRA Section 512(d) in failing to prohibit prospecting operations under a notice of intent when more than 250 tons of coal will be removed.

Based on the above discussion, the Director is approving proposed 82–4–226(1) and the first two sentences of proposed 82–4–226(8), MCA, with the following proviso: Montana may not implement these provisions until Montana has promulgated, and OSM has approved, State regulations to implement these statutory revisions, to be no less effective than 30 CFR Part 772 in meeting SMCRA's requirements. Further, the Director is requiring Montana to amend its program to prohibit prospecting activities under notices of intent when more than 250 tons of coal are to be removed.

b. Specification of Which Prospecting Activities Are Required To Meet Performance Standards and Specification of Applicable Performance Standards

As noted above, Montana proposes at MCA 82–4–226(8) that ''[i]f this prospecting substantially disturbs the natural land surface, it must be conducted in accordance with the performance standards of the department's rules regulating the conduct and reclamation of prospecting operations that remove coal.'' Montana is not at this time proposing any definition of ''substantially disturbs'' although in its letter of July 28, 1994 (Administrative Record No. MT–11–19), Montana states its intention to do so in the near future. OSM notes that the existing Montana program at ARM 26.4, Subchapter 10, contains prospecting performance standards; however, the Montana program does not specify which of these are performance standards for prospecting operations that remove coal and which are not.

The existing Montana statute contains no requirement that prospecting operations be conducted in accordance with performance standards, and the statute as proposed for revision would contain no such requirement for prospecting conducted under a prospecting permit. The existing Montana rules at ARM 26.4 Subchapter 10 require all prospecting operations to meet specified performance standards; these performance standards apply even to prospecting that does not substantially disturb the natural land surface. This is more stringent than SMCRA Section 512(a), which only requires that coal exploration operations which substantially disturb the natural land surface be conducted under regulatory programs that include regulations requiring that all lands disturbed be reclaimed in accordance with the performance standards of SMCRA Section 515. However, Montana is not proposing to revise its statute so that not all prospecting operations would be regulated in the same way. In particular, not all prospecting would require a permit; and under the proposal, prospecting under a notice of intent would be required to be conducted in accordance with performance standards only if it substantially disturbs the natural land surface.

In order to be consistent with the proposed statute, Montana's performance standards at ARM 26.4 Subchapter 10 could no longer be interpreted to apply to all prospecting operations. As a result, the Montana program would contain no requirement that prospecting operations conducted under prospecting permits be conducted in accordance with performance standards if they substantially disturb the land surface. In its letter of July 28, 1994 (Administrative Record No. MT–11–19), Montana argues that under MCA 82–4–226(1) & (2), all prospecting operations under prospecting permits are subject to reclamation requirements and to bonding requirements. OSM has reviewed these provisions; they specify reclamation plan requirements for prospecting permit applications, and posting of performance bond before the permit is issued. While the posting of bond provides an economic incentive to complete the approved reclamation plan, these Montana provisions do not provide a requirement that the prospecting be conducted in accordance with performance standards. In one example, it a defective permit is issued that does not address one or more performance standards, there would be no requirement for the prospecting operation to meet those missing performance standards. Additionally, prospecting operations conducted illegally (with neither a permit nor a notice) would not be required to meet performance standards.

The Federal provision of SMCRA Section 512(a) requires that all exploration that substantially disturbs the natural land surface be conducted in accordance with performance standard of SMCRA Section 515; this applies to both exploration under notices of intent and exploration under exploration permits. As noted above, OSM has promulgated regulations implementing these statutory provisions at 30 CFR Part 772 and at 30 CFR 701.5 (definition of the term ''substantially distrub''); however, as noted above Montana's proposed statutory provisions are being reviewed only in comparison to the Federal statutory requirements of SMCRA where they exist.

In summary, both the SMCRA provision at Section 512(a) and the proposed Montana provision require adherence to performance standards by prospecting (exploration) operations conducted under notices of intent that substantially disturb the natural land surface; however, by referring to ''performance standards * * * regulating * * * prospecting operations that remove coal,'' the Montana proposal is unclear regarding which performance standards are applicable, whereas the Federal provisions clearly specify the performance standards of SMCRA Section 515. Secondly, the Federal provisions further require adherence to performance standards for exploration operations conducted under exploration permits that substantially disturb the natural land surface. But the Montana program, as proposed to be revised, would contain no such requirement for prospecting operations conduced under prospecting permits that substantially disturb the natural land surface. OSM believes it is possible for Montana to remedy these deficiencies in promulgating implementing regulations.

Based on the above discussion , the Director is approving the third sentence of proposed 82–4–226(8), MCA, with the following proviso: Montana may not implement this provision until Montana has promulgated, and OSM has

approved, implementing State regulations that are no less effective in meeting SMCRA's requirements than 30 CFR Part 772 and 30 CFR 701.5.

c. Right of Entry of Inspect

As noted above, Montana proposes at MCA 82–4–226(8) that ''[t]he department may inspect these prospecting and reclamation operations [i.e., prospecting under notices of intent] at any reasonable time.''

SMCRA Section 512 does not directly address right of entry requirements for coal exploration operations. The Federal regulations at 30 CFR 840.12(a) require that State regulatory program have authorities that grant their representatives the right of entry to, upon, and through any coal exploration operation without advance notice and upon presentation of appropriate credentials. This right of entry is not limited to ''reasonable times.'' At 30 CFR 840.12(b), the Federal regulations further require State program to have authority for their representatives to inspect any monitoring equipment or method of exploration and to have access to and copy any records required under the approved State program, at reasonable times without advance notice, upon presentation of appropriate credentials. Both paragraphs further provide that no search warrant is required for right of entry, except that a state may provide for its use with respect to entry into a building.

Montana's proposed provision, by providing right of entry to prospecting operations (under notices of intent) only at ''reasonable times,'' would grant right of entry at fewer times than required by the Federal regulation. Further, Montana's proposal does not provide authority for inspection of monitoring equipment or prospecting methods, nor authority for access to and copying of any records required by the Montana program, for prospecting operations conducted under notices of intent. Nor does the proposal address the issue of warrants.

Based on the above discussion, the Director finds that, in regard to prospecting under notices of intent, the Montana proposal is less effective than the Federal regulations in implementing SMCRA's requirements. The Director is approving the last sentence of Montana's proposed statutory provision at MCA 82–4–226(8) except the word ''reasonable.'' However, the Director is requiring Montana: (1) To amend this enacted provision to remove the word ''reasonable;'' (2) to amend this statutory provision, or otherwise amend its program, to provide authority for the inspection of monitoring equipment and prospecting methods for prospecting conducted under notices of intent, and access to and copying of any records required by the Montana program, at any reasonable time without advance notice upon presentation of appropriate credentials; and (3) to provide for warrantless right of entry in a manner no less effective in achieving SMCRA's requirements than the Federal regulations at 30 CFR 840.12.

6. MCA 82–4–227(11), Refusal of Permit; Scope of Operations on Which Violations Require Permit Denial

Existing 82–4–227(11), MCA, requires that when information available to DSL indicates that strip- or underground-coal-mining operations owned or controlled by the applicant is currently in violation of certain specified Federal or State laws or rules, DSL shall not issue a permit or major revision until the applicant submits certain proofs regarding the abatement of those violations. Montana is proposing to revise this provision to add the same requirement for violations on strip- or underground-coal-mining operations owned or controlled by any person who owns or controls the applicant. Montana also proposes nonsubstantive editorial revisions to the provision.

SMCRA Section 510(c) requires that when specified violations exist on any surface coal mining operation owned or controlled by the applicant, the permit shall not be issued without submission of certain proofs regarding the abatement of those violations. The Federal regulations at 30 CFR 773.15(b)(1) interpret this requirement to include existing violations on any surface coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant.

Therefore both the Federal and the proposed Montana provisions require that permits be denied (without submission of certain proofs) for specified violations, not only on operations owned or controlled by the applicant, but additionally on operations owned or controlled by any person who owns or controls the applicant. Therefore the Director finds Montana's proposed addition of the phrase ''or by any person who owns or controls the applicant'' to be no less stringent than SMCRA Section 510(c) and no less effective in implementing those SMCRA requirements than the Federal regulations at 30 CFR 773.15(b)(1), and the Director is approving the proposed addition of the phrase.

7. MCA 82–4–227(11) & (12), Refusal of Permit; Scope of Permitting Actions Subject to Denial

Existing 82–4–227(11), MCA, requires that under the circumstances discussed in Finding No. 6 above, DSL shall not issue a ''strip- or underground-coal-mining permit or major revision.'' Montana is proposing to revise this provision to require, under the specified circumstances, denial of a ''strip- or underground-coal-mining permit or amendment, other than an incidental boundary revision.'' Similarly, existing 82–4–227(12), MCA, requires that when DSL finds (after opportunity for hearing) that the applicant owns or controls any strip- or underground-coal-mining operation which has demonstrated a pattern of willful violations (of specified character) of certain Federal or State laws, DSL shall not issue a ''strip- or underground-coal-mining permit or major revision'' until the applicant submits certain proofs regarding the abatement of violations. Montana is proposing to revise this provision to require, in those circumstances, denial of a ''strip- or underground-coal-mining permit or amendment, other than an incidental boundary revision.'' Montana is also proposing nonsubstantive editorial revisions to this provision.

In both proposed provisions, Montana's revisions would have the effect of allowing the issuance of major revisions under the specified circumstances, but prohibit the issuance of ''amendments,'' except that incidental boundary revisions could be issued.

OSM notes that under MCA 82–4–225, ''amendments'' are increases or decreases in the acreage to be affected under a permit; the same procedures required of new permits apply to amendments (except for incidental boundary revisions). Additionally, an existing provision of the Montana program, ARM 26.4.412(4)(a), prohibits approval of the transfer, sale, or assignment of permit rights under both sets of circumstances described above (current violations and patterns of violations).

SMCRA Section 510(c) and the Federal regulations at 30 CFR 773.15(b) prohibit the issuance of permits under both sets of specified circumstances, but do not address permit revisions. SMCRA Section 511, which specifies the requirements for permit revisions, does not prohibit the approval of permit revisions under the specified circumstances; and the Federal regulations at 30 CFR 773.15(b), 774.13, and 773.17 do not prohibit permit revision approval, but do prohibit the

approval of transfer, assignment, or sale of permit rights, under the specified circumstances. SMCRA Section 511(a)(3) and 30 CFR 774.13(d) provide that incidental boundary revisions do not require application for a new permit, and hence are not prohibited under the specified circumstances; conversely, those Federal provisions require that extensions to the permit area other than incidental boundary revisions require application for a new permit, which would subject such extensions to denial under SMCRA 510(c) and 30 CFR 773.15(b).

Thus under two sets of circumstances (existing violations on operations owned or controlled by the applicant or by any person who owns or controls the applicant, as discussed in Finding No. 6 above, or demonstrated pattern of violations by the applicant, as discussed above), both the Federal provisions and the proposed Montana provisions prohibit the issuance of new permits, extensions to the permit area other than incidental boundary revisions, and approval of the transfer, sale, or assignment of permit rights. And in those circumstances, both the Federal and the proposed Montana provisions would allow the approval or issuance of permit revisions.

Based on the above discussion, the Director finds that Montana's proposed revisions at MCA 82–4–227 (11) and 12 regarding the scope of permitting actions subject to denial are no less stringent than the scope of permitting actions subject to denial under SMCRA Section 510(c), and are no less effective than the scope of permitting actions subject to denial under the Federal regulations at 30 CFR 773.15(b), 774.13, and 773.17 in implementing those requirements of SMCRA. Therefore the Director is approving the proposed revisions.

8. MCA 82–4–227(13), Lands Designated by Congress as Unsuitable for Surface Coal Mining

Subject to valid existing rights, existing 82–4–227(13), MCA, prohibits strip- or underground-coal-mining operations ''on private lands within the boundaries'' of certain specified Federal land management areas designated by Congress (national park system, national wildlife refuge system, etc.). Montana proposes to revise this provision by deleting the word ''private,'' so that it would read ''on lands within the boundaries'' of those areas (see Administrative Record No. MT–11–04). Montana also proposes a nonsubstantive editorial change to the provision.

SMCRA Section 552(e)(1) provides that, subject to valid existing rights, no surface coal mining operations shall be permitted ''on any lands within the boundaries'' of the specified land management areas.

Montana's proposed revision, by removing the word which limited the applicability of the provision to only a specified subset of lands, would extend the applicability to all lands within the boundaries of the specified areas; this is the equivalent of the Federal provision, which is applicable to ''any'' lands within the specified boundaries. Therefore the Director finds that Montana's provision as revised is no less stringent than SMCRA Section 522(e)(1), and is approving the proposed revisions.

IV. Summary and Disposition of Comments

Following are summaries of all substantive written comments on the proposed amendment that were received by OSM, and OSM's responses to them.

1. Public Comments

OSM invited public comments on the proposed amendment, but none were received.

2. Federal Agency Comments

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Montana program.

a. The Billings Area Office of the Bureau of Indian Affairs responded on August 11, 1993, with suggestions for additional editorial revisions (Administrative Record No. MT–11–06). The State Conservationist of the Soil Conservation Service (SCS) responded on August 18, 1993 (Administrative Record No. MT–11–08) with similar suggestions for additional editorial revisions.

Some of the instances where additional revision was suggested by these comments are interpreted by OSM as typographical errors in the preparation of this submittal. For instance, the second sentence of MCA 82–4–227(2) (introductory text) as contained in this submittal appears to be redundant of the last sentence and should be deleted. Similarly, 82–4–227(2)(d) as contained in this submittal has a typographical error in the parenthetical provision. OSM interprets these as typographical errors in the preparation of this submittal because they are not indicated as intentional proposed changes by strikeout or underline. These errors do not exist in the enacted statutes previously approved by OSM. Others of these comments did address provisions that Montana does propose to revise; one of these items in BIA's comments has been addressed in Finding No. 2 above. BIA's and SCS's remaining suggestions will be forwarded to Montana for its consideration. However, except for the instance addressed in Finding No. 2, OSM does not find that any of the editorial imperfections identified in these agency comments render the proposed Montana statutes less stringent than SMCRA or less effective than the Federal regulations in meeting SMCRA's requirements.

b. The Mine Safety and Health Administration responded on August 12 and 26, 1993, that it did not find any apparent conflict with its regulations (Administrative Record Nos. MT–11–07 and MT–11–11).

c. The Office of Trust Responsibilities of the Bureau of Indian Affairs stated in a response dated on September 24, 1993, that they had no objection to the proposed amendment because they did not believe it would affect Indian Lands (Administrative Record No. MT–11–16).

d. The Montana State Office of the Bureau of Land Management responded on September 1, 1993 (Administrative Record No. MT–11–15), that it supports the proposed amendment, but offered no detailed comments.

e. Two agencies responded that they had no comments: U.S. Fish and Wildlife Service (August 26, 1993; Administrative Record No. MT–11–10); Bureau of Mines (August 30, 1993; Administrative Record Nos. MT–11–13 and MT–11–14).

3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to solicit the written concurrence of 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 Montana proposed to make in its amendment pertain to air or water quality standards. Therefore, pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (Administrative Record No. MT–11–03). EPA responded on August 27, 1993, that it had no comments (Administrative Record No. MT–11–12).

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

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed

amendment from the SHPO and ACHP (Administrative Record No. MT–11–03). Neither SHPO and ACHP responded to OSM's request.

V. Director's Decision

Based on the above findings, the Director approves, with certain exceptions and additional requirements, Montana's proposed amendment as submitted on June 16 and July 28, 1993, and as supplemented with additional explanatory information on July 28, 1994.

The Director does not approve, as discussed in Finding No. 5.c., the word ''reasonable'' in the last sentence of proposed MCA 82–4–226(8), concerning the right of entry to inspect prospecting operations under notices of intent.

The Director approves, as discussed in: Finding No. 1, proposed MCA 82–4–203 (14), (16), (21), (23), (29), (34), (35), and (36), concerning definitions; proposed MCA 82–4–226 (2), (3), (5), and (6), concerning coal exploration (''prospecting'') permits and notices of intent; proposed MCA 82–4–227 (1), (2), (3), (7), (8), and (9), concerning permit approval/denial; Finding No. 3, proposed deletion of MCA 82–4–224, concerning surface owner consent; Finding No. 4, proposed MCA 82–4–226(1), concerning the requirement to obtain prospecting permits; Finding Nos. 6 and 7, proposed MCA 82–4–227 (11) and (12), concerning refusal of permitting actions for current violations or patterns of violations; and Finding No. 8, proposed MCA 82–4–227(13) concerning refusal of permit on lands designated as unsuitable for mining.

With the requirement that Montana further revise its program, the Director approves, as discussed in: Finding No. 2, proposed MCA 82–4–227(10) concerning permit issuance requirements for coal conservation plan, with the requirement that Montana further revise the provision to clarify that the coal conservation plan must affirmatively demonstrate that failure to conserve coal will be prevented; Finding No. 5.a., proposed MCA 82–4–226 (1) and (8) (first and second sentence) concerning prospecting under notices of intent, with the proviso that Montana may not implement these provisions until Montana promulgates and OSM approves State implementing regulations that in conjunction with these provisions are less stringent than SMCRA Section 512 and no less effective in implementing SMCRA Section 512 that the Federal regulations at 30 CFR Part 772, and with the requirement that Montana further revise its program to prohibit prospecting under notices of intent when more than 250 tons of coal are to be removed; Finding No. 5.b., proposed MCA 82–4–226(8) (third sentence) concerning performance standard compliance requirements for prospecting under notices of intent, with the proviso that Montana may not implement these provisions until Montana promulgates and OSM approves State implementing regulations that in conjunction with these provisions are no less stringent than SMCRA Section 512 and no less effective in implementing SMCRA Section 512 than the Federal regulations at 30 CFR Part 772 and 30 CFR 701.5; and Finding No. 5.c., proposed MCA 82–4–225 (1) and (8) (fourth [last] sentence) concerning right of entry to inspect prospecting operations under notices of intent, with the requirement that Montana further revise the provision to delete the word ''reasonable,'' additionally revise its program to provide authority for the inspection of monitoring equipment and prospecting methods for prospecting conducted under notices of intent, and access to and copying of any records required by the Montana program, at any reasonable time without advance notice upon presentation of appropriate credentials, and additionally revise its program to provide for warrantless right of entry in accordance with 30 CFR 840.12 for prospecting operations conducted under notices of intent.

In accordance with 30 CFR 732.17(f)(1), the Director is also taking this opportunity to clarify in the required amendment section at 30 CFR 926.16 that, within 60 days of the publication of this final rule, Montana must either submit a proposed written amendment, or a description of an amendment to be proposed that meets the requirements of SMCRA and 30 CFR Chapter VII and a timetable for enactment that is consistent with Montana's established administrative or legislative procedures.

The Federal regulations at 30 CFR Part 926, codifying decisions concerning the Montana 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.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. Thus, any changes to the State program are not enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In the oversight of the Montana program, the Director will recognize only the statutes, regulations and other materials approved by OSM, together with any consistent implementing policies, directives and other materials, and will require the enforcement by Montana of only such provisions.

VI. Procedural Determinations

1. 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).

2. 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 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, 723.15, 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.

3. 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)).

4. 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.*).

5. 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 that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. 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 counterpart Federal regulations.

VII. List of Subjects in 30 CFR 926

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 26, 1995.

Charles E. Sandberg,

Acting Assistant Director, Western Support Center.

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

PART 926—MONTANA

1. The authority citation for Part 926 continues to read as follows:

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

2. Section 926.15 is amended by adding paragraph (l) to read as follows:

§ 926.15 Approval of amendments to State regulatory program.

* * * * *

(l) With the exception of the word ''reasonable'' in the last sentence of MCA 84–4–226(8), concerning right of entry to inspect prospecting operations under notices of intent, revisions of the following statutes, as submitted to OSM on June 16 and July 28, 1993, and as supplemented with explanatory information on July 28, 1994, are approved effective February 1, 1995:

82–4–203, MCA, subsections (14), (16), (21), (23), (29), (34), (35), and (36), definitions; repeal of 82–4–224, MCA, surface owner consent; 82–4–226, MCA, subsections (1), (2), (3), (5), (6), and (8), prospecting permits and notices of intent 82–4–227, MCA, subsections (1), (2), (3), (7), (8), (9), (10), (11), (12), and (13), permit approval/denial criteria.

3. Section 926.16 is amended by revising the introductory paragraph, by adding paragraphs (g) through (j), and by removing the parenthetical at the end of the section to read as follows:

§ 926.16 Required program amendments.

Pursuant to 30 CFR 732.17(f)(1), Montana is required to submit to OSM by the specified date the following written, proposed program amendment, or a description of an amendment to be proposed that meets the requirements of SMCRA and 30 CFR Chapter VII and a timetable for enactment that is consistent with Montana's established administrative or legislative procedures.

* * * * *

(g) By April 3, 1995, Montana shall revise MCA 82–4–227(10), or otherwise modify its program, to require that no permit or major permit revision may be issued unless the coal conservation plan affirmatively demonstrates that failure to conserve coal will be prevented.

(h) By April 3, 1995, Montana shall revise MCA 82–4–226(8), or otherwise modify its program, to prohibit prospecting under notices of intent when more than 250 tons of coal are to be removed.

(i) By April 3, 1995, Montana shall revise MCA 82–4–266(8) to delete the word ''reasonable'' in the final sentence.

(j) By April 3, 1995, Montana shall revise MCA 82–4–226(8), or otherwise modify its program, to provide authority for the inspection of monitoring equipment and prospecting methods for prospecting conducted under notices of intent, and access to and copying of any records required by the Montana program on such prospecting operations, at any reasonable time without advance notice upon presentation of appropriate credentials, and to provide for warrantless right of entry for prospecting operations conducted under notices of intent, to be no less effective in meeting SMCRA's requirements than 30 CFR 840.12 (a) and (b).

[FR Doc. 95–2445 Filed 1–31–95; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN–0720–AA18

[DoD 6010.8–R]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Hospice Care

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule revises DoD 6010.8–R which implements the Civilian Health and Medical Program of the Uniformed Services. The rule establishes a hospice benefit for the terminally ill that offers an alternative to traditional therapeutic treatment which may no longer be appropriate or desirable. Hospice care is palliative rather than curative, generally emphasizing home care rather than institutional care, and treating the social, psychological, spiritual, and physical needs of the entire family.

EFFECTIVE DATE: This final rule is effective June 1, 1995.

ADDRESSES: Office of the Civilian Health and Medical Program of the Uniformed Service (OCHAMPUS), Program Development Branch, Aurora, CO 80045–6900.

FOR FURTHER INFORMATION CONTACT: David Bennett, Program Development Branch, OCHAMPUS, Aurora, Colorado 80045–6900, telephone (303) 361–1094.

SUPPLEMENTARY INFORMATION: In FR Doc. 93–21950, appearing in the **Federal Register** on September 10, 1993 (58 FR 47692), The Office of the Secretary of Defense published for public comment a proposed rule establishing a hospice benefit under CHAMPUS.

Background

The Defense Authorization Act for FY 1992–93, Public Law 102–190, directed CHAMPUS to provide hospice care in the manner and under the conditions provided in section 1861(dd) of the Social Security Act (42 U.S.C. 1395x(dd)). This section of the Social Security Act sets forth coverage/benefit guidelines, along with certification criteria for participation in a hospice program. Since it is Congress' specific intent to establish a benefit identical to that of Medicare, CHAMPUS has adopted the provisions currently set out in Medicare's hospice coverage/benefit guidelines, reimbursement methodologies (including national hospice rates and wage indices), and certification criteria for participation in

the hospice program (42 CFR Part 418, Hospice Care).

Under these provisions CHAMPUS will provide palliative care to individuals with prognoses of less than 6 months to live if the illness runs its normal course. The benefit is based upon a patient and family-centered model where the views of the patient and family or friends figure predominantly in the care decisions. This type of care emphasizes supportive services, such as pain control and home care, rather than cure-oriented services provided in institutions that are otherwise the primary focus under CHAMPUS.

CHAMPUS will use the following national Medicare hospice rates for services provided on or after October 1, 1994, through September 30, 1995, along with the wage and nonwage components of each:

	National rate	Wage component	Nonwage component
Routine Home Care	$90.51	$62.19	$28.32
Continuous Home Care	528.30	362.99	165.31
Inpatient Respite	93.63	50.68	42.95
General Inpatient	402.67	257.75	144.92

The rates are based on a cost-related prospective payment method subject to a ''cap'' amount and will be adjusted annually by the Medicare hospital market basket inflation factor for services rendered on or after October 1 of each fiscal year. These national payment rates will be adjusted for regional wage differences by using appropriate Medicare area wage indices. The hospice will be reimbursed for an amount applicable to the type and intensity of the services furnished to the beneficiary on a particular day. The Medicare statutory cap amount for the cap year ending October 31, 1994, is $12,846. Annual adjustments to the cap amount will be the same as Medicare.

Hospice care is viewed as the most cost-effective form of treatment for the terminally ill. The benefit lowers costs by reducing or eliminating inpatient days, unnecessary tests, and expensive curative therapies. The national rate system is designed to reimburse the hospice for the costs of all covered services related to the treatment of the beneficiary's terminal illness, including the administrative and general supervisory activities performed by physicians who are employees of, or working under arrangements made with, the hospice.

Review of Comments

As a result of the publication of the proposed rule, the following comments were received from interested associations and agencies.

Comment 1. One commentor felt that it would be unfair for OCHAMPUS to apply Medicare aggregate reimbursement limitations to individual hospices since the CHAMPUS beneficiary population is only a fraction of the Medicare population. It was their contention that the volume of Medicare patients is sufficiently large to allow for the development of average inpatient stay, and average cost per patient, whereas the volume of CHAMPUS patients in any one hospice would be so small as to potentially result in a skewed average; e.g., a hospice may have a small percentage of CHAMPUS patients who either have longer lengths of stay or require substantial amounts of inpatient care.

As was previously stated, it was Congress' intent for CHAMPUS to provide hospice care in the manner and under the conditions provided in section 1861(dd) of the Social Security Act (42 U.S.C. 1395x(dd)). Paragraph (2)(A)(iii) of this section requires assurance that the aggregate number of inpatient days does not exceed 20 percent of the aggregate number of days during the cap period. The only practical way of assuring this requirement is to incorporate it as part of the overall reimbursement methodology.

The aggregate limitations also lend themselves to the basic hospice philosophy of emphasizing home care over institutional care. The cap and inpatient limitations provide a financial incentive for home care delivery under the hospice all-inclusive prospective payment system. Elimination of such incentives might inadvertently result in overutilization of inpatient care (both respite and general inpatient care).

There could also be the assumption that since CHAMPUS beneficiaries constitute a younger population, their hospice care would be more conducive to a non-institutional setting (home health care setting) than the traditional Medicare population. Factors such as patient mobility and availability of family/care-givers would facilitate treatment in the home setting, thus reducing total expenditures and inpatient days for CHAMPUS beneficiaries.

Although the commenter's assumption that the vast majority of individual hospices will service only a very small number of CHAMPUS beneficiaries may be valid, there may be those with significant volumes due to the concentration of military personnel in select geographic locations. These programs may provide care for the vast majority of CHAMPUS beneficiaries electing hospice care.

Comment 2. As part of the previous comment, it was recommended that the proposed CHAMPUS regulation, section 199.14, paragraph (g)(5)(D)(ii), be modified to make it clear that inpatient days in excess of the 80–20 rule be paid as routine home care days when calculating the amount refunded to CHAMPUS.

Procedural guidelines have been incorporated under section 199.14, paragraph (g)(4) describing the calculation of amounts in excess of the inpatient limitation which must be refunded to CHAMPUS. Paragraph (g)(4)(i)(C) of this section specifies that the actual inpatient days in excess of the limitation (20 percent of the aggregate inpatient days) will be paid at the routine home rate when calculating the amount refunded to CHAMPUS.

Comment 3. One commentor felt that CHAMPUS should not require hospice programs to collect copayments for outpatient drugs/biologicals and respite care since their collection was optional under Medicare and would impose an undue administration burden on those hospice programs which do not currently have a billing system in place for copayments.

Section 199.14, paragraph (g)(8) has been revised to make the collection of cost-shares of outpatient drugs/biologicals and respite care option under CHAMPUS.

Comment 4. Several commentors questioned the accuracy of the calculations in Table IV of the Supplementary Information section of the rule.

There was a transposition error in the example. The adjusted wage component of $58.91 calculated in the first line of the table should have been added to the

nonwage component of $39.50 to arrive at the adjusted rate of $98.41. The adjusted rate should then have been divided by .95 to figure the rate for inpatient respite care including the coinsurance ($103.59) and multiplied by .05 to arrive at a cost-share of $5.18.

Comment 5. Several commenters felt that the combining of core service and 24-hour availability requirements caused confusion and led to the interpretation that drugs and biologicals, as non-core service, did not have to be routinely available on a 24-hour basis.

The core service and 24-hour availability requirements have been separated in order to alleviate the apparent confusion over drugs and biologicals. Refer to section 199.4 paragraphs (e)(19)(ii) through (iv) for revisions.

Comment 6. One commentor pointed out the draft CHAMPUS regulatory language does not say exactly what the Medicare regulations do concerning core services, substantially all of which must be routinely provided by employees of the hospice, and those services the hospice must make routinely available on a 24-hour basis. The commentor felt that these subtle distinctions/differences might cause confusion and differing interpretations.

Section 199.4, paragraphs (e)(19)(ii) and (iv) have been revised to reflect current Medicare language regarding core service and 24-hour availability requirements.

Comment 7. Several commentors indicated that section 199.4, paragraphs (e)(19)(iv) and (v)(B)(1) of the proposed rule did not say that the benefit periods may be elected separately at different times as specified in the Medicare hospice regulations. It was recommended that language be added to the referenced sections to clarify that breaks between benefit periods will also be allowed under CHAMPUS.

Section 199.4, paragraph (e)(19)(vi)(B)(*1*) has been revised to indicate that periods of care may be elected separately at different times.

Comment 8. One commentor expressed concern that the preamble language, as well as the proposed regulatory language, left uncertainty regarding whether OCHAMPUS will adopt future changes to the Medicare hospice benefit for its own CHAMPUS benefit so that the two benefits remain nearly identical. It was felt that a divergence in standards between the two programs could cause confusion and adversely affect a hospice's ability to serve CHAMPUS patients.

It is OCHAMPUS' intent to maintain a hospice benefit similar to, if not identical to, that of Medicare. This includes the adoption of all future changes in the Medicare hospice conditions of participation.

Comment 9. One commentor felt that it was important that OCHAMPUS confirm that it intends to use the most current Medicare rates to reimburse hospices for services provided to CHAMPUS beneficiaries and to adopt changes in the Medicare reimbursement methodology as they occur; e.g., Medicare's adoption of an updated, more accurate wage index. The commentor recommended that regulatory language be added to section 199.14, paragraph (g) confirming CHAMPUS' intent to adopt future changes in the Medicare reimbursement methodology.

It is CHAMPUS' intent to use the most current Medicare rates to reimburse hospices for services to CHAMPUS beneficiaries and to adopt all changes to the Medicare reimbursement methodology as they occur. Regulatory language has been added to section 199.14 confirming CHAMPUS' intention of adopting future changes in the Medicare reimbursement methodology (refer to section 199.14, paragraph (g)(2)).

Comment 10. Several commentors felt there was an inconsistency between the preamble and proposed regulatory language regarding the patient's initial certification. It was pointed out that while section 199.4, paragraph (e)(19)(v)(A) requires the patient's initial certification to be provided in writing by the patient's attending physician (if there is one) *and* the hospice medical director or a physician member of the hospice interdisciplinary group, the preamble indicated that written certification must be provided in writing by the attending physician and/or the hospice medical director or a physician member of the hospice interdisciplinary group. The commentor felt that the use of ''and/or'' incorrectly suggested that either the attending physician or the medical director's certification is sufficient for the initial certification.

The patient's initial 90-day certification must be provided in writing by both the patient's attending physician (if there is one) *and* the hospice medical director or physician member of the hospice interdisciplinary group. For subsequent periods the only requirement is certification by the medical director of the hospice or the physician member of the hospice interdisciplinary group.

Comment 11. One commentor recommended that the definition of hospice care at § 199.2, paragraph (b) and at § 199.4, paragraph (e)(19) be amended to add ''palliative care'' to the sentence: ''This type of care emphasizes [palliative care] and supportive service * * *.''

The recommendation has been adopted and incorporated into the final rule.

Comment 12. Several commentors recommended that the term ''nursing home'' be changed to Medicaid-certified nursing facility in § 199.4, paragraph (e)(19)(i)(H).

The commentors' recommendation was adopted and incorporated into the final rule.

Comment 13. One commentor felt that a cross-reference to the Medicare home health agency conditions of participation, 42 CFR 484.36, would be helpful in defining the term ''qualified'' aides in § 199.4, paragraph (e)(19)(i)(E).

A cross-reference has been provided in a note following § 199.4, paragraph (e)(19)(i)(E) which will help in defining the term ''qualified'' home health aide.

Comment 14. One commentor felt that the last sentence in proposed § 199.4, paragraph (e)(19)(i)(F) was not necessary and would only cause confusion since each of the covered services enumerated in § 199.4, paragraphs (e)(19)(i) (A)–(H) are covered only if the service or item is included in the patient's plan of care.

The last sentence has been deleted from the final rule.

Comment 15. One commentor pointed out that Medicare policy defines ''terminal'' as six months or less if the disease runs its normal course.

The definition of ''terminal'' has been expanded wherever cited in the final regulation.

Comment 16. One commentor recommended that the requirement that the hospice must maintain professional management of the patient at all times be expanded to include ''and in all settings.''

The recommendation was adopted and incorporated into the final rule.

Comment 17. One commentor wanted clarification regarding the word ''participating'' in § 199.4, paragraph (e)(19)(i)(H).

A hospice program must be Medicare approved (i.e., a state agency must certify to the Department of Health and Human Services that a hospice meets the conditions of participation established in 42 CFR Part 418—Hospice Care) in order to participate in the CHAMPUS program. The hospice will only be allowed to participate (enter into a participation agreement with CHAMPUS) if there is proof that it is a Medicare approved facility. Respite care is the only type of inpatient care that may be provided in a nursing

facility (formally known as an intermediate care facility—ICF). A nursing facility must be certified by a state Medicaid agency as well as meet the conditions for participation under 42 CFR 418.100 in order to participate in CHAMPUS.

Comment 18. One commentor pointed out that CHAMPUS' requirement that short-term inpatient care be provided in Medicare participating facilities precludes/prohibits the coverage of inpatient care in VA hospitals.

Hospice care will not be allowed in VA hospitals under the provisions of this rule.

Comment 19. One commenter wanted to know if CHAMPUS intended to use the Health Care Financing Administration's (HCFA) wage index adjustments for hospice reimbursement.

Yes, CHAMPUS intends to use HCFA's wage index adjustments for hospice reimbursement. These wage indices have been in use since the inception of the Medicare hospice benefit in 1983, and are different than those used in calculation of CHAMPUS DRGs and mental health per diems.

Comment 20. Several editorial comments were received from one of CHAMPUS' administrative agencies.

All of these comments were adopted and incorporated into the final rule.

Summary of Regulatory Modifications

The following modifications were made as a result of suggestions received during the public comment period:

(1) The core services and 24-hour availability requirements were separated out as distinct provisions;

(2) the collection of cost-shares by individual hospices for outpatient drugs/biologicals and respite care was made optional under CHAMPUS; (3) regulatory language was added confirming CHAMPUS's intention of adopting future changes in Medicare reimbursement methodology; (4) procedures were added for changes in designation of hospice programs; (5) exceptions were provided for waiver of payment of other basic program services related to treatment of terminal illness; (6) a note was added regarding the information required on the treatment plan; and (7) payment provisions were modified to allow 100 percent payment of CHAMPUS allowed charges for hospice physicians providing direct patient care.

Provider Notification

The CHAMPUS contractors will be sending out letters along with CHAMPUS participation agreements, on a one time basis, to all hospice programs certified to participate in Medicare within their jurisdictional areas. The letters will provide information regarding the new hospice benefit and encourage participation under CHAMPUS. A hospice program will be certified based solely on its appearance on a current Medicare listing. No additional information will be required except for the signed CHAMPUS participation agreement which accompanied the notification letter. Thereafter, hospice programs will have to contact the CHAMPUS contractor responsible for claims processing within their geographical area for certification under CHAMPUS. The hospice will have to provide documentation that it is certified to participate in Medicare (i.e., it meets all Medicare conditions of participation (42 CFR Part 418) relative to CHAMPUS beneficiaries) and that it and its employees are licensed in accordance with applicable Federal, State and local laws and regulations. The hospice will be provided with a participation agreement for signature if the above requirements are met. An agreement with a hospice is not time-limited and has no fixed expiration date. The agreement remains in effect until such time as there is a voluntary or involuntary termination.

Regulatory Procedures

Executive Order 12866 requires that a regulatory impact analysis be performed on any significant action. A ''significant action'' is defined as one which would result in an annual effect on the national economy of $100 million or more, or which would have other substantial impacts.

The Regulatory Flexibility Act (RFA) requires that each federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities.

This final rule is not a major rule under Executive Order 12866. The changes set forth in this final rule are minor revisions to existing regulation. The changes made in this final rule involve an expansion of CHAMPUS benefits. In addition, this final rule will have minor impact and will not significantly affect a substantial number of small entities. In light of the above, no regulatory impact analysis is required.

We certify that this final rule has been reviewed under the provisions of the October 23, 1991, Executive Order on Civil Justice Reform. This final rule meets all applicable standards provided in that executive order.

This rule does impose minimal information collection requirements to include the following: (1) Total number of CHAMPUS inpatient hospice days; (2) total number of CHAMPUS hospice days (both inpatient and home care); (3) total number of CHAMPUS beneficiaries electing hospice care; (4) total reimbursement for CHAMPUS inpatient care; and (5) total reimbursement for all CHAMPUS hospice care (both inpatient and home care).

The fact that all CHAMPUS-approved hospice programs are subject to Medicare reporting requirements (i.e., they must be Medicare certified in order to receive CHAMPUS reimbursement), will tend to minimize the administrative burden imposed by this rule. The hospice will already have an established data collection system in place for developing these annual reports. Overall, resource allocation (administrative time) will be minimal since the number of CHAMPUS hospice beneficiaries would be disproportionately low compared to the number of Medicare patients. In other words, since the facility already has to collect, arrange, and submit the data on a majority of its patients, the administrative costs and/or burden of reporting CHAMPUS hospice patients would be minimal. The hospice would have to expand only the data collection parameters (data on CHAMPUS beneficiaries) in order to meet the requirements under this rule.

The rule represents an expansion of benefits under the CHAMPUS program, resulting in certification of a new provider category (hospice). Although hospice programs are accustomed to the proposed reporting requirements and would not view this as an administrative intrusion, the final rule has been prepared for review by the Executive Office of Management and Budget under authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520.

List of Subjects in 32 CFR Part 199

Claims, handicapped, health insurance, and military personnel.

Accordingly, 32 CFR part 199, is amended as follows:

PART 199—CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS)

1. The authority citation for Part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 1079, 1086.

2. Section 199.2(b) is amended by adding a definition for ''hospice care''

and ''respite care'' in alphabetical order to read as follows:

§ 199.2 Definitions.

* * * * *

(b) * * *

Hospice care. Hospice care is a program which provides an integrated set of services and supplies designed to care for the terminally ill. This type of care emphasizes palliative care and supportive services, such as pain control and home care, rather than cure-oriented services provided in institutions that are otherwise the primary focus under CHAMPUS. The benefit provides coverage for a humane and sensible approach to care during the last days of life for some terminally ill patients.

* * * * *

Respite care. Respite care is short-term care for a patient in order to provide rest and change for those who have been caring for the patient at home, usually the patient's family.

* * * * *

3. Section 199.4 is amended by adding new paragraph (e)(19) to read as follows:

§ 199.4 Basic program benefits.

* * * * *

(e) * * *

(19) *Hospice care.* Hospice care is a program which provides an integrated set of services and supplies designed to care for the terminally ill. This type of care emphasizes palliative care and supportive services, such as pain control and home care, rather than cure-oriented services provided in institutions that are otherwise the primary focus under CHAMPUS. The benefit provides coverage for a humane and sensible approach to care during the last days of life for some terminally ill patients.

(i) *Benefit coverage.* CHAMPUS beneficiaries who are terminally ill (that is, a life expectancy of six months or less if the disease runs its normal course) will be eligible for the following services and supplies in lieu of most other CHAMPUS benefits:

(A) Physician services.

(B) Nursing care provided by or under the supervision of a registered professional nurse.

(C) Medical social services provided by a social worker who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education, and who is working under the direction of a physician. Medical social services include, but are not limited to the following:

(*1*) Assessment of social and emotional factors related to the beneficiary's illness, need for care, response to treatment, and adjustment to care.

(*2*) Assessment of the relationship of the beneficiary's medical and nursing requirements to the individual's home situation, financial resources, and availability of community resources.

(*3*) Appropriate action to obtain available community resources to assist in resolving the beneficiary's problem.

(*4*) Counseling services that are required by the beneficiary.

(D) Counseling services provided to the terminally ill individual and the family member or other persons caring for the individual at home. Counseling, including dietary counseling, may be provided both for the purpose of training the individual's family or other care-giver to provide care, and for the purpose of helping the individual and those caring for him or her to adjust to the individual's approaching death. Bereavement counseling, which consists of counseling services provided to the individual's family after the individual's death, is a required hospice service but it is not reimbursable.

(E) Home health aide services furnished by qualified aides and homemaker services. Home health aides may provide personal care services. Aides also may perform household services to maintain a safe and sanitary environment in areas of the home used by the patient. Examples of such services are changing the bed or light cleaning and laundering essential to the comfort and cleanliness of the patient. Aide services must be provided under the general supervision of a registered nurse. Homemaker services may include assistance in personal care, maintenance of a safe and healthy environment, and services to enable the individual to carry out the plan of care. Qualifications for home health aides can be found in 42 CFR 484.36.

(F) Medical appliances and supplies, including drugs and biologicals. Only drugs that are used primarily for the relief of pain and symptom control related to the individual's terminal illness are covered. Appliances may include covered durable medical equipment, as well as other self-help and personal comfort items related to the palliation or management of the patient's condition while he or she is under hospice care. Equipment is provided by the hospice for use in the beneficiary's home while he or she is under hospice care. Medical supplies include those that are part of the written plan of care. Medical appliances and supplies are included within the hospice all-inclusive rates.

(G) Physical therapy, occupational therapy and speech-language pathology services provided for purposes of symptom control or to enable the individual to maintain activities of daily living and basic functional skills.

(H) Short-term inpatient care provided in a Medicare participating hospice inpatient unit, or a Medicare participating hospital, skilled nursing facility (SNF) or, in the case of respite care, a Medicaid-certified nursing facility that additionally meets the special hospice standards regarding staffing and patient areas. Services provided in an inpatient setting must conform to the written plan of care. Inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management. Inpatient care may also be furnished to provide respite for the individual's family or other persons caring for the individual at home. Respite care is the only type of inpatient care that may be provided in a Medicaid-certified nursing facility. The limitations on custodial care and personal comfort items applicable to other CHAMPUS services are not applicable to hospice care.

(ii) *Core services.* The hospice must ensure that substantially all core services are routinely provided directly by hospice employees; i.e., physician services, nursing care, medical social services, and counseling for individuals and care givers. Refer to paragraphs (e)(19)(i)(A), (e)(19)(i)(B), (e)(19)(i)(C), and (e)(19)(i)(D) of this section.

(iii) *Non-core services.* While non-core services (i.e., home health aide services, medical appliances and supplies, drugs and biologicals, physical therapy, occupational therapy, speech-language pathology and short-term inpatient care) may be provided under arrangements with other agencies or organizations, the hospice must maintain professional management of the patient at all times and in all settings. Refer to paragraphs (e)(19)(i)(E), (e)(19)(i)(F), (e)(19)(i)(G), and (e)(19)(i)(H) of this section.

(iv) *Availability of services.* The hospice must make nursing services, physician services, and drugs and biologicals routinely available on a 24-hour basis. All other covered services must be made available on a 24-hour basis to the extent necessary to meet the needs of individuals for care that is reasonable and necessary for the palliation and management of the terminal illness and related condition. These services must be provided in a

manner consistent with accepted standards of practice.

(v) *Periods of care.* Hospice care is divided into distinct periods/episodes of care. The terminally ill beneficiary may elect to receive hospice benefits for an initial period of 90 days, a subsequent period of 90 days, a second subsequent period of 30 days, and a final period of unlimited duration.

(vi) *Conditions for coverage.* The CHAMPUS beneficiary must meet the following conditions/criteria in order to be eligible for the hospice benefits and services referenced in paragraph (e)(19)(i) of this section.

(A) There must be written certification in the medical record that the CHAMPUS beneficiary is terminally ill with a life expectancy of six months or less if the terminal illness runs its normal course.

(*1*) *Timing of certification.* The hospice must obtain written certification of terminal illness for each of the election periods described in paragraph (e)(19(vi)(B) of this section, even if a single election continues in effect for two, three or four periods.

(*i*) *Basic requirement.* Except as provided in paragraph (e)(19(vi)(A)(*1*)(*ii*) of this section the hospice must obtain the written certification no later than two calendar days after the period begins.

(*ii*) *Exception.* For the initial 90-day period, if the hospice cannot obtain the written certifications within two calendar days, it must obtain oral certifications within two calendar days, and written certifications no later than eight calendar days after the period begins.

(*2*) *Sources of certification.* Physician certification is required for both initial and subsequent election periods.

(*i*) For the initial 90-day period, the hospice must obtain written certification statements (and oral certification statements if required under paragraph (e)(19(vi)(A)(*i*)(*ii*) of this section) from:

(*A*) The individual's attending physician if the individual has an attending physician; and

(*B*) The medical director of the hospice or the physician member of the hospice interdisciplinary group.

(*ii*) For subsequent periods, the only requirement is certification by one of the physicians listed in paragraph (e)(19)(vi)(A)(*2*)(*i*)(*B*) of this section.

(B) The terminally ill beneficiary must elect to receive hospice care for each specified period of time; i.e., the two 90-day periods, a subsequent 30-day period, and a final period of unlimited duration. If the individual is found to be mentally incompetent, his or her representative may file the election statement. Representative means an individual who has been authorized under State law to terminate medical care or to elect or revoke the election of hospice care on behalf of a terminally ill individual who is found to be mentally incompetent.

(*1*) The episodes of care must be used consecutively; i.e., the two 90-day periods first, then the 30-day period, followed by the final period. The periods of care may be elected separately at different times.

(*2*) The initial election will continue through subsequent election periods without a break in care as long as the individual remains in the care of the hospice and does not revoke the election.

(*3*) The effective date of the election may begin on the first day of hospice care or any subsequent day of care, but the effective date cannot be made prior to the date that the election was made.

(*4*) The beneficiary or representative may revoke a hospice election at any time, but in doing so, the remaining days of that particular election period are forfeited and standard CHAMPUS coverage resumes. To revoke the hospice benefit, the beneficiary or representative must file a signed statement of revocation with the hospice. The statement must provide the date that the revocation is to be effective. An individual or representative may not designate an effective date earlier than the date that the revocation is made.

(*5*) If an election of hospice benefits has been revoked, the individual, or his or her representative may at any time file a hospice election for any period of time still available to the individual, in accordance with § 199.4(e)(19)(vi)(B).

(*6*) A CHAMPUS beneficiary may change, once in each election period, the designation of the particular hospice from which he or she elects to receive hospice care. To change the designation of hospice programs the individual or representative must file, with the hospice from which care has been received and with the newly designated hospice, a statement that includes the following information:

(*i*) The name of the hospice from which the individual has received care and the name of the hospice from which he or she plans to receive care.

(*ii*) The date the change is to be effective.

(*7*) Each hospice will design and print its own election statement to include the following information:

(*i*) Identification of the particular hospice that will provide care to the individual.

(*ii*) The individual's or representative's acknowledgment that he or she has been given a full understanding of the palliative rather than curative nature of hospice care, as it relates to the individual's terminal illness.

(*iii*) The individual's or representative's acknowledgment that he or she understands that certain other CHAMPUS services are waived by the election.

(*iv*) The effective date of the election.

(*v*) The signature of the individual or representative, and the date signed.

(*8*) The hospice must notify the CHAMPUS contractor of the initiation, change or revocation of any election.

(c) The beneficiary must waive all rights to other CHAMPUS payments for the duration of the election period for:

(*1*) Care provided by any hospice program other than the elected hospice unless provided under arrangements made by the elected hospice; and

(*2*) Other CHAMPUS basic program services/benefits related to the treatment of the terminal illness for which hospice care was elected, or to a related condition, or that are equivalent to hospice care, except for services provided by:

(*i*) the designated hospice;

(*ii*) another hospice under arrangement made by the designated hospice; or

(*iii*) an attending physician who is not employed by or under contract with the hospice program.

(*3*) Basic CHAMPUS coverage will be reinstated upon revocation of the hospice election.

(D) A written plan of care must be established by a member of the basic interdisciplinary group assessing the patient's needs. This group must have at least one physician, one registered professional nurse, one social worker, and one pastoral or other counselor.

(*1*) In establishing the initial plan of care the member of the basic interdisciplinary group who assesses the patient's needs must meet or call at least one other group member before writing the initial plan of care.

(*2*) At least one of the persons involved in developing the initial plan must be a nurse or physician.

(*3*) The plan must be established on the same day as the assessment if the day of assessment is to be a covered day of hospice care.

(*4*) The other two members of the basic interdisciplinary group—the attending physician and the medical director or physician designee—must review the initial plan of care and provide their input to the process of establishing the plan of care within two

calendar days following the day of assessment. A meeting of group members is not required within this 2-day period. Input may be provided by telephone.

(*5*) Hospice services must be consistent with the plan of care for coverage to be extended.

(*6*) The plan must be reviewed and updated, at intervals specified in the plan, by the attending physician, medical director or physician designee and interdisciplinary group. These reviews must be documented in the medical records.

(*7*) The hospice must designate a registered nurse to coordinate the implementation of the plan of care for each patient.

(*8*) The plan must include an assessment of the individual's needs and identification of the services, including the management of discomfort and symptom relief. It must state in detail the scope and frequency of services needed to meet the patient's and family's needs.

(E) Complete medical records and all supporting documentation must be submitted to the CHAMPUS contractor within 30 days of the date of its request. If records are not received within the designated time frame, authorization of the hospice benefit will be denied and any prior payments made will be recouped. A denial issued for this reason is not an initial determination under section 199.10, and is not appealable.

(vii) *Appeal rights under hospice benefit.* A beneficiary or provider is entitled to appeal rights for cases involving a denial of benefits in accordance with the provisions of this part and part 199.10.

* * * * *

4. Section 199.6 is amended by adding new paragraph (b)(4)(xiii) to read as follows:

§ 199.6 Authorized providers.

* * * * *

(b) * * *

(4) * * *

(xiii) *Hospice programs.* Hospice programs must be Medicare approved and meet all Medicare conditions of participation (42 CFR Part 418) in relation to CHAMPUS patients in order to receive payment under the CHAMPUS program. A hospice program may be found to be out of compliance with a particular Medicare condition of participation and still participate in the CHAMPUS as long as the hospice is allowed continued participation in Medicare while the condition of noncompliance is being corrected. The hospice program can be either a public agency or private organization (or a subdivision thereof) which:

(A) Is primarily engaged in providing the care and services described under § 199.4(e)(19) and makes such services available on a 24-hour basis.

(B) Provides bereavement counseling for the immediate family or terminally ill individuals.

(C) Provides for such care and services in individuals' homes, on an outpatient basis, and on a short-term inpatient basis, directly or under arrangements made by the hospice program, except that the agency or organization must:

(*1*) Ensure that substantially all the core services are routinely provided directly by hospice employees.

(*2*) Maintain professional management responsibility for all services which are not directly furnished to the patient, regardless of the location or facility in which the services are rendered.

(*3*) Provide assurances that the aggregate number of days of inpatient care provided in any 12-month period does not exceed 20 percent of the aggregate number of days of hospice care during the same period.

(*4*) Have an interdisciplinary group composed of the following personnel who provide the care and services described under § 199.4(e)(19) and who establish the policies governing the provision of such care/services:

(*i*) A physician;

(*ii*) A registered professional nurse;

(*iii*) A social worker; and

(*iv*) A pastoral or other counselor.

(*5*) Maintain central clinical records on all patients.

(*6*) Utilize volunteers.

(*7*) The hospice and all hospice employees must be licensed in accordance with applicable Federal, State and local laws and regulations.

(*8*) The hospice must enter into an agreement with CHAMPUS in order to be qualified to participate and to be eligible for payment under the program. In this agreement the hospice and CHAMPUS agree that the hospice will:

(*i*) Not charge the beneficiary or any other person for items or services for which the beneficiary is entitled to have payment made under the CHAMPUS hospice benefit.

(*ii*) Be allowed to charge the beneficiary for items or services requested by the beneficiary in addition to those that are covered under the CHAMPUS hospice benefit.

(*9*) Meet such other requirements as the Secretary of Defense may find necessary in the interest of the health and safety of the individuals who are provided care and services by such agency or organization.

* * * * *

5. Section 199.14 is amended by redesignating paragraphs (g), (h), (i), (j), and (k) as (h), (i), (j), (k), and (l), adding new paragraph (g).

§ 199.14 Provider reimbursement methods.

* * * * *

(g) *Reimbursement of hospice programs.* Hospice care will be reimbursed at one of four predetermined national CHAMPUS rates based on the type and intensity of services furnished to the beneficiary. A single rate is applicable for each day of care except for continuous home care where payment is based on the number of hours of care furnished during a 24-hour period. These rates will be adjusted for regional differences in wages using wage indices for hospice care.

(1) *National hospice rates.* CHAMPUS will use the national hospice rates for reimbursement of each of the following levels of care provided by or under arrangement with a CHAMPUS approved hospice program:

(i) *Routine home care.* The hospice will be paid the routine home care rate for each day the patient is at home, under the care of the hospice, and not receiving continuous home care. This rate is paid without regard to the volume or intensity of routine home care services provided on any given day.

(ii) *Continuous home care.* The hospice will be paid the continuous home care rate when continuous home care is provided. The continuous home care rate is divided by 24 hours in order to arrive at an hourly rate.

(A) A minimum of 8 hours of care must be provided within a 24-hour day starting and ending at midnight.

(B) More than half of the total actual hours being billed for each 24-hour period must be provided by either a registered or licensed practical nurse.

(C) Homemaker and home health aide services may be provided to supplement the nursing care to enable the beneficiary to remain at home.

(D) For every hour or part of an hour of continuous care furnished, the hourly rate will be reimbursed to the hospice up to 24 hours a day.

(iii) *Inpatient respite care.* The hospice will be paid at the inpatient respite care rate for each day on which the beneficiary is in an approved inpatient facility and is receiving respite care.

(A) Payment for respite care may be made for a maximum of 5 days at a time, including the date of admission but not counting the date of discharge. The

necessity and frequency of respite care will be determined by the hospice interdisciplinary group with input from the patient's attending physician and the hospice's medical director.

(B) Payment for the sixth and any subsequent days is to be made at the routine home care rate.

(iv) *General inpatient care.* Payment at the inpatient rate will be made when general inpatient care is provided for pain control or acute or chronic symptom management which cannot be managed in other settings. None of the other fixed payment rates (i.e., routine home care) will be applicable for a day on which the patient receives general inpatient care except on the date of discharge.

(v) *Date of discharge.* For the day of discharge from an inpatient unit, the appropriate home care rate is to be paid unless the patient dies as an inpatient. When the patient is discharged deceased, the inpatient rate (general or respite) is to be paid for the discharge date.

(2) *Use of Medicare rates.* CHAMPUS will use the most current Medicare rates to reimburse hospice programs for services provided to CHAMPUS beneficiaries. It is CHAMPUS' intent to adopt changes in the Medicare reimbursement methodology as they occur; e.g., Medicare's adoption of an updated, more accurate wage index.

(3) *Physician reimbursement.* Payment is dependent on the physician's relationship with both the beneficiary and the hospice program.

(i) *Physicians employed by, or contracted with, the hospice.*

(A) Administrative and supervisory activities (i.e., establishment, review and updating of plans of care, supervising care and services, and establishing governing policies) are included in the adjusted national payment rate.

(B) Direct patient care services are paid in addition to the adjusted national payment rate.

(*1*) Physician services will be reimbursed an amount equivalent to 100 percent of the CHAMPUS' allowable charge; i.e., there will be no cost-sharing and/or deductibles for hospice physician services.

(*2*) Physician payments will be counted toward the hospice cap limitation.

(ii) *Independent attending physician.* Patient care services rendered by an independent attending physician (a physician who is not considered employed by or under contract with the hospice) are not part of the hospice benefit.

(A) Attending physician may bill in his/her own right.

(B) Services will be subject to the appropriate allowable charge methodology.

(C) Reimbursement is not counted toward the hospice cap limitation.

(D) Services provided by an independent attending physician must be coordinated with any direct care services provided by hospice physicians.

(E) The hospice must notify the CHAMPUS contractor of the name of the physician whenever the attending physician is not a hospice employee.

(iii) *Voluntary physician services.* No payment will be allowed for physician services furnished voluntarily (both physicians employed by, and under contract with, the hospice and independent attending physicians). Physicians may not discriminate against CHAMPUS beneficiaries; e.g., designate all services rendered to non-CHAMPUS patients as volunteer and at the same time bill for CHAMPUS patients.

(4) *Unrelated medical treatment.* Any covered CHAMPUS services not related to the treatment of the terminal condition for which hospice care was elected will be paid in accordance with standard reimbursement methodologies; i.e., payment for these services will be subject to standard deductible and cost-sharing provisions under the CHAMPUS. A determination must be made whether or not services provided are related to the individual's terminal illness. Many illnesses may occur when an individual is terminally ill which are brought on by the underlying condition of the ill patient. For example, it is not unusual for a terminally ill patient to develop pneumonia or some other illness as a result of his or her weakened condition. Similarly, the setting of bones after fractures occur in a bone cancer patient would be treatment of a related condition. Thus, if the treatment or control of an upper respiratory tract infection is due to the weakened state of the terminal patient, it will be considered a related condition, and as such, will be included in the hospice daily rates.

(5) *Cap amount.* Each CHAMPUS-approved hospice program will be subject to a cap on aggregate CHAMPUS payments from November 1 through October 31 of each year, hereafter known as ''the cap period.''

(i) The cap amount will be adjusted annually by the percent of increase or decrease in the medical expenditure category of the Consumer Price Index for all urban consumers (CPI–U).

(ii) The aggregate cap amount (i.e., the statutory cap amount times the number of CHAMPUS beneficiaries electing hospice care during the cap period) will be compared with total actual CHAMPUS payments made during the same cap period.

(iii) Payments in excess of the cap amount must be refunded by the hospice program. The adjusted cap amount will be obtained from the Health Care Financing Administration (HCFA) prior to the end of each cap period.

(iv) Calculation of the cap amount for a hospice which has not participated in the program for an entire cap year (November 1 through October 31) will be based on a period of at least 12 months but no more than 23 months. For example, the first cap period for a hospice entering the program on October 1, 1994, would run from October 1, 1994 through October 31, 1995. Similarly, the first cap period for hospice providers entering the program after November 1, 1993 but before November 1, 1994 would end October 31, 1995.

(6) *Inpatient limitation.* During the 12-month period beginning November 1 of each year and ending October 31, the aggregate number of inpatient days, both for general inpatient care and respite care, may not exceed 20 percent of the aggregate total number of days of hospice care provided to all CHAMPUS beneficiaries during the same period.

(i) If the number of days of inpatient care furnished to CHAMPUS beneficiaries exceeds 20 percent of the total days of hospice care to CHAMPUS beneficiaries, the total payment for inpatient care is determined follows:

(A) Calculate the ratio of the maximum number of allowable inpatient days of the actual number of inpatient care days furnished by the hospice to Medicare patients.

(B) Multiply this ratio by the total reimbursement for inpatient care made by the CHAMPUS contractor.

(C) Multiply the number of actual inpatient days in excess of the limitation by the routine home care rate.

(D) Add the amounts calculated in paragraphs (g)(6)(i) (B) and (C) of this section.

(ii) Compare the total payment for inpatient care calculated in paragraph (g)(6)(i)(D) of this section to actual payments made to the hospice for inpatient care during the cap period.

(iii) Payments in excess of the inpatient limitation must be refunded by the hospice program.

(7) *Hospice reporting responsibilities.* The hospice is responsible for reporting the following data within 30 days after the end of the cap period:

(i) Total reimbursement received and receivable for services furnished CHAMPUS beneficiaries during the cap period, including physician's services not of an administrative or general supervisory nature.

(ii) Total reimbursement received and receivable for general inpatient care and inpatient respite care furnished to CHAMPUS beneficiaries during the cap period.

(iii) Total number of inpatient days furnished to CHAMPUS hospice patients (both general inpatient and inpatient respite days) during the cap period.

(iv) Total number of CHAMPUS hospice days (both inpatient and home care) during the cap period.

(v) Total number of beneficiaries electing hospice care. The following rules must be adhered to by the hospice in determining the number of CHAMPUS beneficiaries who have elected hospice care during the period:

(A) The beneficiary must not have been counted previously in either another hospice's cap or another reporting year.

(B) The beneficiary must file an initial election statement during the period beginning September 28 of the previous cap year through September 27 of the current cap year in order to be counted as an electing CHAMPUS beneficiary during the current cap year.

(C) Once a beneficiary has been included in the calculation of a hospice cap amount, he or she may not be included in the cap for that hospice again, even if the number of covered days in a subsequent reporting period exceeds that of the period where the beneficiary was included.

(D) There will be proportional application of the cap amount when a beneficiary elects to receive hospice benefits from two or more different CHAMPUS-certified hospices. A calculation must be made to determine the percentage of the patient's length of stay in each hospice relative to the total length of hospice stay.

(8) *Reconsideration of cap amount and inpatient limit.* A hospice dissatisfied with the contractor's calculation and application of its cap amount and/or inpatient limitation may request and obtain a contractor review if the amount of program reimbursement in controversy—with respect to matters which the hospice has a right to review—is at least $1000. The administrative review by the contractor of the calculation and application of the cap amount and inpatient limitation is the only administrative review available. These calculations are not subject to the appeal procedures set forth in § 199.10. The methods and standards for calculation of the hospice payment rates established by CHAMPUS, as well as questions as to the validity of the applicable law, regulations or CHAMPUS decisions, are not subject to administrative review, including the appeal procedures of § 199.10.

(9) *Beneficiary cost-sharing.* There are no deductibles under the CHAMPUS hospice benefit. CHAMPUS pays the full cost of all covered services for the terminal illness, except for small cost-share amounts which *may be* collected by the individual hospice for outpatient drugs and biologicals and inpatient respite care.

(i) The patient is responsible for 5 percent of the cost of outpatient drugs or $5 toward each prescription, whichever is less. Additionally, the cost of prescription drugs (drugs or biologicals) may not exceed that which a prudent buyer would pay in similar circumstances; that is, a buyer who refuses to pay more than the going price for an item or service and also seeks to economize by minimizing costs.

(ii) For inpatient respite care, the cost-share for each respite care day is equal to 5 percent of the amount CHAMPUS has estimated to be the cost of respite care, after adjusting the national rate for local wage differences.

(iii) The amount of the individual cost-share liability for respite care during a hospice cost-share period may not exceed the Medicare inpatient hospital deductible applicable for the year in which the hospice cost-share period began. The individual hospice cost-share period begins on the first day an election is in effect for the beneficiary and ends with the close of the first period of 14 consecutive days on each of which an election is not in effect for the beneficiary.

* * * * *

Dated: January 25, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–2194 Filed 1–31–95; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AB10

Everglades National Park Special Regulations; Correction

AGENCY: National Park Service, Interior.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final regulations which were published Tuesday, November 15, 1994. The regulations related to fishing and boating activities within Everglades National Park.

EFFECTIVE DATE: December 15, 1994.

FOR FURTHER INFORMATION CONTACT: Superintendent, Everglades National Park, 40001 State Road 9336, Homestead, FL 33034. Telephone (305) 242–7730.

SUPPLEMENTARY INFORMATION:

Background

On November 15, 1994, the National Park Service (NPS) published in the **Federal Register** (59 FR 58781) a final rule changing the special regulations for Everglades National Park. The final rule completely revises the special regulations for the park. The rule achieves consistency with State fishing rules and allows the park to adopt State fishing regulations. It more closely regulates the activities of commercial guide fishing and redefines ''commercial fishing'' to include the taking of sponges and other non-edible marine life.

The final rule allows the NPS to take a more proactive role in its mission to protect and conserve natural and cultural resources and gives the Superintendent more specific authority to regulate fishing and boating. It prohibits the use of personal watercraft, closes accessible marine wilderness areas to the use of motorized vessels and allows for better management of wildlife habitat sites. The rule also deletes existing obsolete regulations from the Code of Federal Regulations pertaining to mining and commercial fishing.

Need for Correction

As published, the final rule contains two typographical errors which may prove to be misleading and are in need of correction.

Correction of Publication

Accordingly, the publication on November 15, 1994 (59 FR 58781) of the final regulation, rule document 94–

28071, for Everglades National Park is corrected as follows:

1. In the rule document 94–28071 appearing on page 58784 in the issue of Tuesday, November 15, 1994, in the first column, fifth line ''areas of emergency'' is corrected to read ''areas of emergent''.

§ 7.45 [Corrected]

2. In the rule document 94–28071 appearing on page 58785 in the issue of Tuesday, November 15, 1994, in the third column, under § 7.45 Everglades National Park, paragraph (b) *Prohibited conveyances*, line three, ''upon those areas of emergency'' is corrected to read ''upon those areas of emergent''.

Dated: January 26, 1995.

Pete Hart,

Acting Chief, Ranger Activities Division.

[FR Doc. 95–2371 Filed 1–31–95; 8:45 am]

BILLING CODE 4310–70–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WV19–1–6210a, WV11–1–5888a; FRL–5139–3]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia: Title 45 Legislative Rules, Series 21, Regulation To Prevent and Control Air Pollution From Emission of Volatile Organic Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a state implementation plan (SIP) revision submitted by the State of West Virginia on August 10, 1993. The revision concerns West Virginia title 45 Legislative Rules, Series 21, Regulation to Prevent and Control Air Pollution from Emission of Volatile Organic Compounds, sections 1 to 9, 11, 12, 14 to 19, 21 to 29, 31, 36, 39, 41, 42 to 48, and appendix A, which were adopted May 26, 1993 and effective July 7, 1993. These sections of Series 21 establishes emission standards that represent the application of reasonably available control technology (RACT) to twenty categories of stationary sources of volatile organic compounds (VOCs), and establish associated testing, monitoring, recordkeeping, compliance certification, and permit requirements. This revision was submitted to comply with the RACT ''Catch-up'' provisions of the Clean Air Act (the Act). There are two intended effects of this action. The first is to approve these sections of Series 21 as a revision to the West Virginia SIP in accordance with the SIP submittal and revision provisions of the Act. And the SIP submittal and revision provisions of the Act. And the second is to simultaneously update the West Virginia SIP by replacing three regulations codified at 40 CFR 52.2520(c)(26) by portions of the revision submitted on August 10, 1993. This action is being taken under section 110 of the Act.

DATES: This final rule is effective April 3, 1995 unless notice is received on or before March 3, 1995 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the West Virginia Department of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia, 25311.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 597–0545, at the EPA Regional Office address listed.

SUPPLEMENTARY INFORMATION: On August 10, 1993, the State of West Virginia submitted a formal revision to its SIP. The SIP revision consists of Title 45, Series 21 (45CSR21), ''Regulations to Control Air Pollution from the Emission of Volatile Organic Compounds'' (Series 21), and four other regulations—45CSR5 ''To Prevent and Control Air Pollution From the Operation of Coal Preparation Plants and Coal Handling Operations'', 45CSR12 ''Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration'', 45CSR19 ''Requirements for Pre-construction Review, Determination of Emission Offsets for Proposed New or Modified Stationary Sources of Air Pollutants and Emission Trading for Intrasource Pollutants'', and 45CSR29 ''Rule Requiring the Submission of Emission Statements for Volatile Organic Compound Emissions and Oxides of Nitrogen Emissions''. This action concerns only sections 1 to 9, 11, 12, 14 to 19, 21 to 29, 31, 36, 39, 41 to 48 and Appendix A to Series 21. The other parts—45CSR5, 45CSR19, 45CSR12, 45CSR29 and sections 10, 13, 20, 30, 32 to 35, 37, 38 and 40 to series 21—of the August 10, 1993 submittal will be subject of separate rulemaking.

I. Background

The Clean Air Act Amendments of 1990 were enacted on November 15, 1990. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. Under the amended Act, EPA and the States were required to review the designation of areas and to redesignate areas as nonattainment for ozone if the air quality data from 1987, 1988, and 1989 indicated that the area was violating the ozone standard. On November 6, 1991, EPA issued those designations (56 FR 56694 and 57 FR 56762, November 30, 1992). The Parkersburg—Marietta (Wood County), Huntington—Ashland (Cabell and Wayne Counties) and Charleston Metropolitan Statistical Area (Kanawha and Putnam Counties) areas, which were designated unclassifiable prior to enactment, were redesignated to nonattainment and classified as moderate. Under the pre-amended Act, these areas were not required to meet the RACT requirement for nonattainment areas. Under the RACT catch-up provision of section 182(b)(2) of the Act, the State was required to submit RACT rules for these areas covering any remaining pre-enactment Control Technique Guideline (CTG) documents and to submit rules for all remaining major sources of VOC emissions.

West Virginia had adopted RACT rules for the following three categories of sources: storage of petroleum liquids in fixed roof tanks, bulk gasoline terminals and petroleum refinery sources. These rules were Series 21, 23 and 24, respectively. EPA approved these as RACT on September 17, 1992 (57 FR 42895). The current Series 21 submitted on August 10, 1993 completely supersedes the previous Series 21 (45CSR21) and Series 23 and 24 (45CSR23 and 45CSR24) which were effective in Wood, Cabell, Wayne, Kanawha and Putnam counties. The RACT requirements contained in the superseded Series 21, 23 and 24 are contained in sections 28, 25 and 22, respectively, in combination with the applicable portions of sections 1 to 9 and 41 to 48 of the current Series 21.

VOCs contribute to the production of ground level ozone and smog. These rules were adopted as part of an effort

to achieve the National Ambient Air Quality Standard (NAAQS) for ozone.

II. EPA Evaluation and Action

The following is EPA's evaluation of and action on sections 1 to 9, 11, 12, 14 to 19, 21 to 29, 31, 36, 39, 41 to 48 and Appendix A of West Virginia Title 45, Series 21. Detailed descriptions of the sections of Series 21 addressed in this document, and EPA's evaluation of these sections, are contained in the technical support document (TSD) prepared for this revision. Copies of the TSD are available from the EPA Regional office listed in the **ADDRESSES** section of this document.

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the Act and EPA regulations, as found in section 110 and Part D of the Act and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for this action, appears in various EPA policy guidance documents. For the purpose of assisting State and local agencies in developing RACT rules, EPA prepared a series of CTG documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for RACT for specific source categories. The CTGs applicable to sections 11, 12, 14 to 19, 21 to 29, 31, 36, and 39 of West Virginia Title 45, Series 21 are entitled, Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles and Light Duty Trucks, EPA–450/2–77–008, May 1977; Surface Coating of Metal Furniture, EPA–450/2–77–032, Dec. 1977; Surface Coating of Large Appliances, EPA–450/2–77–034, Dec. 1977; Surface Coating for Insulation of Magnet Wire, EPA–450/2–77–033, Dec. 1977; Surface Coating of Miscellaneous Parts and Products, EPA–450/2–78–015, June 1978; Bulk Gasoline Plants, EPA–450/2–77–035, Dec. 1977, Tank Truck Loading Terminals, EPA–450/2–77–026, Dec. 1977; Design Criteria Document—Gasoline Dispensing Facilities—Stage I, Nov. 1975; Leaks from Gasoline Tank Trucks and Vapor Collection Systems, EPA–450/2–78–051, Dec. 1978; Refinery Vacuum Producing Systems, Wastewater Separators and Process Turnarounds, EPA–450/2–77–025, Oct. 1977; Petroleum Refinery Equipment, EPA–450/2–78–036, June 1978, Petroleum Liquid Storage in External Floating Roof Tanks, EPA–450/2–78–047, Dec. 1978; Storage of Petroleum Liquids in Fixed Roof Tanks, EPA–450/2–77–036, Dec. 1977; Leaks from Natural Gas/Gasoline Processing Plants, EPA–450/3–83–007, Dec. 1983; Cutback Asphalt, EPA–450/2–77–037, Dec. 1977; Perchloroethylene Dry Cleaning Systems, EPA–450/2–78–050, Dec. 1978; Air Oxidation Processes in the Synthetic Organic Chemical Manufacturing Industry, EPA–450/2–83–006, March 1984. EPA has not yet developed CTGs to cover all sources of VOC emissions. Further interpretations of EPA policy are found in those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987) and ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice'' (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988). In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen the SIP.

State Submittal: Sections 1 through 9 of Series 21 include general applicability, monitoring, recordkeeping, compliance certification, and permit requirements and include definitions and other provisions common to more than one section. Series 21 applies sources located in Putnam, Kanawha, Cabell, Wayne and Wood counties. Sources that exceed any applicability threshold of Series 21 remain subject to the provisions even if the source's throughput or emissions later fall below the applicability. Alternative control plans must be approved by the Chief of the West Virginia Office of Air Quality (the Chief) and the U.S. EPA. By May 31, 1994, owners or operators of sources claiming exemption from the surface coating provisions of sections 10 to 19 must certify to the Chief that they are exempt and after May 31, 1994 are required to keep daily records documenting the daily VOC emissions and are required to report to the Chief if any combined daily VOC emissions exceeds 6.8 kilograms (15 pounds). By May 31, 1994 owners or operators of sources subject to the surface coating provisions of sections 10 to 19 must certify to the Chief the method of compliance—complying coatings, daily weighted averaging, or control devices—to be used for each affected coating line or operation and are required to keep daily records demonstrating compliance and to report any excess emissions. By May 31, 1994 owners and operators of sources subject to the provisions of sections 20 to 40 must certify to the Chief the method of compliance—control system equipment specification, leak detection and repair, coating formulation, work practice, etc.—to be used and are required to keep records for control devices and report excess emissions. Owners and operators of any coating line complying by the use of a control device are required to operate the capture and control device whenever the coating line is in use and are required to ensure the required monitoring system is installed, maintained and calibrated and in use when ever the control device is operated. Owners or operators of facilities, subject to sections 11 to 20 and section 34, are prohibited from using open containers to store or dispose cloth or paper impregnated with VOC or to store spent or fresh VOC used for surface preparation, cleanup or removal of coatings and are prohibited from using VOC to clean spray equipment unless equipment is used to collect the cleaning compounds. Owners and operators of sources subject to Series 21 that must make major process changes or major capital expenditures to comply must submit to the Chief a compliance schedule within 180 days of May 31, 1993. Compliance must be as expeditious as practical but not later than May 31, 1995. The general provisions also define that references to the Chief of the West Virginia Office of Air Quality also mean the U.S. EPA.

EPA's Evaluation: The regulations listed above are approvable as SIP revisions because they conform to EPA guidance and comply with the requirements of the Act.

State Submittal: Sections 11, 12, 14, 15, 16, 17, 18, and 19 cover coating operations or lines in the following source categories, respectively: Can, coil, fabric, vinyl, metal furniture, large appliance, magnet wire, and miscellaneous metal parts and products.

A. Common Provisions

A coating line or operation is subject to the emission limits of a section if the daily facility-wide emissions from coating lines in that source category exceed 6.8 kilograms (15 pounds) prior to control devices. Each section requires that compliance be demonstrated in one of three ways: use of coatings that comply with the VOC content limits of each section; use of coatings on a coating line whose daily weighted average comply with the VOC content for that coating line; or use of a capture and control system that provides an overall emission reduction that is the lesser of the reduction needed to be equivalent to the VOC content of complying coatings on a ''solids basis'' (mass VOC per volume of solids) or 95 percent. The VOC content limits in mass per volume of coating, minus water and

exempt compounds, as applied, are the same as those contained in the applicable CTG. Section 17 exempts from the VOC content limits the use of up to 0.95 liter (0.25 gallon), in any 8-hour period, of quick-drying lacquers used for repair of nicks or scratches on large appliances. Section 19 also sets a standard of 0.52 kilogram per liter (4.3 lb/gal) of coating less water and exempt compounds for drum and pail interior coatings. The calculation procedures for daily weighted averaging and for required control device efficiency are provided in section 43. Calculations are required daily to demonstrate daily compliance.

B. Coverage of Section 19, Miscellaneous Metal Parts and Products

Section 19 does apply to coatings applied to small and large farm machinery, small appliances, commercial machinery, industrial machinery, fabricated metal products, coating applications at automobile and light-duty truck assembly plants other than prime, primer surfacer, topcoat and final repair, and any other industrial category that coats metal parts or products under Standard Industrial Classification (SIC) Codes of Major Groups 33 to 39. Section 19 does not apply to the application of coatings regulated under sections 11, 12, 16, 17, and 18, exteriors of completely assembled aircraft, automobile or truck refinishing, and customized topcoating of automobiles and trucks where the daily production is less than 35 vehicles per day. Section 19 does not apply to primer, primer surfacer, topcoat and final repair operations at automobile and light-duty truck assembly plants covered under section 10. Manufacture of lamps and light fixtures falls under SIC Codes 3645 and 3646. Coatings applied to lamps and light fixtures are regulated under section 19 and are not included in the product mix regulated under section 16.

EPA's Evaluation: The regulations listed above are approvable as SIP revisions because they conform to EPA guidance and comply with the requirements of the Act. EPA has determined that the RACT standards are no less stringent than the applicable CTG and that the standards for coating of metal lamps and light fixtures established under section 19 are no different than that which would have been required under section 16. EPA has determined that the standards for coating of drum and pail interiors represent RACT given the extreme conditions to which these coatings are often exposed.

State Submittal: Sections 21, 22, 23, and 24 cover bulk gasoline plants, bulk gasoline terminals, gasoline dispensing facilities and gasoline tank trucks.

A. Section 21 requires bulk gasoline plants of between 4,000 and 20,000 gallons per day throughput to install a vapor balance system between incoming/outgoing tank trucks and stationary storage tanks, to fill storage vessels by submerged filling, and to incorporate design and operational practices to minimize leaks from storage tanks, loading racks, tank trucks and loading operations.

B. Section 22 requires bulk gasoline terminals, facilities of greater than 20,000 gallons per day throughput, to equip each loading rack with a vapor collection system to control VOC vapors displaced from gasoline tank trucks during product loading. The vapor control system is limited to emissions of 80 milligrams or less of VOC per liter of gasoline loaded.

C. Both bulk plants and terminals are required to inspect vapor balance or loading racks and VOC collection systems monthly for leaks and to repair leaks within 15 days of discovery. Both bulk plants and terminals are restricted to loading only vapor-tight gasoline tank trucks and to loading tank trucks by submerged filling.

D. Section 23 requires gasoline dispensing facilities to install a vapor balance system, submerged drop tubes for gauge well, vapor tight caps and submerged fill loading on all storage vessels. Both sections 21 and 23 prohibit the transfer of gasoline into a storage tank or into a tank truck unless vapor balance systems are properly used.

E. Section 24 requires gasoline tank trucks equipped for vapor collection be tested at least annually for vapor-tightness and display a sticker near the DOT certification plate that shows the date the truck passed the vapor-tightness test, that shows the truck identification number and that does not expire not more than 1 year after the date of the test.

F. Sections 21, 22 and 23 also set standards for smaller facilities and tanks: Bulk plants of less than 4,000 gallons per month are only required to fill storage tanks or tank trucks by submerged filling and to discontinue transfer operations if any leaks are observed. A vapor balance system is not required on any tank with a capacity of 550 gallons or less at a bulk plant. However, such tanks are still subject to the requirement that these tanks be filled by submerged filling. Under section 23, dispensing facilities of less than 10,000 gallons per month throughput and certain small storage tanks are required to be loaded by submerged fill. These smaller storage tanks are those of less than 2,000 gallon capacity constructed prior to January 1, 1979, of less than 250 gallons capacity constructed after December 31, 1978, and of less than 550 gallons capacity if used solely for fueling implements of agriculture.

EPA's Evaluation: The regulations listed above are approvable as SIP revisions because they conform to EPA guidance and comply with the requirements of the Act. EPA has determined that the RACT standards are no less stringent than the applicable CTG and other EPA guidance. Because the standards set under section 22 are RACT, section 22 in combination with the applicable portions of sections 1 to 9 and 41 to 48 is approvable to replace Series 24 in the West Virginia SIP.

State Submittal: Section 25 applies to any vacuum-producing system, wastewater separator and process unit turnaround at petroleum refineries. Uncondensed vapors from vacuum-producing systems must be piped to a firebox or incinerator or compressed and added to the refinery fuel gas. Wastewater separators must be equipped with covers and seals on all separators and forebays. Lids and seals are required on all openings in separators, forebays and their covers and must be kept closed except when in use. During a process unit turnaround the process unit must be vented to a vapor recovery system, flare or firebox. No emissions are allowed from a process unit until the internal pressure reaches 19.7 psia.

EPA's valuation: The regulation listed above is approvable as SIP revisions because it conforms to EPA guidance and complies with the requirements of the Act. EPA has determined that the RACT standards are no less stringent than the applicable CTG.

State Submittal: Sections 26 and 29 regulate leaks from equipment in VOC service at any process unit at a petroleum refinery or at any natural gas/gasoline processing facility, respectively. Both require open ended lines and valves to be sealed with a second valve, blind flange, cap or plug except during operations requiring process fluid flow. Both require quarterly leak monitoring of pumps in light liquid service, valves, and compressors and require first attempt to repair the leak within five calendar days of discovery and with final repair within 15 calendar days. Both sections reference the leak detection method found in section 46. Both allow less frequent monitoring of unsafe-to-

monitor and difficult-to-monitor valves if a written plan that requires, respectively, monitoring of unsafe-to-monitor as frequently as practicable during safe to monitor periods and at least annual leak monitoring of difficult-to-monitor valves. Under both sections, valves in gas/vapor service and in light liquid service may be monitored less frequently if the criteria of the skip period leak detection and repair provisions are met and maintained. Both sections allow certain equipment be exempt from the leak monitoring program. These are: any pressure relief valve connected to a flare header or operating vapor recovery device, any equipment in vacuum service, any compressor with a degassing vent connected to an operating VOC control device. Also exempted from a leak detection and repair is any pump with dual seals at a natural gas/gasoline processing facility and any pump with duel mechanical seals with a barrier fluid system at refineries. Under section 26 pumps in heavy liquid service at refineries must be leak checked using the method of section 46 only if evidence of a leak is found by sight, sound or smell. Under section 29 pumps in heavy liquid service are exempted from the leak detection and repair provisions. Under section 26 pressure relief valves at refineries must be leak checked after each overpressure relief. Under section 29 pressure relief valves must be leak checked within 5 days unless monitored by non-plant personnel. In the latter case, monitoring must be done the next time monitoring personnel are on site or within 30 days whichever is less.

EPA's Evaluation: The regulations listed above are approvable as SIP revisions because they conform to EPA guidance and comply with the requirements of the Act. EPA has determined that the RACT standards are no less stringent than the applicable CTG. Because the standards set under section 25 are RACT, section 25 in combination with the applicable portions of sections 1 to 9 and 41 to 48 is approvable to replace Series 23 in the West Virginia SIP.

State Submittal: Sections 27 and 28 regulate storage of petroleum liquids. Both sections apply to any petroleum liquid storage tank over 40,000 gallons capacity. Section 27 applies to such tanks that are equipped with an external floating roof. Section 28 applies to such tanks that are of fixed roof construction. Section 27 prohibits storage of petroleum liquid in an external floating roof tank unless the tank is equipped a continuous secondary seal from the floating roof to the tank wall, the seals are maintained so that there are no visible holes or tears and the seals are intact and uniformly in place. Section 27 also sets design and operation and maintenance criteria for openings in the external floating roof and for gaps in vapor-mounted primary seals. Section 27 requires routine, semi-annual inspections of the roof and seal and requires annual measurement of the seal gap in vapor-mounted primary seals. Section 28 prohibits storage of petroleum liquid in a fixed roof tank unless the tank is equipped an internal floating roof equipped with closure seal(s) between the roof edge and tank wall, and the seal(s) are maintained so that there are no visible holes or tears. Section 28 also sets design, operational and maintenance criteria for openings, drains and vents.

EPA's Evaluation: The regulations listed above are approvable as SIP revisions because they conform to EPA guidance and comply with the requirements of the Act. EPA has determined that the RACT standards are no less stringent than the applicable CTG and other EPA guidance. Because the standards set under section 28 are RACT, section 28 in combination with the applicable portions of sections 1 to 9 and 41 to 48 is approvable to replace Series 21 in the West Virginia SIP.

State Submittal: Section 31 prohibits the manufacturing, storage, mixing, storage, use and application of cutback asphalt during the period from April 1 to October 31 of every year. Exemptions for long-life stockpiling or use solely as a penetrating prime coat may be granted by the Chief of the West Virginia Office of Air Quality. Section 31 also prohibits the manufacturing, storage, mixing, storage, use and application of emulsified asphalt containing VOC during the period from April 1 to October 31 of every year.

EPA's Evaluation: The regulation listed above is approvable as SIP revisions because it conforms to EPA guidance and complies with the requirements of the Act. EPA has determined that the RACT standards are no less stringent than the applicable CTG.

State Submittal: Section 36 covers drycleaning facilities using perchloroethylene. Section 36 requires a carbon adsorption system for the dryer exhaust. An emission limit of 100 parts per million (volumetric) of VOC is established for the exhaust of this control device. Coin-operated facilities, and facilities with inadequate space or inadequate steam capacity to desorb adsorbers are exempt from the requirement for a carbon adsorption system. Section 36 sets the standards recommended in the CTG to minimize VOC emissions from leaks, from treatment, handling and disposal of filters, and from wet wastes from solvent stills.

EPA's Evaluation: The regulation listed above is approvable as SIP revisions because it conforms to EPA guidance and complies with the requirements of the Act. EPA has determined that the RACT standards are no less stringent than the applicable CTG.

State Submittal: Section 39 covers air oxidation processes in the synthetic organic chemical manufacturing industry (SOCMI). SOCMI is defined as production, either as a final product or as an intermediate, of any of the chemicals listed in 40 CFR 60.489. Covered are vent streams from air oxidation reactors and from combinations of air oxidation reactors and recovery systems. Section 39 requires VOC emissions from these vent streams be no more than 20 parts per million (volumetric, dry basis corrected to 3 percent oxygen) or be reduced by 98 percent whichever is less stringent or be burned in a flare that meets the requirements of 40 CFR 60.18. Vent streams that have a total resource effectiveness (TRE) index value greater than 1.0 are required only to maintain the TRE index value greater than 1.0, to recalculate the TRE index value after any process change and to install monitoring devices on the final recovery device.

EPA's Evaluation: The regulation listed above is approvable as SIP revisions because it conforms to EPA guidance and complies with the requirements of the Act. EPA has determined that the RACT standards are no less stringent than the applicable CTG.

State Submittal: Sections 41 to 48 comprise the test and compliance methods applicable to more than one of the source categories of sections 10 to 40. Section 48 specifies the quality control procedures for continuous emission monitors. Each section requires that adaptations to specified methods or alternative test methods must be approved by the Chief of the West Virginia Office of Air Quality (the Chief) and the U.S. EPA.

A. Section 41 requires that the methods of sections 42 to 47 be used and sets the general requirements for test plans and testing quality assurance programs. Test plans must be submitted to the Chief at least 30 days prior to the testing, preliminary results within 30 days after completion and the final report within 60 days of the completion of the testing.

B. Section 42 specifies the methods to be used for sampling and analyzing coatings and inks for VOC content. Specified methods for determining VOC content are Method 24 of 40 CFR Part 60, Appendix A for coatings and Method 24A of 40 CFR Part 60, Appendix A for inks.

C. Section 43 specifies the methods to be used by coating sources for calculation of daily weighted average, of required overall emission reduction efficiency and of equivalent emission limitations. Section 43.1 provides the formula for calculating the daily weighted average VOC content. Section 43.2 specifies how the daily required control efficiency is to be calculated. Provided are procedures: (1) to convert the complying coating, emission limits from a mass VOC per gallon of coating (less water and exempt solvent) basis to a solids basis, mass VOC per gallon solids; (2) to calculate the required overall emission reduction efficiency using the complying coating emission limit on a solids basis and either the maximum actual VOC content (solids basis) or the actual, daily-weighted average VOC (on a solids basis); (3) to calculate the actual, daily-weighted average VOC (on a solids basis) of the coatings used.

D. Section 44 and Appendix A specify the methods for measuring capture efficiency and for calculating control device destruction or removal efficiency.

1. Capture Efficiency

Four capture efficiency testing and calculation protocols are used: Gas/gas methods using either a temporary total enclosure (TTE) or a building enclosure (BE) as a TTE. Liquid/gas methods using either a BE as a TTE or a TTE. The procedures in Appendix A to Series 21 are specified for measuring the liquid input to the process, the mass of gaseous, fugitive VOC that escapes and the mass of gaseous VOC collected by the capture system. Procedure T of Appendix A to Series 21 contains the criteria for determining if a building or temporary enclosure is a TTE. Procedure T also contains the criteria for determining if a permanent enclosure is a Permanent Total Enclosure (PTE). Section 44 exempts any PTE from capture efficiency testing.

2. Control Device Destruction or Removal Efficiency

Section 44.2 requires that the methods specified in Section 45 be used for determining the flows and VOC concentrations in the inlets and outlets of VOC control devices. Section 44 stipulates the formula for calculating control device destruction or removal efficiency. Section 44.2 also requires continuous monitoring on carbon adsorption systems and incinerators and specifies the requirements for such monitoring systems.

3. Overall Capture and Control Efficiency

Section 44.3 requires that overall capture and control efficiency be calculated as the product of the capture efficiency and the control device efficiency.

E. Section 45 adopts reference methods found in 40 CFR Part 60, Appendix A. The methods adopted are: Method 18, 25 or 25A for determining VOC concentrations at the inlet and outlet of a control device; only Method 25 is allowed for determining destruction efficiency of thermal or catalytic incinerators. Method 1 or 1A for velocity traverse. Method 2, 2A, 2B, 2C, or 2D for measuring velocity and flow rates. Method 3 or 3A for determining oxygen and carbon dioxide analysis. Method 4 for stack gas moisture. Section 45 also specifies the number and length of tests.

F. Section 46 specifies leak detection methods. Method 21 of 40 CFR Part 60, Appendix A is adopted.

G. Section 47 sets the performance specifications of systems for the continuous emissions monitoring of total hydrocarbons as a surrogate for measuring the total gaseous organic concentration in a combustion gas stream.

H. Section 48 requires each owner or operator of a continuous emissions monitor system (CEMS) to develop and implement a CEMS quality control program. Section 48 defines the minimum requirements for such a program.

EPA's Evaluation: The regulations listed above are approvable as SIP revisions because they conform to EPA guidance and comply with the requirements of the Act. EPA has determined that the test methods and compliance procedures are no less stringent than that required by the applicable CTG and pertinent EPA guidance.

As required by 40 CFR 51.102, the State of West Virginia has certified that public hearings with regard to these proposed revisions were held in Charleston, West Virginia on September 12, 1991.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will become effective April 3, 1995 unless, by March 3, 1995, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the companion proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on April 3, 1995.

Final Action

EPA is approving sections 1 to 9, 11, 12, 14 to 19, 21 to 29, 31, 36, 39, 41 to 48 and Appendix A to West Virginia's Title 45, Series 21 as a revision to the West Virginia SIP. The State of West Virginia submitted these amendments to EPA as a SIP revision on August 10, 1993.

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

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic

reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIP's on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

This action has been classified as a Table 2 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action approving twenty VOC RACT regulations for West Virginia must be filed in the United States Court of Appeals for the appropriate circuit by April 3, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: November 10, 1994.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart XX—West Virginia

2. Section 52.2520 is amended by adding a sentence to the beginning of paragraph (c)(25) introductory text, and by adding paragraph (c)(33) to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

(25) As of July 7, 1993 the rules in this paragraph (c)(25) are superseded by the rules contained in paragraph (c)(33) of this section. * * *

* * * * *

(33) Revisions to the West Virginia State Implementation Plan submitted on August 12, 1993 by the West Virginia Department of Commerce, Labor & Environmental Resources.

(i) Incorporation by reference.

(A) Letter of August 10, 1993 from the West Virginia Department of Commerce, Labor & Environmental Resources transmitting Title 45 Legislative Rules, Series 21, Regulation to Prevent and Control Air Pollution from Emission of Volatile Organic Compounds.

(B) Title 45 Legislative Rules, Series 21, Regulation to Prevent and Control Air Pollution from Emission of Volatile Organic Compounds, sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 36, 39, 41, 42, 43, 44, 45, 46, 47, and 48, and Appendix A, which were adopted May 26, 1993 and effective July 7, 1993.

(ii) Additional material.

(A) Remainder of August 10, 1993 State submittal pertaining to the rules referenced in paragraph (c)(33)(i) of this section.

(iii) Additional information.

(A) The rules in this paragraph (c)(33) supersede the rules contained in paragraph (c)(25) of this section.

[FR Doc. 95–2399 Filed 1–31–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[MA39–1–6772a; A–1–FRL–5136–7]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Massachusetts; Substitution of the California Low Emission Vehicle Program for the Clean Fuel Fleet Program (Opt Out)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this action, the Environmental Protection Agency is announcing approval of the State Implementation Plan submitted by the Commonwealth of Massachusetts for the purpose of meeting the requirement to submit the Clean Fuel Fleet Program or a substitute program that meets the requirements of the Clean Air Act. EPA is approving the State's plans for implementing a substitute program to opt out of the Clean Fuel Fleet program. On November 15, 1993, the Commonwealth of Massachusetts formally submitted a revision to their SIP to require the sale of California certified low emitting vehicles in Massachusetts beginning with model year 1995. Further, on May 11, 1994, the Commonwealth formally notified EPA of its decision to substitute Massachusetts' version of the California Low Emission Vehicle (MA LEV) Program for the Clean Fuel Fleet (CFF) Program as provided for in section 182(c)(4)(B) of the Clean Air Act (CAA).

DATES: This final rule is effective on April 3, 1995 unless adverse or critical comments are received by March 3, 1995, in which case the rule will be withdrawn. If the rule is withdrawn, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Linda M. Murphy, Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA 02203; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street SW, (LE–131), Washington, DC 20460; and the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Damien Houlihan, (617) 565–3266.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(c)(4)(A) of the Clean Air Act requires certain States, including Massachusetts, to submit a State Implementation Plan (SIP) revision that includes measures to implement the Clean Fuel Fleet Program (CFFP). Under this program, a certain specified percentage of vehicles purchased by fleet operators for covered fleets must meet emission standards that are more stringent than those that apply to conventional vehicles. Covered fleets are defined as fleets of 10 or more vehicles that are centrally fueled or capable of being centrally fueled. The program applies to 1998 and later model year vehicles in the entire Commonwealth of Massachusetts which is comprised of two separate nonattainment areas. Section 182(c)(4)(B) of the Act allows states to ''opt out'' of the Clean Fuel Fleet Program by submitting for EPA approval a SIP revision consisting of a program or programs that will result in at least

equivalent long term reductions in ozone producing and toxic air emissions as a CFFP would.

In accordance with section 182(c)(4), the Commonwealth of Massachusetts submitted a commitment to either adopt and submit a Clean Fuel Fleet Program or an equivalent substitute program. This was submitted for parallel processing on November 13, 1992, and a formal request was submitted on May 7, 1993. EPA proposed conditional approval of Massachusetts' action on June 7, 1993 (58 FR 31928). However, prior to final EPA action on Massachusetts' commitment, the Court of Appeals for the District of Columbia held that EPA's conditional approval policy was contrary to law. The court held that a base commitment from a state was not sufficient to warrant conditional approval from EPA under section 110(k)(4) of the Act. NRDC v. EPA, 22 F.3d 1125 (D.C. Cir. 1994). Therefore, EPA could not take final action on Massachusetts' commitment.

In fashioning a remedy for EPA's improper use of its conditional approval authority, the court did not want states to be penalized for their reasonable reliance on EPA's actions. Massachusetts submitted a commitment to adopt a substitute for the CFFP by May 15, 1994, in reliance on EPA guidance, and the Commonwealth fulfilled that commitment by adopting and submitting the Low Emission Vehicle (LEV) program regulations on May 11, 1994. Therefore, EPA does not believe that Massachusetts should lose its ability to opt-out of the CFFP because of EPA's improper use of its conditional approval authority. EPA is today taking action on Massachusetts' submissions of November 15, 1993 and May 11, 1994, which are intended to substitute MA LEV for the CFF program.

The Act requires states to observe certain procedural requirements in developing implementation plan revisions for submission to EPA. Sections 110(a)(2) and 172(c)(7) of the Act require states to provide reasonable notice and opportunity for public comment before accepting the submitted measures. Section 110(1) of the Act also requires states to provide reasonable notice and hold a public hearing before adopting SIP provisions.

EPA must also determine whether a state's submittal is complete before taking further action on the submittal. See section 110(k)(1). EPA's completeness criteria for SIP submittals are set out in 40 CFR part 51, appendix V (1993).

II. State Submittal

Massachusetts submitted a SIP revision on November 15, 1993, and supplemented it on May 11, 1994, which substituted a low emission vehicle (LEV) program for the Clean Fuel Fleet program. Massachusetts held public hearings on October 30 and 31, 1991; November 1, 1991; February 8, 9, 10 and 12, 1993; and October 1, 5–9, 1993 to entertain public comment on its SIP revisions; these hearings included the Commonwealth's proposal to opt out of the Clean Fuel Fleet Program with LEV. Massachusetts' regulation 310 CMR 7.40, ''California Low Emission Vehicle Program'' (the LEV program), was adopted by the Commonwealth on January 31, 1992. EPA reviewed the Commonwealth's submission for completeness, in accordance with the completeness criteria, and found the submittals to be complete on October 25, 1994.

Massachusetts has limited its proposed LEV Program to passenger vehicles and light-duty trucks at the present time. When California Air Resource Board finalizes its standards for the remainder of the vehicle classes, Massachusetts will examine the potential air quality benefits of adopting the emission standards for medium duty vehicles, heavy-duty trucks, motorcycles, and off-highway equipment. By adopting the program for passenger vehicles and light-duty trucks, Massachusetts expects to decrease VOC and NO_X emissions far in excess of what would be achieved from a CFF program (namely, 42 tons per summer day of VOC and 35 tons per summer day of NOx as compared to 1.95 VOC and 0.99 NOx from a CFF program, long term). The Commonwealth exercised its choice to substitute enough equivalent emission reductions credit from its LEV program for the CFF program so that, of the total reductions obtained from the LEV program, only 1.95 tons per summer day VOC and 0.99 tons per summer day NOx will apply as a substitute for the CFF program.

III. Analysis of State Submission

Section 182(c)(4) of the Clean Air Act, which allows states required to implement a Clean Fuel Fleet program to ''opt out'' of the program by submitting a SIP revision consisting of a substitute program, requires that the substitute program results in equal or greater emission reductions than does the Clean Fuel Fleet program. Also, EPA can only approve substitute programs that consist exclusively of provisions other than those required by the Clean Air Act for the area. Massachusetts' LEV program satisfies both of these requirements.

Section 182(c)(4)(B) states that a measure can be substituted for all or a portion of the CFF program, and that such a substitute program will be approvable if it achieves long-term emission reductions equivalent to those that would have been achieved by the portion of the CFF program for which the measure is to be substituted.

Massachusetts, in exercising its option under section 177 of the Clean Air Act, has adopted a LEV program which affects all new light duty vehicles, specifically passenger cars and light duty trucks under 5750 pounds Gross Vehicle Weight Rating (GVWR) for vehicle model years 1995 and later. The MA LEV program is a far reaching program designed to improve the emissions performance of vehicles over a long period of time. The program sets forth five different sets of emission standards, and vehicle manufacturers may market any combination of vehicles provided that the annual average emissions of each manufacturer's fleet complies with a fleet average limit that becomes more stringent each year. In addition, Massachusetts' LEV program requires manufacturers to begin to market a fixed percentage of zero emission vehicles (ZEVs) in model year 1998. The ZEV requirement will help ensure that the LEV program will result in reductions of ozone forming emissions to a degree that is at least equivalent to the Clean Fuel Fleet program.

Massachusetts' LEV program will assure reductions of ozone-forming and air toxic emissions that are at least equivalent to those that would have been realized through implementation of a Clean Fuel Fleet program. The LEV program is a statewide program affecting the sale of all light duty vehicles. A Clean Fuel Fleet program affects a much smaller subset of vehicles, i.e. new covered fleet vehicles, that are already included in the LEV program. The LEV program has fleet average emission standards that are comparable to the Clean Fuel Vehicle (CFV) emission standards that apply to clean fuel fleet vehicles. With respect to long term emission standards for non-methane organic gases (NMOG), the Clean Fuel Fleet program requires that 70% of new covered light duty vehicle and light duty truck purchases in the affected fleets in model year 2000 and later meet the CFV emission standard of 0.075 grams/mile, while the California LEV program requires that the long term NMOG standard for 100% of all light duty vehicles be no more than 0.062 grams per mile (model year 2003 and

later).[1] Based on the above considerations, Massachusetts' LEV program has the potential to achieve emission reductions far in excess of those expected by the Clean Fuel Fleet program. The LEV program also has an earlier implementation date, beginning with model year 1995, than the fleet program.

EPA, auto manufactures, and states are currently considering the possibility of developing a voluntary national LEV-equivalent motor vehicle emission control program. See 59 FR 48664 (Sept. 22, 1994) and 59 FR 53396 (Oct. 24, 1994). EPA does not expect that today's approval will impede the development or implementation of such a program. If Massachusetts were to participate in a LEV-equivalent program, it would have the opportunity to revise its clean fuel fleet program substitution.

EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective April 3, 1995 unless, by March 3, 1995, adverse or critical comments are received.

If such comments are received, this rule will be withdrawn before the effective date by publishing a subsequent document. In the Proposed Rules Section of this **Federal Register**, EPA has proposed the same approvals on which it is taking final action in this rulemaking. If adverse comments are received in response to this action, EPA will address them as part of a final rulemaking associated with that proposed action. EPA will not institute a second comment period on this action. If no adverse comments are received, the public is advised that this rule will be effective April 3, 1995.

[1] Massachusetts does not currently have an enforceable NMOG standard as part of its program, but it is in the process of adopting one. Given the lack of an enforceable NMOG standard, there is no assurance that Massachusetts' LEV program will achieve the same emission benefits as if it had adopted California's NMOG average. Nonetheless, several factors support EPA's belief that the reductions of the LEV program will be equal to or greater than the reductions from a CFFP. First, Massachusetts does have a ZEV sales mandate, which might by itself provide reductions equal to or greater than the CFFP. Even if Massachusetts did not have a ZEV mandate, its LEV program still provides sufficient reductions to qualify as a substitute. Massachusetts' LEV program prohibits auto manufacturers from selling in Massachusetts any vehicle in the regulated class that is not certified in California. Manufacturers generally do not ''double-certify'' vehicles in California (i.e., manufacture both a LEV and a ULEV version of the same model). Auto manufacturer have said that the mix of vehicles sold in California does not differ significantly from the mix sold in Massachusetts. Given all these factors, it is unlikely that the NMOG average of vehicles sold in compliance with Massachusetts' LEV program would be so low that the LEV program would not reduce emissions at least as much as would a CFFP.

Final Action

EPA is approving Massachusetts LEV program as a substitute for a Clean Fuel Fleet program, as submitted by the state on November 15, 1993 and May 11, 1994, pursuant to sections 177 and 182(c)(4)(B) of the Clean Air Act.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future document will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years. The US EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the Commonwealth is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410 (a)(2).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 3, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Note: Incorporation by reference of the State Implementation Plan for the Commonwealth of Massachusetts was approved by the Director of the Federal Register on July 1, 1982.

Dated: December 19, 1994.

John P. DeVillars,

Regional Administrator, Region I.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart W—Massachusetts

2. Section 52.1120 is amended by adding paragraph (c)(103) to read as follows:

§ 52.1120 Identification of plan.

* * * * * *

(c) * * *

(103) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on November 15, 1993 and May 11, 1994, substituting the California Low Emission Vehicle program for the Clean Fuel Fleet program.

(i) Incorporation by reference.

(A) Letters from the Massachusetts Department of Environmental Protection

dated November 15, 1993 and May 11, 1994, submitting a revision to the Massachusetts State Implementation Plan which substitutes the California Low Emission Vehicle program for the Clean Fuel Fleet program.

(B) A regulation dated and effective January 31, 1992, entitled ''U Low Emission Vehicle Program'', 310 CMR 7.40.

(C) Additional definitions to 310 CMR 7.00 ''Definitions'' (dated and effective 1/31/92) to carry out the requirements set forth in 310 CMR 7.40.

(ii) Additional materials.

(A) Additional nonregulatory portions of the submittal.

3. Table 52.1167 of § 52.1167 is amended by adding new entries to existing state citation for 310 CMR 7.00, ''Definitions''; and by adding new state citation for 310 CMR 7.40, ''U Low Emission Vehicles'', to read as follows:

§ 52.1167 EPA-approved Massachusetts State regulations.

* * * * *

TABLE 52.1167.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date submitted by State	Date approved by EPA	Federal Register citation	52.1120 (c)	Comments/unapproved sections
*	*	*	*	*	*	*
310 CMR 7.00	Definitions	11/15/93 05/11/94	February 1, 1995	[Insert *FR* citation from published date].	103	Approving additional definitions for.
*	*	*	*	*	*	*
310 CMR 7.40	Low emission vehicle.	11/15/93 05/11/94	February 1, 1995	[Insert *FR* citation from published date].	103	Substitute for CFFP.
*	*	*	*	*	*	*

[FR Doc. 95–2491 Filed 1–31–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 80

[AMS–FRL–5148–4]

Regulation of Fuels and Fuel Additives: Standards for Reformulated and Conventional Gasoline

AGENCY: Environmental Protection Agency.

ACTION: Partial withdrawal of final rule.

SUMMARY: On July 20, 1994, EPA published a direct final rule (DFRM) which made minor corrections, clarifications, and revisions to various provisions in the final reformulated gasoline rule which was published on February 16, 1994. EPA is withdrawing certain portions of the DFRM, because adverse or critical comments were received by the Agency, or an opportunity to submit such comments at a public hearing was requested for those specific portions. EPA is only withdrawing from the DFRM those items which have been specifically addressed in those adverse comments. The portions of the DFRM withdrawn by EPA concern individual baseline adjustments based on production of JP–4 jet fuel and changes to the valid range limits for RVP under the Simple Model. All other changes noted in the July 20, 1994 DFRM will go into effect on September 19, 1994.

EFFECTIVE DATE: This action is effective January 26, 1995.

ADDRESSES: Materials directly relevant to the direct final rule are contained in Public Docket A–94–30, located at Room M–1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460. Other materials relevant to the reformulated gasoline final rule are contained in Public Dockets A–91–02 and A–92–12 The docket may be inspected from 8:00 a.m. until 4:00 p.m. Monday through Friday. As provided in 40 CFR part 2, a reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Joann Jackson Stephens, USEPA (RDSD–12), Regulation Development and Support Division, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 668–4276. To request copies of this document contact: Delores Frank, U.S. EPA (RDSD–12), Regulation Development and Support Division, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 668–4295.

SUPPLEMENTARY INFORMATION: The DFRM published by EPA on July 20, 1994 made a number of changes to EPA's regulations for reformulated and conventional gasoline. EPA issued a direct final rule because the changes it contained were generally minor in nature and were expected to be non-controversial. The DFRM allowed the Agency to finalize such changes in an expeditious and timely manner. For instance, many of the changes clarified issues relevant to the development and auditing of individual baselines which were to be submitted no later September 1, 1994. Likewise, since the reformulated gasoline program will commence on December 1, 1994, the clarifications and changes contained in the direct final rule promote successful implementation of the reformulated gasoline and anti-dumping programs.

Since a number of the changes to the final rule were not insubstantial, EPA provided a 30-day comment period in which comments on specific items could be submitted or a public hearing requested. EPA also announced that it would withdraw from the direct final rule those items that were adversely commented on. This would have the effect of re-activating the regulatory provisions for those items in the final rule for reformulated gasoline promulgated on December 15, 1993 and published in the **Federal Register** on February 16, 1994 (59 FR 7715).

The Agency has received adverse comments on just a few of the changes in the direct final rule. The comments themselves can be found in Public Docket A–94–30. Each of the specific items addressed in the comments is being withdrawn from the DFRM by today's action, which is effective immediately. All items that were not adversely commented on will go into effect on September 19, 1994.

A copy of this action is available on the EPA's Office of Air Quality Planning and Standards (OAQPS) Technology Transfer Network Bulletin Board System (TTNBBS). The service is free of charge, except for the cost of the phone call. Users are able to access and download TTN files on their first call. The TTNBBS can be accessed with a dial-in

phone line and a high-speed modem per the following information.

TTN BBS: 919–541–5742 (1200–14400 bps, no parity, 8 data bits, 1 stop bit)
Voice Helpline: 919–541–5384
Also accessible via Internet: TELNET ttnbbs.rtpnc.epa.gov
Off-line: Mondays from 8:00 AM to 12:00 Noon ET

When first signing on, the user will be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following series of menus:

<T> GATEWAY TO TTN TECHNICAL AREAS (Bulletin Boards)
<M> OMS
<K> Rulemaking and Reporting
<3> Fuels
<9> Reformulated gasoline

A list of ZIP files will be shown, all of which are related to the reformulated gasoline rulemaking process. To download any file, type the instructions below and transfer according to the appropriate software on your computer:

<D>ownload, <P>rotocol, <E>xamine, <N>ew, <L>ist, or <H>elp
Selection or <CR> to exit: D *filename.zip*

You will be given a list of transfer protocols from which you must choose one that matches with the terminal software on your own computer. The software should then be opened and directed to receive the file using the same protocol. Programs and instructions for de-archiving compressed files can be found via <S>ystems Utilities from the top menu, under <A>rchivers/de-archivers. After getting the files you want onto your computer, you can quit the TTN BBS with the <G>oodbye command. Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

The remainder of this preamble is organized into the following sections:

I. Withdrawal of Change to JP–4 to Gasoline Production Ratio
II. Withdrawal of JP–4 Adjustment Multi-Refinery Requirement
III. Withdrawal of Change to the Valid Range Limits for RVP under the Simple Model

I. Withdrawal of Change to JP–4 to Gasoline Production Ratio

EPA received comments from Shell Oil Company, Phillips 66 Company, and Chevron USA Products Company objecting to the change of the 1990 JP–4 to gasoline production ratio from 0.5 to 0.2. A discussion of EPA's perspective on this regulatory provision was presented in Section IV, Part B.2 of the DFRM preamble. See 59 FR 36944 (July 20, 1994). For the most part, commenters expressed the belief that the selection of the 0.2 JP–4 to gasoline production ratio was arbitrary. In addition, EPA was faulted with disregarding the significant economic and competitive impact of redefining the ratio on those refiners with ratios falling below 0.2. In fact, most commenters supported allowing baseline adjustments for all refiners that produced JP–4 in 1990, thereby eliminating the need for a JP–4 to gasoline ratio altogether.

Since commenters objected to the change in specifying this ratio, as announced in the DFRM, EPA is withdrawing the action in the July DFRM which lowered the 1990 JP–4 to gasoline production ratio to 0.2. The 0.2 ratio will not go into effect on September 19th. The criteria for an adjustment to an individual baseline based on production of JP–4 will include a 1990 JP–4 to gasoline production ratio of 0.5, as was promulgated in the December 1993 final regulations for reformulated gasoline.

II. Withdrawal of JP–4 Adjustment Multi-Refinery Requirement

A. Withdrawal of Relaxation of the Requirement That All Refineries in an Aggregate Produced JP–4 in 1990

In August, EPA received comments from Chevron USA Products Company regarding the revised JP–4 adjustment appearing in the July DFRM. In addition to the JP–4 to gasoline production ratio, Chevron objected to the change in the multiple refinery requirement discussed in Preamble Section VI.B.1. See 59 FR 36944 (July 20, 1994). Chevron argued in their comments that the combined provisions for the JP–4 adjustment (ratio and multi-refiner requirement) were designed to benefit a certain class of refiners and thereby providing that class of refiners with competitive advantages not offered to all refiners.

The DFRM would have altered the regulations to allow utilization of the JP–4 adjustment for those refiners with multiple refineries (milti-refinery refiner) regardless of whether or not each of their refineries produced JP–4 in 1990. The DFRM revised provision was intended to treat refiners who produced JP–4 equally regardless of whether or they owned more than one refinery. Since the Agency received a critical comment on the revised multiple refinery provision in the DFRM, EPA is now withdrawing that provision. The requirement for multi-refinery refiner reverts to the original provision contained in the December 1993 final reformulated gasoline rule. Therefore, baseline adjustments are only allowed for multi-refinery refiners where each of a refiner's refineries produced JP–4 in 1990.

B. Withdrawal of the Requirement for an Aggregate JP–4 Production Ratio Calculation

The July DFRM also contained a provision which would have required refiners of multiple refineries to average their 1990 JP–4 production to 1990 gasoline production ratio across all of their refineries. See 59 FR 36944 (July 20, 1994). The Agency received adverse comments on this provision from Chevron and Pennzoil. While Chevron did not specifically mention objections to this element of the multi-refinery requirement promulgated in the DFRM, the Agency understands Chevron's critical comments as applying equally to each component of the DFRM multi-refinery requirement. Pennzoil objected to the DFRM's requirement to average the JP–4 to gasoline production ratio over all a refiner's refineries (in essence an aggregate ratio) if the ratio reverts back to 0.5 as promulgated in the December 1993 RFG final regulations. Pennzoil claimed that the combination of the higher, more stringent ratio threshold (0.5) and the more restrictive requirement to calculate across all of a multi-refiner's refineries would eliminate the meaningful relief to JP–4 producers.

Since EPA received adverse comments on those provisions, it is withdrawing those regulatory provisions receiving negative comments. Today's action withdraws the July DFRM JP–4 adjustment multiple refinery provisions. The multiple refinery provisions in § 80.91(e)(7) remain as promulgated in the December 1993 reformulated gasoline final rule.

III. Withdrawal of Change to the Valid Range Limits for RVP Under the Simple Model

In August, the American Automobile Manufacturers Association (AAMA) submitted comments to the Agency which objected to the change in the low end valid range for RVP under the Simple Model. Their concern is that low RVP fuels might have high driveability indices (DIs). According to AAMA, high DI fuels produce higher vehicle emissions and poor customer satisfaction. As explained in their comments, unlike the Complex Model, the Simple Model does not limit distillation temperatures and the promulgated extension of the RVP valid

range could allow production of fuels with low volatility and a high DI.

EPA's July DFRM provision would have revised the low end of the valid range for RVP under the Simple Model to 6.4 psi, from 6.6 psi. The Agency made this alteration to the regulations to make the low end of the valid range for RVP consistent throughout Phase I of the federal reformulated gasoline program, and provide additional flexibility for refiners to complement the already established blending and enforcement tolerances. However, since AAMA submitted comments which are critical of the Agency's Simple Model valid range revision before the August 19th deadline, EPA is withdrawing the revised provision. The low end valid range RVP limit under the Simple Model remains 6.6 psi, as was promulgated in the December 1993 reformulated gasoline regulations.

Therefore the amendments to § 80.91(e)(7) (the altered JP–4 multi-refinery requirement and the lower 1990 JP–4 to gasoline production ratio) and to § 80.42 table in paragraph (c)(1) (altering the lower limit RVP valid range in the simple model) appearing at 59 FR 36944 (July 20, 1994), which were to become effective September 19, 1994 are hereby withdrawn.

It is important to note that EPA's withdrawal of these regulatory changes is not based on EPA's agreement or disagreement with the adverse comments received. The withdrawal is based solely on EPA's determination, announced in the DFRM, that these changes would go into effect as a direct final rule only if no persons submitted adverse comments or requested an opportunity to comment. EPA is reviewing comments and is currently developing a notice of proposed rulemaking that will address the regulatory changes withdrawn by this notice.

EPA is withdrawing these provisions to the reformulated and conventional gasoline regulations without providing prior notice and an opportunity to comment because it finds there is good cause within the meaning of 5 U.S.C. 553(b) to do so. Notice and comment would be impracticable, as EPA needs to withdraw these changes quickly as they go into effect on September 19, 1994. In addition further notice is not necessary as EPA has already informed the public it would follow this procedure if adverse or critical comments were received within 30 days of the publication of the DFRM. For the same reasons, EPA finds it has good cause under 5 U.S.C. 533(b) to make this withdrawal immediately effective.

IV. Statutory Authority

The statutory authority for this action is granted to EPA by Sections 114, 211(c) and (k) and 301 of the Clean Air Act, as amended; 42 U.S.C. 7414, 7545(c) and (k), and 7601.

List of Subjects in 40 CFR Part 80

Envrironmental protection, Air pollution control, Fuel additives, Gasoline, Motor vehicle pollution.

Dated: January 26, 1995.

Carol M. Browner,

Administrator.

40 CFR part 80 is amended as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Sections 114, 211 and 301(a) of the Clean Air Act as amended, 42 U.S.C. 7414, 7545 and 7601(a).

2. In § 80.42, the table in paragraph (c)(1) is revised to read as follows:

§ 80.42 Simple emissions model.

* * * * *

(c) * * *

(1) * * *

Fuel parameter	Range
Benzene content	0–4.9 vol %
RVP	6.6–9.0 psi
Oxygen content	0–4.0 wt %
Aromatics content	0–55 vol %

* * * * *

3. In § 80.91, paragraph (e)(7)(i)(D) is removed and paragraphs (e)(7)(i)(A) and (e)(7)(i)(C) are revised to read as follows:

§ 80.91 Individual baseline determination.

* * * * *

(e) * * *

(7) * * *

(i) * * *

(A) The refinery is the only refinery of a refiner such that it cannot form an aggregate baseline with another refinery (per paragraph (f) of this section) or all of the refineries of a refiner produced JP–4 in 1990 and each of the refineries also meets the requirements specified in paragraphs (e)(7)(i) (B) and (C) of this section.

* * * * *

(C) The ratio of the refinery's 1990 JP–4 production to its 1990 gasoline production equals or exceeds 0.5.

* * * * *

[FR Doc. 95–2435 Filed 1–31–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 180

[OPP–300365A; FRL–4932–1]

RIN 2070–AB78

FD & C Yellow No. 6 Aluminum Lake, 2-[(2'-Hydroxy-5'-Methylphenyl)Benzotriazole and Octadecyl 3,5-Di-Tert-Butyl-4-Hydroxyhydrocinnamate; Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes exemptions from the requirement of a tolerance for residues of FD & C Yellow No. 6 Aluminum Lake (CAS Reg. No. 15790-07-5), 2-(2'-hydroxy-5'-methylphenyl)-benzotriazole (CAS Reg. No. 2440-22-4), and octadecyl 3,5-di-tert-butyl-4-hydroxyhydrocinnamate (CAS Reg. No. 2082-79-3) when used as inert ingredients (components of ear tags and similar slow-release devices) in pesticide formulations applied to animals. Y-Tex Corp. requested this regulation.

EFFECTIVE DATE: This regulation becomes effective February 1, 1995.

ADDRESSES: Written objections, identified by the document control number, [OPP-300365A], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing request to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

FOR FURTHER INFORMATION CONTACT: By mail: Kerry B. Leifer, Registration Support Branch, Registration Division (7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Westfield Building North, 6th Fl., 2800 Crystal Drive, Arlington, VA 22202, (703)-308-8323.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 10, 1994

(59 FR 56027), EPA issued a proposed rule that gave notice that Y-Tex Corp. P.O. Box 1450, 1825 Big Horn Ave., Cody, WY 82414, had submitted a pesticide petition to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(d) by establishing exemptions from the requirement of a tolerance for residues of FD & C Yellow No. 6 Aluminum Lake (CAS Reg. No. 15790-07-5), 2-(2'-hydroxy-5'-methylphenyl)benzotriazole (CAS Reg. No. 2440-22-4), and octadecyl 3,5-di-tert-butyl-4-hydroxyhydrocinnamate (CAS Reg. No 2082-79-3) when used as inert ingredients (components of ear tags and similar slow-release devices) in pesticide formulations applied to animals.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted relevant to the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance exemptions will protect the public health. Therefore, the tolerance exemptiona are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register,** file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a ''significant regulatory action'' as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations or recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not ''significant'' and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 23, 1995.

Lois Rossi,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(e) is amended in the table therein by adding and alphabetically inserting the inert ingredients, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
* * *	*	* * *
FD & C Yellow No. 6 Aluminum Lake (CAS Reg. No. 15790-07-5).	Not more than 2% by weight of pesticide formulation.	Pigment in animal tag and similar slow-release devices.
* * *	*	* * *
2-(2'-Hydroxy-5'-methylphenyl)-benzotriazole (CAS Reg. No. 2440-22-4).	Not more than 0.5% by weight of pesticide formulation.	Ultraviolet light absorber/stabilizer in animal tag and similar slow-release devices.

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Octadecyl 3,5-di-tert-butyl-4-hydroxyhydrocinnamate (CAS Reg. No. 2082-79-3.	Not more than 0.5% by weight of pesticide formulation.	Thermal stabilizer/antioxidant in animal tag and similar slow-release devices.
* * *	* * *	* * *

[FR Doc. 95–2441 Filed 1–31–95; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7610]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The effective date of each community's suspension is the third date (''Susp.'') listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street SW., Room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 et seq., unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 et seq. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Deputy Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Deputy Associate Director has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. .3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region III				
Pennsylvania:				
Masontown, borough of, Fayette County	422572	July 9, 1975, Emerg.; September 4, 1991, Reg.; February 2, 1995, Susp.	2–2–95	February 2, 1995.
Briar Creek, borough of, Columbia County.	420340	August 31, 1973, Emerg.; August 15, 1979, Reg.; February 16, 1995, Susp.	2–16–95	February 16, 1995.
Upper Dublin, township of, Montgomery County.	420708	August 18, 1972, Emerg.; January 3, 1979, Reg.; February 16, 1995, Susp.	2–16–95	Do.
Region V				
Indiana: Allen County, unincorporated areas	180302	February 14, 1974, Emerg.; September 28, 1990, Reg.; February 16, 1995, Susp.	2–16–95	Do.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein—Reinstatement; Susp.—Suspension.

(Catalog of Federal Domestic Assistance No. 83–100, ''Flood Insurance'')

Issued: January 26, 1995.

Frank H. Thomas,

Deputy Associate Director, Mitigation Directorate.

[FR Doc. 95–2457 Filed 1–31–95; 8:45 am]

BILLING CODE 6718–21–P

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44 CFR Part 64

[Docket No. FEMA–7609]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATE: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street SW., room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive

Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date
New Eligibles—Emergency Program			
Missouri: Dalton, village of, Chariton County	290464	December 2, 1994	December 13, 1974.
New Eligibles—Regular Program			
Florida: DeBary, city of, Volusia County [1]	120672	May 14, 1971, Emerg.; November 23, 1973, Reg	
North Carolina: Holly Springs, town of, Wake County.	370403	December 23, 1994, Reg	March 3, 1992.
Reinstatements—Regular Program			
Pennsylvania: Lower Chichester, township of, Delaware County.	421604	October 9, 1974, Emerg.; September 22, 1979, Reg.; September 3, 1992, Susp.; December 6, 1994, Rein.	September 30, 1993.
Minnesota: Dakota, city of, Winona County	270526	August 21, 1974, Emerg.; June 15, 1982, Reg.; June 15, 1982, Susp.; December 8, 1994, Rein.	June 15, 1992.
Alabama: Russell County, unincorporated areas	010287	February, 25 1976, Emerg.; September 16, 1981, Reg.; September 16, 1981, Susp.; December 28, 1994, Rein.	September 16, 1981.
Regular Program Conversions—Region IV			
Tennessee:			
Bartlett, city of, Shelby County	470175	December 2, 1994, suspension withdrawn	December 2, 1994.
Collierville, town of, Shelby County	470263	.....do	Do.
Germantown, city of, Shelby County	470353	.....do	Do.
Region V			
Illinois:			
Arlington Heights, village of, Cook and Lake Counties.	170056	.....do	Do.
Michigan:			
Marquette, city of, Marquette County	260716	.....do	Do.
Region V			
Illinois:			
Grundy County, unincorporated areas	170256	December 15, 1994, suspension withdrawn	December 15, 1994.
Region VI			
Oklahoma:			
Osage County, unincorporated areas	400146	.....do	Do.

[1] This is a newly incorporated community, eligible 12–5–94, that was participating in the Regular Program as an unincorporated area of Volusia County (125155). The City has adopted the County's Flood Insurance Rate Map (FIRM), Flood Insurance Study (FIS) and ordinances for flood insurance and floodplain management purposes. (FIRM Panels 465, 475, 580 and 585).

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension, Rein.—Reinstatement. (Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: January 23, 1995.

Frank H. Thomas,

Deputy Associate Director, Mitigation Directorate.

[FR Doc. 95–2456 Filed 1–31–95; 8:45 am]

BILLING CODE 6718–21–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 950111010–5010–01; I.D. 103194B]

Prohibition on the Intentional Lethal Take of Marine Mammals in Commercial Fishing Operations

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

ACTION: Final rule.

SUMMARY: The Marine Mammal Protection Act Amendments of 1994 established in section 118 a new management regime for the taking of marine mammals incidental to commercial fishing operations. Among other things, section 118 prohibits the intentional lethal taking of marine mammals in the course of commercial fishing operations. In partial implementation of section 118, NMFS amends the interim exemption currently in effect under section 114 to make the prohibition on intentional lethal takings fully applicable to all commercial fishing operations. All other provisions of the interim exemption remain in effect until superseded by further regulations.

EFFECTIVE DATE: March 3, 1995.

ADDRESSES: Chief, Marine Mammal Division, Office of Protected Resources, F/PR, National Marine Fisheries Service (NMFS), 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Dean Wilkinson, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1994, at 59 FR 63324, NMFS proposed a rule to prohibit the intentional lethal taking of marine mammals in the course of commercial fishing operations. The proposed rule provided an exception if such taking is imminently necessary in self-defense or to save the life of another person. The notice of proposed rulemaking requested comments and contained a discussion of the background for the proposed rule. The background is not repeated here.

This rule implements section 118(a)(5) of the Marine Mammal Protection Act (MMPA). It prohibits the intentional lethal take of marine mammals in the course of commercial fishing operations. An exception is provided for an intentional lethal take imminently necessary in self-defense or to save the life of another person in immediate danger. If a marine mammal is killed in self-defense or to save the life of another person, a report must be made to the appropriate NMFS Regional Office within 48 hours after the conclusion of the fishing trip.

In the notice of proposed rulemaking, NMFS announced that it intended to make January 1, 1995, the effective date for the final rule. In order to allow time to notify fishers, however, the effective date is delayed until 30 days after the date of publication in the **Federal Register**.

Comments and Responses

Comments were received from the U.S. Fish and Wildlife Service, Carmel River Steelhead Association, the Center for Marine Conservation, Earth Island Institute, the Humane Society of the United States, Maine Aquaculture Association, Salmon for All, and 23 private individuals. Fifteen commenters supported the proposed rule. Thirteen commenters opposed the proposed rule. Two commenters neither supported nor opposed the proposed rule. Specific comments are addressed below:

Comment: There is no compelling reason that this one provision of the section 118 amendment should be adopted at this time. This action is clearly in opposition to Congress' intent that the entire section 118 amendment be adopted collectively.

Response: There is nothing in the statutory language or in either the House or Senate Reports (House Report 103–439 and Senate Report 103–220) that indicates that all of section 118 is to be implemented simultaneously.

There is evidence that since the passage of the 1994 amendments to the MMPA, the intentional lethal taking of marine mammals has occurred at levels greater than historic levels. For example, one marine mammal rehabilitation facility reports that 31 California sea lions were admitted after being shot between May 1 and November 1, 1994. The same facility admitted a total of 37 pinnipeds that had been shot in the 8-year period prior to 1992. An acceleration in the rate of intentional lethal takes over historic levels is contrary to the intent of Congress to prohibit the intentional lethal take of marine mammals in the course of commercial fishing.

In addition, there have been indications that allowing the intentional lethal take of certain species may result in the intentional lethal taking of other species whose intentional lethal take is prohibited. Although it is not certain that fishers were responsible, an event in March 1993 illustrates this problem. In a relatively short period of time, 58 dead pinnipeds washed onto beaches on the central Washington coast. Nine of the animals were Steller sea lions. Of 34 animals that were fresh enough for examination, 32 had been shot including eight of the nine Steller sea lions—three of which were pregnant. The intentional lethal taking of Steller sea lions is prohibited under the MMPA, and the species is listed as threatened under the Endangered Species Act. It is possible that the similarity of Steller sea lions to other pinniped species, whose intentional lethal take is allowed, was responsible for individuals assuming that it was legal to kill them.

Given the above, the availability of nonlethal means of deterring marine mammals from gear and catch, and the fact that section 118(a)(5) of the MMPA requires that NMFS implement the prohibition on intentional lethal takes of marine mammals in connection with commercial fishing by no later than September 30, 1995, implementation of the statutory provision at this time is warranted.

Comment: The deadline for response to the proposed rule should be extended to 40 days. Fifteen days provides little opportunity to disseminate information to those who may be interested in commenting on the rule.

Response: NMFS is implementing section 118(a)(5) of the MMPA. The statutory language is explicit, and NMFS has no discretion as to the substantive content of the rule. As indicated in the previous response, there is reason to believe that intentional lethal takings of marine mammals are occurring at levels above historic levels and that allowing the intentional lethal take of some species may result in the taking of threatened species. Given this, a 15-day comment period was deemed sufficient.

Comments were received through day 27 from the date of the publication of the notice of proposed rulemaking, and all comments received were considered.

Comment: Several commenters opposed to the rule noted that, particularly on the west coast, fishers had a significant amount of their catch taken by pinnipeds. They also noted that populations of harbor seals and California sea lions have increased substantially since the passage of the MMPA and that natural predators such as bears, wolves, and cougars are no longer present. Some commenters pointed out that west coast salmonid runs have been seriously depleted, and that a number of populations either have been listed under the Endangered Species Act or are being considered for listing. The commenters provided information that pinnipeds prey on such runs. Two commenters provided documentation of the number of steelhead and coho in the Monterey, CA area with scars and wounds that appeared to be caused by marine mammals.

Response: As pointed out above, the statutory language does not provide NMFS with the discretion to allow the intentional lethal take of marine mammals in the course of commercial fishing operations other than to protect human life. The rule does not affect the ability of persons involved in such fisheries to use nonlethal deterrence methods.

Other provisions of the 1994 amendments to the MMPA address this issues. Section 120(f) of the MMPA requires NMFS to prepare a report to determine whether California sea lions and Pacific harbor seals are having a significant negative impact on the recovery of salmonid stocks. Although NMFS has no discretion in this rulemaking, the information submitted on this issue will be provided to the individuals drafting this report.

Further, sections 120(a) through (d) of the MMPA provide a procedure whereby a state may apply to NMFS to authorize intentional lethal take of individually identifiable pinnipeds

which are having a significant negative impact on the decline or recovery of salmonid stocks that have been listed under the Endangered Species Act or are approaching threatened or endangered species status. If authority to intentionally lethally take individually identifiable pinnipeds is granted, section 120(c)(4) requires that the taking be performed by Federal or state agencies, or by qualified individuals under contract to such agencies. However, it does not provide NMFS with the discretion to authorize intentional lethal taking in the course of commercial fishing operations.

Comment: Marine mammals that have learned to raid nets for their food can be extremely aggressive. Protecting oneself from threatening marine mammal behavior should not place the fisherman or woman in violation of the law.

Response: The rule contains an exception to the prohibition on intentional lethal takes for circumstances when the killing of a marine mammal is imminently necessary in self-defense or to save the life of another person in immediate danger. If a marine mammal is taken under such circumstances, the individual involved is required to report the taking to the appropriate NMFS Regional Office within 48 hours of the conclusion of the fishing trip.

Comment: It should be noted in the preamble to the rule that the section 101(c) exception allowing intentional lethal take to protect human life also provides the Secretary of Commerce (and for species under the jurisdiction of the Department of the Interior, the Secretary of the Interior) the authority to seize and dispose of any carcass.

Response: As part of the implementation of the 1994 amendments to the MMPA , NMFS intends to propose specific regulations to cover the section 101(c) exception. Those regulations will incorporate the provision allowing, but not requiring, the Secretary to seize and dispose of any carcass. As the commenter noted, this provision also applies to commercial fishing operations, and the point is well taken. Because of the nature of fisheries, such animals may never come into the possession of a fisher or may be discarded before a fishing trip is completed. In instances when a carcass is retained, the Secretary has statutory authority to confiscate and dispose of it. Because such instances are likely to be uncommon, language will not be added to this regulation, but will appear in the more generic regulation implementing the section 101(c) exception for intentional lethal taking to protect human safety.

Comment: The draft stock assessment sets potential biological removal (PBR) for western north Atlantic harbor seals at 864 animals. The small number of animals currently taken by intentional means to protect aquaculture facilities will have a negligible impact on the stock.

Response: With the exception of the section 101(c) provision noted above, the MMPA states that the intentional lethal taking of marine mammals in the course of commercial fishing operations is prohibited. Therefore, the question of whether the lethal removal of a specified number of animals is beneath the PBR level is irrelevant. The concept of PBR was developed in order to assist in managing incidental, i.e., unintentional, taking of marine mammals in commercial fisheries.

Comment: The Gulf of Maine Pinniped-Fishery Interaction Task Force mandated under section 120(h) has not been set up yet. The Task Force might recommend intentional lethal take as an option. In addition, the guidelines for nonlethal deterrence are not yet in effect.

Response: NMFS has made initial contacts concerning members of the Task Force, and the Task Force should be formalized by the time that this rule becomes effective. Nevertheless, the Task Force report is not due until the end of April 1996. Even if the Task Force were to recommend that intentional lethal takes be allowed, a statutory change would be required before such a recommendation could be implemented. Similarly, the draft guidelines on nonlethal take should be available soon. Although the guidelines are not yet in place, the section 114 interim exemption and its authorization for nonlethal deterrence remain valid. Until deterrence guidelines are issued, participants in commercial fisheries may continue to use all nonlethal deterrence methods that are currently used.

Comment: The promulgation of this regulation will result in the loss of millions of dollars to the salmon aquaculture industry because of harbor seal predation on salmon in net pens. NMFS cannot justify the statement that the proposed rule ''would not have a significant impact on a substantial numbers of small entities.''

Response: Since 1989, owners of salmon net pens have been subject to the requirement contained in the 1988 amendments to the MMPA (Pub. L. 100–711) that all lethal takes—whether intentional or unintentional—be reported to NMFS within 10 days. During that period, only three intentional lethal takes have been reported by participants in the salmon aquaculture industry—one harbor seal in 1991 and two gray seals in 1993. While NMFS recognizes that there may have been a degree of underreporting, there is no documentation of a level of interaction between harbor seals and net pens of the magnitude that would be necessary to support the argument that prohibition of intentional lethal takes would result in the loss of millions of dollars to this fishery.

Comment: Two comments were received concerning gear practices. The comments dealt with issues more properly in the area of fishery management than the proposed rule. One commenter stated that an exception to the prohibition should be extended to hook and line fishermen, and fishing with nets should be totally banned. The second stated that as a recreational fisherman, he had been unable to catch fish because trawlers and net gears had devastated populations of such fish as haddock, cod, and yellowtail flounder. The commenter stated that there should be a partial ban on commercial fishing during certain times of the year.

Response: The statutory language does not permit an exception for specific types of fisheries. The comments on specific gear types are not within the scope of this rulemaking and should more properly be addressed to the Fishery Management Councils responsible for regulating specific fisheries.

Classification

This final rule has been determined to be not significant for purposes of E.O. 12866. Because NMFS is unable to consider alternatives to the statutory mandate, the preparation of an environmental assessment under the National Environmental Policy Act is not required, and none has been prepared.

List of Subjects in 50 CFR Part 229

Administrative practice and procedure, Confidential business information, Fisheries, Marine mammals, Reporting and recordkeeping requirements.

Dated: January 27, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 229 is amended as follows:

PART 229—INTERIM EXEMPTION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972

1. The authority citation for part 229 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

2. Section 229.2 paragraph (k) is revised to read as follows:

§ 229.2 Definitions.

* * * * *

(k) *Incidental take* means the intentional nonlethal or accidental taking of a marine mammal in the course of commercial fishing operations.

* * * * *

3. Section 229.4 is amended by revising paragraphs (b)(2) introductory text, (b)(2)(i)(B), and by adding paragraph (b)(2)(iii) to read as follows:

§ 229.4 Prohibitions.

* * * * *

(b) * * *

(2) Under this part 229, except as provided under paragraph (b)(2(iii) of this section, it is unlawful to:

(i)(A) * * *

(B) Intentionally lethally take any marine mammal.

* * * * *

(iii) If a taking under paragraph (b)(2)(i)(A) of this section or paragraph (b)(2)(i)(B) of this section is imminently necessary in self-defense or to save the life of a person in immediate danger, it is not an unlawful activity, provided that the taking is reported to the appropriate Regional Office of the National Marine Fisheries Service within 48 hours after the end of the fishing trip during which the taking occurs.

* * * * *

4. Section 229.6 is amended by revising the third sentence of paragraph (c)(2)(i), removing paragraph (c)(6), and redesignating paragraphs (c)(7) through (c)(10) as paragraphs (c)(6) through (c)(9), respectively, to read as follows:

§ 229.6 Issuance of Exemption Certificates.

* * * * *

(c) * * *

(2) * * *

(i) * * * Marine mammal report/log forms require information on: The fishery, fishing effort, gear type, and fish species involved; the marine mammal species (or description of the animal(s), if species is not known), number, date, and location of marine mammal incidental takes; type of interaction and any injury to the marine mammal; a description of any intentional takes (i.e., efforts to deter animals by nonlethal means to protect gear or catch or efforts to protect human life involving either lethal or nonlethal means); and any loss of fish or gear caused by marine mammals. * * *

* * * * *

5. Section 229.7 is amended by revising the last sentence of paragraph (b), removing paragraph (e), and redesignating paragraph (f) as paragraph (e) to read as follows:

§ 229.7 Requirements for Category III Fisheries.

* * * * *

(b) * * * The report must include information on: The fishery, fishing effort, gear type, and fish species involved; the marine mammal species (or description of the animal(s), if species is not known), number, date, and location of all lethal incidental takes; a description of any intentional lethal take to protect human life; and any loss of fish or gear caused by marine mammals.

* * * * *

[FR Doc. 95–2495 Filed 1–31–95; 8:45 am]

BILLING CODE 3510–22–F

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50 CFR Part 663

[Docket No. 950126029–5029–01; I.D. 011095A]

RIN 0648–AH80

Pacific Coast Groundfish Fishery; Emergency Rule to Extend the Application Period To Renew Permits for 1995

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

ACTION: Emergency rule; request for comments.

SUMMARY: NMFS issues this emergency rule to amend the implementing regulations for the Pacific Coast Groundfish Fishery Management Plan (FMP) to provide an additional 4 months during which limited entry permit owners may apply for permit renewals for 1995. This action is necessary to rectify an administrative requirement that is overly restrictive for the first year of permit renewals in the limited entry fishery. The intended effect of this rule is to allow continued participation in the Pacific Coast groundfish fishery by permit owners who failed to apply for a permit renewal by November 30, 1994.

DATES: Effective January 27, 1995 through May 2, 1995. Comments will be accepted through March 3, 1995.

ADDRESSES: Submit comments to William Stelle, Jr., Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN-C15700, Seattle, WA 98115–0070; or Hilda Diaz-Soltero, Director Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213. Documentation supporting this emergency action is available at the Northwest Regional Office, NMFS, at the address above.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at (206) 526–6140; or Rodney McInnis at (310) 980–4030. For further information on application procedures, phone (206) 526–4353.

SUPPLEMENTARY INFORMATION: NMFS issues this emergency rule under the authority of section 305(c)(1) of the Magnuson Fishery Conservation and Management Act (Magnuson Act). An emergency rule that changes a fishery management plan is treated as an amendment to such plan for the period during which such regulation is in effect.

The Pacific Fishery Management Council (Council) prepared, and NMFS approved and implemented, an amendment (Amendment 6) to the FMP, that established a limited entry program for the Pacific Coast groundfish fishery off the coasts of Washington, Oregon, and California. Final regulations implementing the limited entry program were published on November 16, 1992 (57 FR 54001) and the program went into effect on January 1, 1994.

The final regulations, at 50 CFR 663.41(c), require permits to be renewed each year between October 1 and November 30, in order to remain in force the following year. In addition, 50 CFR 663.41(c)(3) specifies that a limited entry permit that is allowed to expire will not be renewed unless the Northwest Region, NMFS, Fisheries Management Division determines that failure to renew was proximately caused by the illness, injury, or death of the permit holder.

Amendment 6, section 4.10, provided the following rationale as to why the administrative procedures should be so rigid:

> As initially worded, the draft license limitation program of Amendment 6 provided no means by which the number of permits with 'A' endorsements might be reduced through attrition. A vessel could leave the fishery without transferring the permit to another vessel, and a number of years later the permit could be resurrected

and effort reintroduced. The Council requested an option be developed such that, if a permit holder failed to maintain continuous interest in participating in the fishery, as evidenced by annual permit renewal, the permit would expire. In this way, when attrition occurs, i.e., someone discontinues interest in the fishery without transferring the access rights to someone else, that attrition may be 'locked in' and the permit may not be brought back 'on-line' at a later date.

Section 14.3.5 of Amendment 6, specified very limited exceptions to the timely permit renewal requirement: ''With respect to permit renewal, only illness, injury or death of one of the vessel owners will be considered good cause.''

NMFS has determined that this administrative requirement is overly restrictive for the program's first annual renewal period. During such period, some permit owners may not have been aware of the need to renew by November 30, 1994, or the penalty for failing to do so. Permanent loss of the permit is too severe a consequence for a late renewal application the first year.

NMFS has determined that it is necessary to provide immediate relief from the overly restrictive administrative requirements at 50 CFR 663.41(c)(3) and to allow permit owners to continue to fish in 1995. All permit owners, even those who failed to submit their first annual renewal by November 30, 1994, demonstrated substantial participation in the Pacific Coast groundfish fishery by meeting initial permit issuance qualifications. Ensuring an opportunity for each permit holder's continued participation is consistent with the goals and objectives of the FMP. In the absence of an amendment to the regulations, permit owners who applied for permit renewal late or whose permits were not renewed by November 30, could lose their permits forever and face a potential loss of livelihood. Allowing the extra time for renewal does not frustrate the program's ultimate goal of ''locking in'' attrition, because permit owners still need to renew within a reasonable period of time.

Under this emergency rule, a permit owner who did not apply for limited entry permit renewal by November 30, 1994, has until March 31, 1995, to submit a request for annual renewal. If NMFS approves the renewal, the permit shall be reissued for the remainder of 1995.

Classification

NMFS has determined that this rule is necessary to respond to an emergency situation and is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator for Fisheries, NOAA, finds that the reasons justifying implementation of this rule on an emergency basis are good cause not to provide prior notice and opportunity for public comment under section 553(b) of the Administrative Procedure Act (APA). NMFS has determined that limiting the period for applying for a permit renewal to 2 months in this first year of the limited entry program is unnecessarily restrictive. In order to allow fishermen, who otherwise would forgo their fishing opportunities in 1995, to renew their permits and fish early in 1995, and to keep their permits from permanently expiring, NMFS has determined it is impracticable and contrary to provide prior notice and opportunity for public comment. Further, pursuant to section 553(d)(1) of the APA, these emergency regulations are being made effective on filing because they relieve a restriction.

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

No environmental assessment was prepared under the provisions of the National Environmental Policy Act because this rule makes a minor change and is within the scope of the Supplemental Environmental Impact Statement prepared for the limited entry plan (Amendment 6 to the FMP).

This emergency rule is in compliance with the Paperwork Reduction Act. This rule will not increase the information collection burden of the existing limited entry permit program. The emergency rule does not alter the types of information required in a limited entry permit application, as approved by the Office of Management and Budget, OMB Control Number 0648–0203.

List of Subjects in 50 CFR Part 663

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 26, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 663 is amended as follows:

PART 663—PACIFIC COAST GROUNDFISH FISHERY

1. The authority citation for part 663 continues to read as follows:

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

2. In § 663.41, a new paragraph (c)(4) is added to read as follows:

§ 663.41 Limited entry permits.

* * * * *

(c) * * *

(4) Notwithstanding § 663.41(c)(1) and (3), limited entry permits that expired at the end of 1994 may be renewed after November 30, 1994, but not later than March 31, 1995, in order to remain in force during 1995.

* * * * *

[FR Doc. 95–2496 Filed 1–27–95; 4:51 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 21
Wednesday, February 1, 1995

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AG56

Prevailing Rate Systems; Change of Lead Agency Responsibility for the Birmingham, Alabama, Wage Area for Pay-Setting Purposes

AGENCY: Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing a proposed rule to change lead agency responsibility for the Birmingham, Alabama, Federal Wage System (FWS) wage area from the Department of Veterans Affairs to the Department of Defense for pay-setting purposes. This change would recognize the fact that DOD is now the major employer of FWS employees in the Birmingham, Alabama, FWS wage area.

DATES: Comments must be received on or before March 3, 1995.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Acting Assistant Director for Compensation Policy, Personnel Systems and Oversight Group, Office of Personnel Management, Room 6H31, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Angela Graham Humes, (202) 606–2848.

SUPPLEMENTARY INFORMATION: The Department of Veterans Affairs (VA) is the lead agency for the Birmingham, Alabama, Federal Wage System (FWS) wage area. VA has requested that the Department of Defense (DOD) assume lead agency responsibility for the Birmingham, Alabama, wage survey. DOD has more FWS employees in the Birmingham, Alabama, wage area than any other agency and is willing to assume responsibility as lead agency for the next full-scale wage survey scheduled to begin in January 1996. With VA's recent agreement to assume lead agency responsibility for the New York, New York, wage area survey in January 1996, VA's Central Office no longer has the resources to continue managing the Birmingham survey. The Federal Prevailing Rate Advisory Committee reviewed this proposed change and by consensus recommended approval.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

Accordingly, the Office of Personnel Management is proposing to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

2. Appendix A to subpart B is amended for Birmingham, Alabama, by revising the lead agency listing from ''VA'' to DoD''.

[FR Doc. 95–2413 Filed 1–31–95; 8:45 am]
BILLING CODE 6325–01–M

5 CFR Part 532

RIN 3206–AG52

Prevailing Rate Systems; Change of Lead Agency Responsibility for the New York, New York, Wage Area for Pay-Setting Purposes

AGENCY: Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing a proposed rule to change the lead agency responsibility for the New York, New York, Federal Wage System (FWS) wage area from the Department of Defense to the Department of Veterans Affairs for pay-setting purposes. This change would recognize the fact that VA is now the major employer of FWS employees in the New York, New York, FWS wage area.

DATES: Comments must be received on or before March 3, 1995.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Acting Assistant Director for Compensation Policy, Personnel Systems and Oversight Group, Office of Personnel Management, Room 6H31, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Angela Graham Humes, (202) 606–2848.

SUPPLEMENTARY INFORMATION: The Department of Defense (DOD) is the lead agency for the New York, New York, Federal Wage System (FWS) wage area, and Picatinny Arsenal is the host activity for the local FWS wage survey. FWS employment at Picatinny Arsenal, as well as employment within the entire wage area, has declined drastically since 1978. Additionally, while the impact on FWS employment is not yet known, Picatinny Arsenal is slated for realignment in 1997 under the recommendations of the Defense Base Closure and Realignment Commission. DOD has requested that the Department of Veterans Affairs (VA) assume lead agency responsibility for the New York, New York, wage survey. VA has more FWS employees in the New York, New York, wage area than any other agency and is willing to assume responsibility as lead agency for the next full-scale wage surveys scheduled to begin in January 1996. The Federal Prevailing Rate Advisory Committee has reviewed and concurred with this proposed change.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would affect only Federal agencies and employees

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

Accordingly, the Office of Personnel Management is proposing to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

2. Appendix A to subpart B is amended for New York, New York, by revising the lead agency listing from ''DoD'' to ''VA''.

[FR Doc. 95–2414 Filed 1–31–95; 8:45 am]

BILLING CODE 6325–01–M

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulations H and Y; Docket No. R–0870]

Capital; Capital Adequacy Guidelines

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is proposing to amend its capital adequacy guidelines for state member banks and bank holding companies (banking organizations) with regard to the regulatory capital treatment of certain transfers of assets with recourse. This amendment is being proposed to implement section 208 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Riegle Act). The proposed rule would have the effect of lowering the capital requirement for small business loans and leases on personal property that have been transferred with recourse by qualifying banking organizations.

DATES: Comments must be received on or before February 27, 1995.

ADDRESSES: Comments, which should refer to Docket No. R–0870, may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551. Comments also may be delivered to Room B–2222 of the Eccles building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street, N.W. (between Constitution Avenue and C Street) at any time. Comments may be inspected in Room MP–500 of the Martin Building between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding availability of information.

FOR FURTHER INFORMATION CONTACT: Rhoger H. Pugh, Assistant Director (202/728–5883); Norah Barger, Manager (202/452–2402); Thomas R. Boemio, Supervisory Financial Analyst (202/452–2982); or David A. Elkes, Financial Analyst (202/452–5218), Division of Banking Supervision and Regulation. Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452–3544), Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Background

The Board's current regulatory capital guidelines are intended to ensure that banking organizations that transfer assets and retain the credit risk inherent in those assets maintain adequate capital to support that risk. For banks, this is generally accomplished by requiring that assets transferred with recourse continue to be reported on the balance sheet in their regulatory reports. Thus, these assets are included in the calculation of banks' risk-based and leverage capital ratios. For bank holding companies, transfers of assets with recourse are reported in accordance with generally accepted accounting principles (GAAP). GAAP treats most such transactions as sales, allowing the assets to be removed from the balance sheet.[1] For purposes of calculating bank holding companies' risk-based capital ratios, however, assets sold with recourse that have been removed from the balance sheet in accordance with GAAP are included in risk-weighted assets. Accordingly, banking organizations are generally required to maintain capital against the full amount of assets transferred with recourse.

Section 208 of the Riegle Act, which Congress enacted last year, directs the federal banking agencies to revise the current regulatory capital treatment applied to depository institutions engaging in recourse transactions that involve small business obligations. Specifically, the Riegle Act states that a qualifying insured depository institution that sells small business loans and leases on personal property with recourse need include only the amount of retained recourse in its asset base when calculating its capital ratios, provided two conditions are met. First, the transaction must be treated as a sale under GAAP and, second, the depository institution must establish a non-capital reserve sufficient to meet the institution's reasonably estimated liability under the recourse arrangement. The aggregate amount of recourse retained in accordance with the provisions of the Act may not exceed 15 percent of an institution's total risk-based capital or a greater amount established by the appropriate federal banking agency. The Act also states that the preferential capital treatment set forth in section 208 is not to be applied for purposes of determining an institution's status under the prompt corrective action statute (section 38(b) of the Federal Deposit Insurance Act).

The Riegle Act defines a small business as a business that meets the criteria for a small business concern established by the Small Business Administration under section 3(a) of the Small Business Act.[2] The Riegle Act also defines a qualifying institution as one that is well capitalized or, with the approval of the appropriate federal banking agency, adequately capitalized, as these terms are set forth in the prompt corrective action statute. For purposes of determining whether an institution is qualifying, its capital ratios must be calculated without regard to the preferential capital treatment the Act sets forth for small business obligations.

Proposal

To implement the requirements of section 208 of the Riegle Act, the Board is proposing to amend its risk-based and leverage capital requirements for state member banks. While section 208 of the Act specifically applies only to insured depository institutions, and not to bank holding companies, the Board is also proposing to amend its risk-based capital guidelines for bank holding companies to reflect the requirements

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[1] The GAAP treatment focuses on the transfer of benefits rather than the retention of risk and, thus, allows a transfer of receivables with recourse to be accounted for as a sale if the transferor (1) surrenders control of the future economic benefits of the assets, (2) is able to reasonably estimate its obligations under the recourse provision, and (3) is not obligated to repurchase the assets except pursuant to the recourse provision. In addition, the transferor must establish a separate liability account equal to the estimated probable losses under the recourse provision (GAAP recourse liability account).

[2] See 15 U.S.C. 631 et seq. The Small Business Administration has enacted regulations setting forth the criteria for a small business concern at 13 CFR 121.101–121.2106. For most industry categories, the regulation defines a small business concern as one with 500 or fewer employees. For some industry categories, a small business concern is defined in terms of a greater or lesser number of employees or in terms of a specified threshold of annual receipts.

that section sets forth for banks.[3] This would maintain consistency between banks and bank holding companies with regard to the risk-based capital treatment of transfers of small business loans and leases of personal property with recourse. In general, the Board's proposal could significantly reduce the amount of capital that some banking organizations are required to hold against recourse transactions involving small business obligations.

Under the Board's proposal, for the general purpose of calculating risk-based and leverage capital ratios, qualifying institutions that transfer small business obligations with recourse would be required to maintain capital only against the amount of recourse retained, provided two conditions are met. First, the transaction must be treated as a sale under GAAP and, second, the transferring institutions must establish a non-capital reserve sufficient to meet the reasonably estimated liability under their recourse arrangements.

The Board's proposal would extend the preferential capital treatment for transfers of small business obligations with recourse only to qualifying institutions. A state member bank would be considered qualifying if, pursuant to the Board's prompt corrective action regulation (12 CFR 208.30), it is well capitalized or, by order of the Board, adequately capitalized.[4] Although bank holding companies are not subject to the prompt corrective action regulation, they would be considered qualifying under the Board's proposal if they meet the criteria for well capitalized or, by order of the Board, for adequately capitalized as those criteria are set forth for banks in that regulation. A qualifying institution must be determined to be well capitalized or adequately capitalized without taking into consideration the preferential capital treatment the proposal provides for transfers of small business obligations with recourse.

The Board is also proposing that the total outstanding amount of recourse retained by qualifying banking organizations on transfers of small business obligations receiving the preferential capital treatment cannot exceed 15 percent of the institution's total risk-based capital. By order, the Board may approve a higher limit. If a banking organization is no longer qualifying, *i.e.*, becomes less than well capitalized, or has met the established limit, it could not apply the preferential capital treatment to any new transfers of small business loans and leases of personal property with recourse. Such types of transfers completed while the institution was qualifying or before it met the established limit, however, would continue to receive the preferential capital treatment.

In accordance with section 208 of the Riegle Act, the Board is proposing, that for purposes of determining a state member bank's capital category under the Board's prompt corrective action regulation, its risk-based and leverage capital ratios shall be calculated without taking into consideration the preferential capital treatment the proposal provides for transfers of small business obligations with recourse.

The Board expects that this preferential capital treatment also would not be applied for purposes of determining limitations on an institution's ability to borrow from the discount window, which is tied to its prompt corrective action status. In addition, the Board will consider whether the preferential capital treatment should be disregarded for purposes of determining an institution's ability to accept interbank liabilities. The relevant regulation sets limits on institutions that are not adequately capitalized, a term the regulation states is similar to, but not identical to, the definition of that term under the prompt corrective action regulation. A decision on whether the preferential capital treatment would be taken into account for purposes of determining an institution's ability to accept brokered deposits and the amount of its risk-based insurance premiums is to be made by the FDIC. The regulations governing these matters employ the prompt corrective action categories.

The Board is seeking comments on all aspects of this proposal.

Regulatory Flexibility Act

The purpose of this proposal is to reduce the regulatory capital requirement on transfers with recourse of small business loans and leases of personal property. Therefore, pursuant to section 605(b) of the Regulatory Flexibility Act, the Board hereby certifies that this rule, as proposed, would not have a significant economic impact on a substantial number of small business entities (in this case, small banking organizations). Accordingly, a regulatory flexibility analysis is not required. The risk-based capital guidelines generally do not apply to bank holding companies with consolidated assets of less than $150 million; thus, the proposed rule would not affect such companies.

Paperwork Reduction Act and Regulatory Burden

The Board has determined that this proposed rule will not increase the regulatory paperwork burden of banking organizations pursuant to the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Pub. L. 103–325, 108 Stat. 2160) provides that the federal banking agencies must consider the administrative burdens and benefits of any new regulations that impose additional requirements on insured depository institutions.

List of Subjects

12 CFR Part 208

Accounting, Agriculture, Banks, banking, Confidential business information, Crime, Currency, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Securities.

12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR parts 208 and 225 as set forth below:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for part 208 continues to read as follows:

[3] The Board is not proposing to amend the leverage capital guidelines for bank holding companies since all transfers with recourse that are treated as sales under GAAP are already removed from a transferring bank holding company's balance sheet and, thus, are not included in the calculation of its leverage ratio.

[4] Under 12 CFR 208.30, a state member bank is deemed to be well capitalized if it: (1) Has a total risk-based capital ratio of 10.0 percent or greater; (2) has a Tier 1 risk-based capital ratio of 6.0 percent or greater; (3) has a leverage ratio of 5.0 percent or greater; and (4) is not subject to any written agreement, order, capital directive or prompt corrective action directive issued by the Board pursuant to section 8 of the FDI Act, the International Lending Supervision Act of 1983, or section 38 of the FDI Act or any regulation thereunder, to meet and maintain a specific capital level for any capital measure.

A state member bank is deemed to be adequately capitalized if it: (1) Has a total risk-based capital ratio of 8.0 or greater; (2) has a Tier 1 risk-based capital ratio of 4.0 percent or greater; (3) has a leverage ratio of 4.0 percent or greater or a leverage ratio of 3.0 percent or greater if the bank is rated composite 1 under the CAMEL rating system in its most recent examination and is not experiencing or anticipating significant growth; and (4) does not meet the definition of a well capitalized bank.

Authority: 12 U.S.C. 36, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1823(j), 1828(o), 1831o, 1831p–1, 3105, 3310, 3331–3351 and 3906–3909; 15 U.S.C. 78b, 78l(b), 78l(g), 78l(i), 78o–4(c)(5), 78q, 78q–1 and 78w; 31 U.S.C. 5318.

2. In Part 208, Appendix A, section III.B. is amended by adding a new paragraph 5. to read as follows:

Appendix A to Part 208—Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure

* * * * *

III.* * *

B.* * *

5. *Small Business Loans and Leases on Personal Property Transferred with Recourse.*

a. Notwithstanding other provisions of this Appendix A, a qualifying bank that has transferred small business loans and leases on personal property with recourse need include in weighted-risk assets only the amount of retained recourse in lieu of the outstanding amount of the loans and leases transferred with recourse, provided two conditions are met. First, the transaction must be treated as a sale under GAAP and, second, the bank must establish a non-capital reserve sufficient to meet the bank's reasonably estimated liability under the recourse arrangement. Only loans and leases to businesses that meet the criteria for a small business concern established by the Small Business Administration under section 3(a) of the Small Business Act are eligible for this capital treatment.

b. For purposes of this Appendix A, qualifying banks are those that are well capitalized or, by order of the Board, adequately capitalized. The definitions of well capitalized and adequately capitalized are found in the Board's prompt corrective action regulation (12 CFR 208.30). For purposes of determining whether a bank is qualifying, its capital ratios must be calculated *without regard* to the capital treatment for transfers of small business obligations with recourse specified in section III.B.5.a. of this Appendix A. The total outstanding amount of recourse retained by qualifying banking organizations on transfers of small business obligations receiving the preferential capital treatment cannot exceed 15 percent of the institution's total risk-based capital. By order, the Board may approve a higher limit.

c. For purposes of determining whether a bank is adequately capitalized, undercapitalized, significantly undercapitalized, or critically undercapitalized under prompt corrective action (12 CFR 208.30), the risk-based capital ratio of the bank shall be determined *without regard* to the capital treatment of transfers of small business obligations with recourse specified in section III.B.5.a. of this Appendix A.

* * * * *

3. In Part 208, Appendix B, section II is amended by revising paragraph c. and adding new paragraphs d., e., and f.

Appendix B to Part 208—Capital Adequacy Guidelines for State Member Banks: Tier 1 Leverage Measure

* * * * *

II. * * *

c. Notwithstanding other provisions of this Appendix B, a qualifying bank that has transferred small business loans and leases on personal property with recourse may adjust its average total consolidated assets, for purposes of calculating its tier 1 leverage ratio, to include only the amount of retained recourse in lieu of the outstanding amount of the loans and leases transferred with recourse, provided two conditions are met. First, the transaction must be treated as a sale under GAAP and, second, the bank must establish a non-capital reserve sufficient to meet the bank's reasonably estimated liability under the recourse arrangement. Only loans and leases to businesses that meet the criteria for a small business concern established by the Small Business Administration under section 3(a) of the Small Business Act are eligible for this capital treatment.

d. For purposes of this Appendix B, qualifying banks are those that are well capitalized or, by order of the Board, adequately capitalized. The definitions of well capitalized and adequately capitalized are found in the Board's prompt corrective action regulation (12 CFR 208.30). For purposes of determining whether a bank is qualifying, its capital ratios must be calculated *without regard* to the capital treatment for transfers of small business obligations with recourse specified in section II.c. of this Appendix B. The total outstanding amount of recourse retained by qualifying banks on transfers of small business obligations receiving the preferential capital treatment cannot exceed 15 percent of the institution's total risk-based capital. By order, the Board may approve a higher limit.

e. For purposes of determining whether a bank is adequately capitalized, undercapitalized, significantly undercapitalized, or critically undercapitalized under prompt corrective action (12 CFR 208.30), the leverage capital ratio of the bank shall be determined *without regard* to the capital treatment of transfers of small business obligations with recourse specified in section II.c. of this Appendix B.

f. Whenever appropriate, including when a bank is undertaking expansion, seeking to engage in new activities, or otherwise facing unusual or abnormal risks, the Board will continue to consider the level of an individual bank's tangible tier 1 leverage ratio (after deducting all intangibles) in making an overall assessment of capital adequacy. This is consistent with the Federal Reserve's risk-based capital guidelines and long-standing Board policy and practice with regard to leverage guidelines. Banks experiencing growth, whether internally or by acquisition, are expected to maintain strong capital positions substantially above minimum supervisory levels, without significant reliance on intangible assets.

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(l), 3106, 3108, 3310, 3331–3351, 3907, and 3909.

2. In part 225, Appendix A, section III.B. is amended by adding a new paragraph 5. to read as follows:

Appendix A to Part 225—Capital Adequacy Guidelines for Bank Holding Companies: Risked-Based Measure

* * * * *

III. * * *

B. * * *

5. *Small Business Loans and Leases on Personal Property Transferred with Recourse.*

a. Notwithstanding other provisions of this Appendix A, a qualifying banking organization that has transferred small business loans and leases on personal property with recourse need include in weighted-risk assets only the amount of retained recourse in lieu of the outstanding amount of the loans and leases transferred with recourse, provided two conditions are met. First, the transaction must be treated as a sale under GAAP and, second, the banking organization must establish a non-capital reserve sufficient to meet the organization's reasonably estimated liability under the recourse arrangement. Only loans and leases to businesses that meet the criteria for a small business concern established by the Small Business Administration under section 3(a) of the Small Business Act are eligible for this capital treatment.

b. For purposes of this Appendix A, qualifying banking organizations are those that meet the criteria for well capitalized or, by order of the Board, adequately capitalized. The criteria for well capitalized and adequately capitalized are found in the Board's prompt corrective action regulation for state member banks (12 CFR 208.30). For purposes of determining whether an organization is qualifying, its capital ratios must be calculated *without regard* to the capital treatment for transfers of small business obligations with recourse specified in section III.B.5.a. of this Appendix A. The total outstanding amount of recourse retained by qualifying banking organizations on transfers of small business obligations receiving the preferential capital treatment cannot exceed 15 percent of the institution's total risk-based capital. By order, the Board may approve a higher limit.

* * * * *

By order of the Board of Governors of the Federal Reserve System, January 26, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–2415 Filed 1–31–95; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Docket No. 27581; Notice No. 94–1]

Regulatory Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability.

SUMMARY: This notice announces completion of the 1994 Presidential Regulatory Review and the availability of a Final Report/Summary and Disposition of Comments. The FAA initiated a regulatory review in response to recommendations of the National Commission to Ensure a Strong Competitive Airline Industry, the National Performance Review, and Department of Transportation and FAA regulatory initiatives. The purpose of the review was to obtain and evaluate public comment on current regulations that could be amended or eliminated consistent with the agency's safety and security responsibilities.

ADDRESSES: A copy of the 1994 Presidential Review Final Report/Summary and Disposition of Comments may be obtained from the FAA Office of Rulemaking, Room 302, 800 Independence Avenue SW., Washington, DC 20591. A copy of the report's summary has been placed in the Aviation Rulemaking Advisory Committee (ARAC) bulletin board. The ARAC bulletin board is free to the public, and can be accessed by dialing (202) 267–5948.

FOR FURTHER INFORMATION CONTACT: Judi Citrenbaum, ARM–106, Airmen and Airspace Rules Division, (202) 267–9689 or Carolina Forrester, ARM–206, Aircraft and Airport Rules Division, (202) 267–9690.

SUPPLEMENTARY INFORMATION: In response to a notice in the **Federal Register** (59 FR 1362, January 10, 1994) requesting the public to identify undue or unnecessary regulations, the agency received, from all sectors of the aviation public, 426 recommendations from 184 commenters.

Each comment was thoroughly reviewed. The results of the FAA's review, as well as a summary of each comment received in response to the **Federal Register** notice, are presented in the 1994 Presidential Regulatory Review, Final Report, Summary and Disposition of Comments.

Several of the recommendations relate to safety concerns that are the subject of ongoing rulemakings and, wherever possible, the agency has taken steps to expedite these rulemaking actions. Readers of the report should note, however, that this report was completed prior to the January 9–10, 1995, Aviation Safety Conference in Washington, DC. At that conference a number of additional safety recommendations were made by the public, actions in response to which may not be accurately reflected in this report. Members of the public who are interested in the exact status or disposition of a particular rule or suggestion should, therefore, contact the FAA to ensure that they have the most up to date information.

Issued in Washington, DC on January 26, 1995.

David R. Hinson,

Administrator.

[FR Doc. 95–2367 Filed 1–27–95; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 94–CE–27–AD]

Airworthiness Directives; Twin Commander Aircraft Corporation 685, 690, and 695 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Twin Commander Aircraft Corporation (Twin Commander) 685, 690, and 695 series airplanes. The proposed action would require initially inspecting the vertical stabilizer for cracks, modifying any cracked vertical stabilizer, and, if not cracked, either repetitively inspecting or modifying the vertical stabilizer. Several reports of the vertical stabilizer cracking in different areas prompted the proposed action. The actions specified by the proposed AD are intended to prevent failure of the vertical stabilizer as a result of cracking, which, if not detected and corrected, could result in loss of control of the airplane.

DATES: Comments must be received on or before April 9, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–CE–27–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from the Twin Commander Aircraft Corporation, 19010 59th Drive, N.E., Arlington, Washington 98223. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Pasion, Aerospace Engineer, FAA, Northwest Mountain Region, 1601 Lind Avenue S.W., Renton, Washington 98055–4056; telephone (206) 227–2594; facsimile (206) 227–1181.

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–CE–27–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–CE–27–AD, Room

1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received several reports of damaged vertical stabilizers on certain Twin Commander Models 685, 690, 690A, 690B, 690C, 690D, 695, and 695A airplanes. Specifically, these reports include: cracks in the lower ribs, wrinkles and cracks in the skin near the lower ribs, cracked spar clips between the lower ribs and the rear spar, and cracks in the upper relief cutouts of the Fuselage Station 409.56 bulkhead.

Twin Commander has issued Service Bulletin (SB) No. 218, dated May 19, 1994, including Revision Notices 1 and 2, dated July 11, 1994, and September 23, 1994, respectively. This service information specifies procedures for inspecting and modifying the vertical stabilizer.

After examining the circumstances and reviewing all available information related to the incidents described above, including the referenced service information, the FAA has determined that AD action should be taken to prevent failure of the vertical stabilizer as a result of cracking, which, if not detected and corrected, could result in loss of control of the airplane.

Since an unsafe condition has been identified that is likely to exist or develop in other Twin Commander Models 685, 690, 690A, 690B, 690C, 690D, 695, and 695A airplanes, the proposed AD would require initially inspecting the vertical stabilizer for cracks, modifying any cracked vertical stabilizer, and, if not cracked, either repetitively inspecting or modifying the vertical stabilizer. The proposed actions would be accomplished in accordance with Twin Commander SB No. 218, dated May 19, 1994, including Revision Notices 1 and 2, dated July 11, 1994, and September 23, 1994, respectively.

The FAA estimates that 469 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 10 workhours per airplane to accomplish the proposed inspection, and that the average labor rate is approximately $60 an hour. Parts to accomplish the proposed inspection cost approximately $200 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $375,200. This figure does not take into account the cost of repetitive inspections or the cost of any modifications that may be needed based on the inspection results. The FAA has no way of determining how many vertical stabilizers may be cracked and need modification, or how many repetitive inspections each owner/operator may incur.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

Twin Commander Aircraft Corporation: Docket No. 94–CE–27–AD.

Applicability: The following airplane models and serial numbers, certificated in any category that have not modified the vertical stabilizer in accordance with the ACCOMPLISHMENT INSTRUCTIONS: PART II—MODIFICATION section of Twin Commander Service Bulletin (SB) No. 218, dated May 19, 1994, including Revision Notices 1 and 2, dated July 11, 1994, and September 23, 1994, respectively:

Model	Serial Nos.
685	12000 through 12066.
690	11000 through 11079.
690A	11100 through 11344.
690B	11350 through 11566.
690C	11600 through 11735.
690D	15001 through 15042.
695	95000 through 95084.
695A	96001 through 96100.

Compliance: Required upon the accumulation of 2,000 hours time-in-service (TIS) on a vertical stabilizer or within the next 50 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished, and thereafter as indicated in the body of this AD.

To prevent failure of the vertical stabilizer as a result of cracks, which, if not detected and corrected, could result in loss of control of the airplane, accomplish the following:

(a) Inspect the vertical stabilizer for cracks in accordance with the ACCOMPLISHMENT INSTRUCTIONS: PART I—INSPECTION section of Twin Commander SB No. 218, dated May 19, 1994, including Revision Notices 1 and 2, dated July 11, 1994, and September 23, 1994, respectively.

(b) If damage or cracks are found within the limits of Figures 1 and 2 of the service information referenced above, prior to further flight, modify the vertical stabilizer in accordance with the ACCOMPLISHMENT INSTRUCTIONS: PART II—MODIFICATION section of Twin Commander SB No. 218, dated May 19, 1994, including Revision Notices 1 and 2, dated July 11, 1994, and September 23, 1994, respectively.

(c) If damage or cracks are found outside the limits referenced in Figures 1 and 2 of the service information referenced above or if cracks intersect, prior to further flight, replace the damaged parts with new parts in accordance with the applicable maintenance manual instructions. The requirements of this AD still apply when the damaged parts are replaced, unless the stabilizer is modified as specified in paragraph (b) of this AD.

(d) If no cracks are found, accomplish one of the following:

(1) Reinspect at intervals not to exceed 500 hours TIS, and modify any damaged or cracked vertical stabilizer as specified in paragraphs (b) and (c) of this AD; or

(2) Prior to further flight, modify the vertical stabilizer in accordance with the ACCOMPLISHMENT INSTRUCTIONS: PART II—MODIFICATION section of Twin Commander SB No. 218, dated May 19, 1994, including Revision Notices 1 and 2, dated July 11, 1994, and September 23, 1994, respectively.

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

(f) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Northwest Mountain Region, 1601 Lind Avenue S.W., Renton, Washington 98055–4056. The

request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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

(g) All persons affected by this directive may obtain copies of the document referred to herein upon request to the Twin Commander Aircraft Corporation, 19003 59th Drive, NE., Arlington, Washington 98223; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on January 26, 1995.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–2407 Filed 1–31–95; 8:45 am]

BILLING CODE 4910–13–U

POSTAL SERVICE

39 CFR Part 111

Shipper Paid Forwarding for Fourth-Class Mail

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes to provide fourth-class mailers with an option to pay for the nonlocal forwarding of machinable fourth-class mail when participating in automatic electronic address correction service. Those mailers requested this option to the current forwarding standards so that, if they choose, they can pay for the nonlocal forwarding of their customers' catalogs, books, merchandise and other fourth-class matter. The intended effects of this option are to increase mailer satisfaction with fourth-class mail; increase customer satisfaction by reducing the need to charge them postage-due for forwarded fourth-class mail, and for them to travel to the post office to get such pieces; and improve service by facilitating fewer handlings for such mail both in processing and in delivery.

DATES: Comments on the proposed rule must be received on or before March 3, 1995.

ADDRESSES: Mail or deliver written comments to the Manager, Parcels, Product Management, 475 L'Enfant Plaza SW., Room 5142, Washington, DC 20260–2408. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 5142, at the above address.

FOR FURTHER INFORMATION CONTACT: Stephanie Tolson, (202) 268–3149.

SUPPLEMENTARY INFORMATION: Currently parcels, catalogs, books, merchandise, etc., sent to customers who have moved outside their local area are forwarded to the new address, postage due. The applicable amount, based on the mailpiece's classification, weight, and the delivery zone of the new address, is collected from the recipient. Depending upon the customer's availability at time of delivery, the package may be: (1) Accepted and the postage collected, (2) refused and returned to the shipper requesting payment for the forwarding and return postage due and other applicable fees, (3) returned to the post office for re-delivery or customer pickup, or (4) disposed of by the Postal Service.

Fourth-class mailers have requested that the USPS provide an option to this forwarding standard so that mailers can, if they choose, pay for nonlocal forwarding of their customers' parcels, catalogs, books, merchandise, etc.

In view of these requests, the Postal Service and the fourth-class mailing industry jointly developed a proposal to meet the needs of large fourth-class shippers to provide nonlocal forwarding for mail sent to their customers. This optional service has been designated Shipper Paid Forwarding (SPF) and, as proposed, will operate through the existing electronic Address Change Service (ACS). As a result, SPF will be available only to mailers participating in ACS. Further, because of the limitations of the current ACS system, SPF will be offered at this time only for machinable parcels (*i.e.*, parcels that are not subject to a nonmachinable surcharge if mailed at inter-BMC parcel post rates). The Postal Service will consider modifying the ACS system in the future to accommodate SPF for nonmachinable parcels if there is sufficient customer demand.

As designed, SPF will allow the Postal Service to use the electronic systems developed for ACS and will piggyback on the existing fee billing and collection feature of ACS. Automatic electronic ACS notification will be provided for each forwarded package, subject to the ACS change notification fee (currently $0.20 per notice). Shippers will be able to use corrected address information immediately upon receipt to update mailing files and avoid additional forwarding charges.

Participating ACS/SPF mailers will be required to provide the weight of the package in pound or half-pound increments (as appropriate for the rate claimed) and indicate the rate category of the mailpiece. This information will be imbedded as the first 4 characters of the customer information keyline. Based on the current ACS keyline, the ACS/SPF keyline is located in the address block and consists of 4 to 16 characters (excluding spaces and delimiters), set off by pound sign (#) delimiters. In addition to the 4 characters of required postal information, up to 12 characters may be used for customer information, the last position serving as a check digit. (The required single-character rate category codes will be provided to authorized SPF participants.) For example, the keyline on a 2.5-pound piece of basic bulk bound printed matter (code B) would begin as #025B, followed (if used by the mailer) by the individual customer information, a check digit, and a closing # delimiter.

This proposed rule provides for an application and authorization process for ACS and for SPF. Upon approval of a new ACS/SPF application for this service, the mailer will be assigned a new 7-character ACS participation code specifically for use with SPF. Current ACS users must also request a new participation code to use the SPF service option. The ACS participation code must be preceded by a # delimiter.

An authorized ACS mailer must place the endorsement ''Forwarding and Return Postage Guaranteed, Address Correction Requested'' and the correct keyline on each mailpiece for which SPF is requested. (A separate identifier code may be maintained and used by the mailer for pieces on which only ACS service is desired. The Postal Service will provide ACS or SPF, and charge the corresponding fees, based on the mailer's choice of codes.) As proposed, SPF will provide forwarding for 1 year from the date that the recipient filed a change of address, and return (postage due) to the sender for 6 months more (*i.e.*, for months 13 through 18 after the addressee's move). Customers receiving SPF packages will see a message on the USPS-applied forwarding label reading ''FORWARDING POSTAGE PAID BY MAILER.'' The mailer will receive an electronic bill from the Postal Service's St. Louis Information Services Support Center that includes both forwarding postage and address correction notice fees. Other standards applicable to the forwarding, return, and address correction of fourth-class mail remain in force.

In conjunction with this proposal, the USPS also announces a change in the ACS frequency in F030.2.2 from ''weekly or monthly'' to ''as requested by the mailer,'' reflecting the USPS

ability to provide ACS participants with address change information more frequently than as stated in the current standards.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comments on the following proposed revisions of the DMM, incorporated by reference in the Code of Federal Regulations. See 39 CFR part 111.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following units of the Domestic Mail Manual as noted below:

F010 Basic Information

* * * * *

5.0 TREATMENT OF CLASSES OF MAIL

* * * * *

5.4 Fourth-Class Mail

* * * * *

Mailer endorsement	USPS action
No Endorsement	Forwarded locally at no charge; out of town, as postage-due. If undeliverable or addressee refused to pay postage, mailpiece returned with new address or reason for nondelivery, subject to forwarding (where attempted) and return postage.
Do Not Forward, Do Not Return	No forwarding or return service provided; mailpiece disposed of by USPS.
Forwarding and Return Postage Guaranteed.	Forwarded locally at no charge; out of town, as postage-due. If undeliverable or addressee refused to pay postage, mailpiece returned with new address or reason for nondelivery, subject to forwarding (where attempted) and return postage.
Forwarding and Return Postage Guaranteed, Address Correction Requested (1).	Pieces from ACS Shipper Paid Forwarding participants: Forwarded locally and out of town at no charge to addressee. If forwarded, separate address-correction notice provided, subject to address-correction fee and (if forwarded out of town) forwarding postage (billed to mailer). If mailpiece undeliverable, mailpiece returned with new address or reason for nondelivery, subject to return postage. Other pieces: Forwarded locally at no charge; out of town, as postage-due. If forwarded, separate address-correction notice provided, subject to address-correction fee. If mailpiece undeliverable or addressee refused to pay postage, mailpiece returned with new address or reason for nondelivery, subject to forwarding (where attempted) and return postage.
Do Not Forward, Do Not Return, Address Correction Requested (2).	No forwarding or return service provided; separate address-correction notice provided, subject to address-correction fee; mailpiece disposed of by USPS.
Do Not Forward, Address Correction Requested, Return Postage Guaranteed (3).	No forwarding service provided; mailpiece returned with new address or reason for nondelivery, subject to return postage.

(1) The authorized abbreviation for this endorsement is ''Forward & Address Correction.'' This abbreviation is authorized where the full endorsement cannot be accommodated.

(2) The authorized abbreviation for this endorsement is ''Do Not Forward or Return—Address Cor.'' This abbreviation is authorized where the full endorsement cannot be accommodated.

(3) The authorized abbreviation for this endorsement is ''Do Not Forward—Address Cor— Return Guar.'' This abbreviation is authorized where the full endorsement cannot be accommodated.

* * * * *

6.0 ENCLOSURES OR ATTACHMENTS

* * * * *

6.3 Fourth-Class

Undeliverable, unendorsed fourth-class mail with nonincidental First-Class Mail attachments or enclosures is forwarded, if requested by mailer endorsement, or returned at the applicable single-piece fourth-class rate. The weight of the First-Class attachment or enclosure is not included when computing the charges for return of the mailpiece. Undeliverable, unendorsed fourth-class mail with incidental First-Class attachments or enclosures is returned at the applicable single-piece fourth-class rate.

* * * * *

F020 Forwarding

* * * * *

3.0 POSTAGE FOR FORWARDING

* * * * *

3.6 Fourth-Class

Fourth-class mail is subject to the collection of additional postage at the applicable rate for nonlocal forwarding if guaranteed by the sender or recipient. Unless endorsed ''Do Not Forward, Do Not Return,'' all fourth-class mail is delivered as directed without additional postage charged when the old and new addresses are served by the same post office. The addressee may refuse any piece of forwarded fourth-class mail without losing the right to have other fourth-class mail forwarded. If the addressee does not want to pay forwarding postage for all fourth-class mail, the addressee must ask the postmaster of the new address to use Form 3546 to notify the postmaster of the old address to discontinue the forwarding of fourth-class mail. (Such a request will not affect the forwarding of fourth-class mail sent by SPF participants, who pay forwarding postage under F030.)

* * * * *

F030 Address Correction, Address Change, and Return Services

* * * * *

2.0 ADDRESS CHANGE SERVICE (ACS)

2.1 Description

ACS centralizes, automates, and improves the processing of participating mailers' requests for address-correction information by unique publication or mailer identifier. Address-correction records are sequentially organized by USPS-assigned codes and distributed to each participating mailer.

2.2 Shipper Paid Forwarding (SPF)

An option available to ACS participants, SPF allows for the collection of forwarding and return postage from the sender by including those charges concurrently with ACS fees. Mail forwarded or returned under SPF remains subject to F010, F020, and 3.2. SPF may be requested only for parcels that, if mailed at inter-BMC parcel post rates, would not be subject to the nonmachinable surcharge. ACS/

SPF requires USPS authorization under 2.3 and mailer use of a unique ACS/SPF identifier as part of an address block keyline. The keyline mail must be left-justified (below the optional endorsement line, if used), and must begin with a pound sign (#) delimiter, followed by the 4-character code indicating the weight and rate category of the piece, up to 12 characters of optional customer information (the last of which is a check digit), and a closing # delimiter. (ACS participants must use the specific ACS/SPF identifier and keyline format to participate in ACS/SPF.) For information, write to USPS ACS/SPF, National Customer Support Center.

2.3 Availability of ACS and ACS/SPF

Where mail is marked with ACS symbols under M013, ACS and ACS/SPF are available to authorized mailers who maintain their address records on computers and whose mail bears the correct endorsement to obtain address correction and nonlocal fourth-class forwarding. ACS and ACS/SPF are available on the frequency requested by the mailer. Because ACS and ACS/SPF are associated with USPS-computerized forwarding operations, these services are not available at all post offices. Information about ACS or SPF (including application) is available from: USPS Address Change Service, National Customer Support Center.

[Renumber existing 2.3 and 2.4 as 2.4 and 2.5, respectively; no change in text]

* * * * *

3.0 SENDER INSTRUCTION

* * * * *

3.2 Special Services

* * * * *

e. Insured fourth-class mail without any other endorsement is forwarded at no charge locally and postage-due nonlocally if the recipient guarantees to pay forwarding postage. Insured fourth-class mail endorsed for ACS/SPF under 2.2 is forwarded at no charge to the addressee. (For forwarding, local means within the same post office.) If the article is undeliverable, the USPS returns it to the sender with the new address or the reason for nondelivery. The sender is charged for the return of the mailpiece and the attempted forwarding, when appropriate.

* * * * *

M013 Optional Endorsement Lines

* * * * *

2.0 FORMAT

2.1 Presort Identification

Except when an address block barcode is placed above the optional endorsement line, the appropriate presort identification must be the first line at the top of the address block or label. Mailers participating in Address Change Service (ACS), including ACS with or Shipper Paid Forwarding (SPF), under F030 may use the first eight positions on the left side of the optional endorsement line for the ACS or ACS/SPF participant code (see Exhibit 2.1). Third-class mailers participating in the EX3C or BBM/SPMS measurement system may use the first 14 positions on the left side of the optional endorsement line for the measurement system code specified by the USPS for that program.

* * * * *

2.4 Non-ACS, Non-EX3C, and Non-BBM/SPMS Labels

On labels not used with ACS (including ACS/SPF), EX3C, or BBM/SPMS, the optional endorsement line must be filled with asterisks from the left margin of the label or address block (as defined by the position of the first character printed in the address block or on the address label) up to the first character in the optional endorsement line.

2.5 ACS and ACS/SPF Labels

On labels used with ACS or ACS/SPF, the delimiter # must be in the first position at the left margin of the optional endorsement line, followed by the seven-character ACS or ACS/SPF participation code assigned by the USPS; the remaining space between the code and the first character of the makeup information must be filled with asterisks. The keyline required on ACS/SPF mail under F030 must be left-justified below the optional endorsement line.

* * * * *

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 95–2255 Filed 1–31–95; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA37–10–6602; FRL–5148–3]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Santa Barbara County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: EPA is proposing a limited approval and limited disapproval of a revision to the California State Implementation Plan (SIP) for ozone. The revision concerns the control of oxides of nitrogen (NO_X) from internal combustion (I/C) engines. The intended effect of proposing limited approval and limited disapproval of this rule is to regulate emissions of NO_X in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this notice of proposed rulemaking will incorporate this rule into the federally approved SIP. EPA has evaluated this rule and is proposing a simultaneous limited approval and limited disapproval under provisions of the CAA regarding EPA actions on SIP submittals and general rulemaking authority because these revisions, while strengthening the SIP, also do not fully meet the CAA provisions regarding plan submissions and requirements for nonattainment areas.

DATES: Comments on this proposed action must be received in writing on or before March 3, 1995.

ADDRESSES: Comments may be mailed to: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule revision and EPA's evaluation report of each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

Santa Barbara County Air Pollution Control District, Rule Development Section, 26 Castilian Drive B–23, Goleta, CA 93117.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812.

FOR FURTHER INFORMATION CONTACT: Wendy Colombo, Rulemaking Section

(A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1202.

SUPPLEMENTARY INFORMATION:

Background

On November 15, 1990, the Clean Air Act Amendments of 1990 (CAA) were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. The air quality planning requirements for the reduction of NO_X emissions through reasonably available control technology (RACT) are set out in section 182(f) of the CAA. On November 25, 1992, EPA published a NPRM entitled ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (the NO_X Supplement) which describes and provides preliminary guidance on the requirements of section 182(f). The November 25, 1992, notice should be referred to for further information on the NO_X requirements and is incorporated into this document by reference.

Section 182(f) of the Clean Air Act requires States to apply the same requirements to major stationary sources of NO_X (''major'' as defined in section 302 and sections 182 (c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOCs), in moderate or above ozone nonattainment areas. Santa Barbara County is classified as moderate;[1] therefore this area was subject to the RACT requirements of section 182(b)(2) and the November 15, 1992 deadline, cited below.

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC (and NO_X) emissions (not covered by a pre-enactment control technologies guidelines (CTG) document or a post-enactment CTG document) by November 15, 1992. There were no NO_X CTGs issued before enactment and EPA has not issued a CTG document for any NO_X sources since enactment of the CAA. The RACT rules covering NOx sources and submitted as SIP revisions, are expected to require final installation of the actual NO_X controls as expeditiously as practicable, but no later than May 31, 1995.

This document addresses EPA's proposed action for Santa Barbara County Air Pollution Control District (SBCAPCD), Rule 333, Control of Emissions from Reciprocating Internal Combustion Engines. SBCAPCD adopted Rule 333 on December 10, 1991. The State of California submitted the rule being acted on in this document on June 19, 1992. Rule 333 was found to be complete on August 27, 1992 pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51 Appendix V[2] and is being proposed for approval into the SIP.

NO_X emissions contribute to the production of ground level ozone and smog. Rule 333 controls emissions of NO_X, carbon monoxide (CO), and reactive organic compounds (ROC) from internal combustion engines in Santa Barbara County used in a wide variety of applications, but primarily at oil and gas production and processing facilities. The engines are used to power various types of industrial equipment such as oil well rod pumps, rock crushing equipment, conveyor belts, gas compressors, waste water treatment pumps, etc. Rule 333 was adopted as part of SBCAPCD's efforts to achieve the National Ambient Air Quality Standards (NAAQS) for ozone and in response to the CAA requirements cited above. The following is EPA's evaluation and proposed action for these rules.

EPA Evaluation and Proposed Action

In determining the approvability of a NO_X rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110, and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans). EPA's interpretation of these requirements, which forms the basis for this action, appears in the NO_X Supplement (57 FR 55620) and various other EPA policy guidance documents.[3] Among these provisions is the requirement that a NO_X rule must, at a minimum, provide for the implementation of RACT for major stationary sources of NO_X emissions.

For the purposes of assisting state and local agencies in developing NO_X RACT rules, EPA prepared the NO_X Supplement to the General Preamble. In the NO_X Supplement, EPA provides preliminary guidance on how RACT will be determined for stationary sources of NO_X emissions. While most of the guidance issued by EPA on what constitutes RACT for stationary sources has been directed towards application for VOC sources, much of the guidance is also applicable to RACT for stationary sources of NO_X (see section 4.5 of the NO_X Supplement). In addition, pursuant to section 183(c), EPA has issued alternative control technique documents (ACTs) that identify alternative controls for all categories of stationary sources of NO_X. The ACT documents provide information on control technology for stationary sources that emit or have the potential to emit 25 tons per year or more of NO_X. However, the ACTs will not establish a presumptive norm for what is considered RACT for stationary sources of NO_X. In general, the guidance documents cited above, as well as other relevant and applicable guidance documents, have been set forth to ensure that submitted NO_X RACT rules meet Federal RACT requirements and are fully enforceable and strengthen or maintain the SIP.

Rule 333 applies to existing and new I/C engines with rated brake horsepower of greater than or equal to 50 which are fueled by natural gas, field gas, liquified petroleum gas, diesel, gasoline, or any other liquid fuel. The rule limits NO_X emissions from noncyclic rich-burn engines to 50 parts per million (ppm) and from noncyclic lean-burn engines to 125 ppm. For cyclic engines, the NO_X limit is also 50 ppm, while the limit for diesel engines is 8.4 grams per brake horsepower-hour (g/bhp-hr). Final compliance with these limits is required by the date of adoption for new engines and March 3, 1994 for existing cyclic and noncyclic engines.

The NO_X limits suggested by the California Air Resources Board (CARB) as reasonably available control technology (RACT) for I/C engines are 50 ppm (90% reduction) for rich-burn engines, 125 ppm (80% reduction) for lean-burn engines, and 8.4 g/bhp-hr for diesel engines. These limits were recommended using information regarding average, actual, uncontrolled levels and previous regulatory control levels in Ventura County, the South Coast Basin, and Santa Barbara County. EPA agrees that these limits, which are incorporated in Rule 333, are consistent with the Agency's guidance and policy for making RACT determinations in terms of general cost-effectiveness, emission reductions, and environmental impacts, and represent RACT for these sources in Santa Barbara County.

[1] The Santa Barbara County Area retained its designation of nonattainment and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

[2] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

[3] Among other things, the pre-amendment guidance consists of those portions of the proposed post–1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice'' (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988).

In evaluating the rule, EPA must also determine whether the section 182(b) requirement for RACT implementation by May 31, 1995 is met. The rule is written such that final compliance is required 2.5 years after the date of adoption. Since the rule was adopted in December 1991, final compliance is required by March 1994, thereby meeting the section 182(b) requirement of the CAA.

Although Rule 333, Control of Emissions from Reciprocating Internal Combustion Engines, will strengthen the SIP, the rule contains deficiencies related primarily to the lack of Federal enforceability. These deficiencies include inconsistent applicability cutoffs and exemptions, unenforceable provisions in definitions, inconsistent emission limit requirements, unenforceable alternative emission control plan provisions, and alternative compliance schedule provisions. A more detailed discussion of the sources controlled, the controls required, justification for why these controls represent RACT, and rule deficiencies can be found in the Technical Support Document (TSD) for Rule 333, dated November 1994.

Because of the above deficiencies, EPA cannot grant full approval of this rule under section 110(k)(3) and Part D. Also, because the submitted rule is not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rule under section 110(k)(3). However, EPA may grant a limited approval of the submitted rule under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval. In order to strengthen the SIP, EPA is proposing a limited approval of SBCAPCD's submitted Rule 333 under sections 110(k)(3) and 301(a) of the CAA as meeting the requirements of section (110)(a) and Part D.

At the same time, EPA is also proposing a limited disapproval of this rule because it contains deficiencies which must be corrected in order to fully meet the requirements of section 182(a)(2), section 182(b)(2), section 182(f), and Part D of the Act. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: highway funding and offsets. The 18 month period referred to in section 179(a) will begin on the effective date of EPA's final limited disapproval. Moreover, the final disapproval triggers the Federal Implementation Plan (FIP) requirement under section 110(c). It should be noted that the rule covered by this NPRM has been adopted by the SBCAPCD and is currently in effect in Santa Barbara county. EPA's final limited disapproval action will not prevent SBCAPCD or EPA from enforcing this rule.

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

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Limited approvals under section 110 and 301 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, it does not have a significant impact on affected small entities. Moreover, due to the nature of the Federal/State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. section 7410 (a)(2).

The OMB has exempted this regulatory action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: January 23, 1995.

Felicia Marcus,

Regional Administrator.

[FR Doc. 95–2436 Filed 1–31–95; 8:45 am]

BILLING CODE 6560–50–W

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40 CFR Part 52

[WV19–1–6210b, WV11–1–5888b; FRL–5139–4]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia: Title 45 Legislative Rules, Series 21, Regulation to Prevent and Control Air Pollution from Emission of Volatile Organic Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the state implementation plan (SIP) revision submitted by the State of West Virginia on August 10, 1993. The revision consists of sections 1 to 9, 11, 12, 14 to 19, 21 to 29, 31, 36, 39, 41 to 48 and Appendix A to Title 45, Series 21 (45CSR21), ''Regulations to Control Air Pollution from the Emission of Volatile Organic Compounds'' (Series 21). These regulations are necessary to satisfy the Clean Air Act and to support attainment and maintenance of the National Ambient Air Quality Standard (NAAQS) for ozone in West Virginia. In the final rules section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be submitted in writing by March 3, 1995.

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division (3AT00), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the EPA office listed above; and the West Virginia Department of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia, 25311.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 597–0545, at the EPA Regional Office address listed above.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: November 10, 1994.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 95–2400 Filed 1–31–95; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 52

[MA39–1–67726; A–1–FRL–5136–8]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Massachusetts; Substitution of the California Low Emission Vehicle Program for the Clean Fuel Fleet Program (Opt Out)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts to fulfill the requirement that the Commonwealth submit either the Clean Fuel Fleet Program or a substitute program that meets the requirements of the Clean Air Act. The Commonwealth has submitted such a substitute measure for the required program. On November 15, 1993, the Commonwealth of Massachusetts formally submitted a revision to their SIP to require the sale of California certified low emitting vehicles in Massachusetts beginning with model year 1995. Further, on May 11, 1994, the Commonwealth formally notified EPA of its decision to substitute Massachusetts' version of the California Low Emission Vehicle (MA LEV) Program for the Clean Fuel Fleet (CFF) Program as provided for in section 182(c)(4)(B) of the Clean Air Act (CAA). In the Final Rules Section of this **Federal Register**, EPA is approving the Commonwealth's SIP revision, as a direct final rule without prior proposal. A detailed rationale for the action is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments must be submitted by March 3, 1995.

ADDRESSES: Comments may be mailed to Linda M. Murphy, Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203.

FOR FURTHER INFORMATION CONTACT: Damien F. Houlihan, (617) 565–3266.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of this **Federal Register**.

Dated: December 19, 1994.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 95–2492 Filed 1–31–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 180

[OPP–300376; FRL–4928–4]

RIN 2070–AC18

Isopropyl Myristate; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that isopropyl myristate be exempted from the requirement of a tolerance when used as a solvent in pesticide formulations. Technology Sciences Group, Inc., on behalf of Sumitomo Chemical Co., Ltd., requested this proposed rule.

DATES: Comments, identified by the document control number, [OPP-300376], must be received on or before March 3, 1995.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person deliver comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part of all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by the EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Amelia M. Acierto, Registration Support Branch, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2800 Crystal Drive, North Tower, Arlington, VA 22202, (703)-308-8375.

SUPPLEMENTARY INFORMATION: Technology Sciences Group, Inc., Pesticide Division, Steuart Street Tower 2700, One Market Plaza, San Francisco, CA 94105-1475, submitted pesticide petition (PP) 3E04245 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(c) and (e) by establishing exemptions from the requirement of a tolerance for isopropyl myristate when used as a solvent in pesticide formulations applied to growing crops, raw agricultural commodities, and animals.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and

diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency set forth a list of studies which would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. However, where it can be determined without that data that the inert ingredient will present minimal or no risk, the Agency generally does not require some or all of the listed studies to rule on the proposed tolerance or exemption from the requirement of a tolerance for an inert ingredient. The Agency has decided that no data, in addition to that described below, for isopropyl myristate will need to be submitted. The rationale for this decision is described below:

1. An acute oral toxicity study with an acute oral LD_{50} of greater than 42,400 mg/kg in mice and 14,000 mg/kg in rats.

2. The intraperitoneal acute toxicity studies with LD_{50} of greater than 67,800 mg/kg in rats and greater than 42,800 mg/kg in mice.

3. An acute dermal study with LD_{50} of greater than 67,829 mg/kg in rats and greater than 5,000 mg/kg in rabbits.

4. A rabbit primary eye irritation study using isopropyl myristate produced minimal irritation and cleared within 7 days.

5. A rabbit primary dermal irritation study showing minimal irritation.

6. A guinea pig dermal sensitization study producing no evidence of dermal sensitization.

7. A rat acute inhalation toxicity study with LC_{50} greater than 33–41 mg/liter in rats indicating that isopropyl myristate is of minimal concern.

8. A 4-week rabbit dermal subchronic study with applications of 16 to 47 percent isopropyl myristate in rabbits at 1,700 and 2,000 mg/kg did not produce any systemic toxicity.

9. A 12-week intramascular injection of 25 percent isopropyl myristate at 256 mg/kg in rats, 119 mg/kg in dogs, and 128-282 mg/kg in monkeys produced minor local skin effects and no systemic toxicity effects.

10. A 13-week inhalation study using 16 to 20 percent isopropyl myristate showed lung enlargements in guinea pigs at 224 mg/m^3 and monkeys at 5.3 to 37 mg/m^3.

11. Rabbit and mice dermal carcinogenicity studies showed that isopropyl myristate is not carcinogenic when applied chronically on the skin of mice at 3.4 mg/kg for 18 months and for 110 weeks and on rabbits at 68, 340, and 680 mg/kg for 160 weeks. A mixture of isopropyl myristate and isopropyl alcohol accelerated the carcinogenic activity of benzo-pyrene when applied on the skin of mice.

12. A metabolism study showed that isopropyl myristate is hydrolyzed to normal metabolic products, namely isopropyl alcohol and myristic acid.

13. Isopropyl myristate Ames Assay produced a negative result.

The Agency does not have data from two subchronic developmental toxicity and two mutagenicity studies which are part of the toxicology data typically required to be submitted in support of a tolerance exemption request. However, based upon isopropyl myristate's lack of carcinogenicity, mutagenicity (Ames Test) and low acute toxicity from oral, dermal, inhalation, or parenteral toxicity studies, the Agency does not believe that isopropyl myristate poses significant risks under the proposed conditions of use. No further studies are required. In addition, isopropyl myristate is likely metabolized to isopropyl alcohol, which is exempt from tolerance requirements under 40 CFR 180.1001 (c), (d), and (e), and myristic acid, which is an edible fatty acid.

Based upon the above information and review of its use, EPA has found that, when used in accordance with good agricultural practice, this ingredient is useful and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [OPP-300376]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: January 23, 1995.

Lois Rossi,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows

Part 180—[Amended]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001 is amended in paragraphs (c) and (e) in the tables therein by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * * * *		
Isopropyl myristate, CAS Reg. No. 110-27-0	.....	Solvent
* * * * * * *		

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
* * * * * * *		
Isopropyl myristate, CAS Reg. No. 110-27-0	.....	Solvent
* * * * * * *		

[FR Doc. 95–2442 Filed 1–31–95; 8:45 am]
BILLING CODE 6560–50–F

40 CFR Part 261

[SW–FRL–5148–7]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is proposing to grant a petition submitted by the U.S. Department of Energy (DOE), Richland, Washington, to exclude certain wastes to be generated by a treatment process at its Hanford facility from being listed hazardous wastes. The Agency has concluded that the disposal of these wastes, after treatment, will not adversely affect human health or the environment. This action responds to a delisting petition submitted under § 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a ''generator-specific'' basis from the hazardous waste lists. This proposed decision is based on an evaluation of the treatment process and waste-specific information provided by the petitioner. If this proposed decision is finalized, the petitioned wastes will be conditionally excluded from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

The exclusion will allow DOE to proceed with critical cleanup at the Hanford site. The primary goal of cleanup is to protect human health and the environment by reducing risks from unintended releases of hazardous wastes that are currently stored at the site.

The Agency is also proposing the use of a fate and transport model to evaluate the potential impact of the petitioned waste on human health and the environment, based on the waste-specific information provided by the petitioner. This model has been used to predict the concentration of hazardous constituents that may be released from the petitioned waste, at the time of disposal, which will not harm human health or the environment.

DATES: EPA is requesting public comments on today's proposed decision, the applicability of the fate and transport model used to evaluate the petitioned wastes, and on the verification testing conditions which will ensure that petitioned wastes are non-hazardous. Comments must be submitted by March 3, 1995. Because of an existing settlement agreement (consent order) on remediation of the Hanford site that requires DOE to have a final delisting in place by June 1995 or before, no extension to the comment period will be granted. Comments postmarked after the close of the comment period will be stamped ''late''.

Any person may request a hearing on this proposed decision by filing a request with the Director, Characterization and Assessment Division, Office of Solid Waste, whose address appears below, by February 16, 1995. The request must contain the information prescribed in § 260.20(d).

ADDRESSES: Send three copies of your comments to EPA. Two copies should be sent to the Docket Clerk, Office of Solid Waste (Mail Code 5305), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. A third copy should be sent to Jim Kent, Waste Identification Branch, CAD/OSW (Mail Code 5304), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Identify your comments at the top with this regulatory docket number: ''F–95–HNEP–FFFFF''.

Requests for a hearing should be addressed to the Director, Characterization and Assessment Division, Office of Solid Waste (Mail Code 5304), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

The RCRA regulatory docket for this proposed rule is located at the U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, and is available for viewing (Room M2616) from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (202) 260–9327 for appointments. The public may copy material from any regulatory docket at no cost for the first 100 pages, and at a cost of $0.15 per page for additional copies.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424–9346, or at (703) 412–9810. For technical information concerning this notice, contact Narendra Chaudhari, Office of Solid Waste (Mail Code 5304), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 260–4787.

SUPPLEMENTARY INFORMATION:

Preamble Outline

I. Disposition of Delisting Petition
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I. Disposition of Delisting Petition

U.S. Department of Energy's Hanford Facility, Richland, Washington

A. Site History

In 1943, the U.S. Army Corps of Engineers selected the U.S. Department of Energy's (DOE) Hanford site located in Richland, Washington, as the location for reactor, chemical separation, and related activities in the production and purification of special nuclear materials. The site is situated on approximately 560 square miles (1,450 square kilometers), which is owned by the U.S. Government and managed by DOE. By the 1980s, environmental impacts resulting from operations at this site were acknowledged, and DOE initiated cleanup efforts. In May of 1989, DOE entered into a Tri-Party Agreement (''The Hanford Federal Facility Agreement & Consent Order''), with the State of Washington and the U.S. Environmental Protection Agency to initiate environmental restoration efforts over a 30-year period. As such, the current mission for DOE's Hanford facility is focused on waste management and environmental restoration and remediation. In order to carry out this mission (and allow for possible future use of the site after cleanup), it is critical for DOE's Hanford facility to obtain a delisting for certain wastes generated on-site. (See the public docket for the final report on *The Future for Hanford: Uses and Cleanup,* December 1992.)

B. Petition for Exclusion

On October 30, 1992, DOE petitioned the Agency to exclude treated wastes generated from its proposed 200 Area Effluent Treatment Facility (ETF). DOE subsequently provided additional information to complete its petition and also submitted an addendum to the petition. The ETF is designed to treat process condensate (PC) from the 242–A Evaporator. The untreated PC is a low-level radioactive waste as defined in DOE Order 5820.2A and a RCRA listed hazardous waste (EPA Hazardous Waste Nos. F001 through F005 and F039 derived from F001 through F005) as defined in 40 CFR § 261.31(a). DOE intends to discharge the treated effluents from the ETF to a Washington State Department of Ecology-approved land disposal site. (See DOE's delisting petition and addendum, which are included in the public docket for this notice, for details regarding wastes being treated and treatment process.)

While the constituents of concern in listed wastes F001, through F005 wastes include a variety of solvents (see Part 261, Appendix VII), the constituents (based on PC sampling data and process knowledge) that serve as the basis for characterizing DOE's petitioned wastes as hazardous were limited to 1,1,1-trichloroethane (F001), methylene chloride (F002), acetone and methyl isobutyl ketone (F003), cresylic acid (F004), and methyl ethyl ketone (F005).

DOE petitioned the Agency to exclude its ETF generated liquid effluent because it does not believe that these wastes, once generated, will meet the listing criteria. DOE claims that its treatment process will generate non-hazardous wastes because the constituents of concern in the wastes are no longer present or will be present in insignificant concentrations. DOE also believes that the wastes will not contain any other constituents that would render it hazardous. Review of the petitioned wastes, except for the radioactive component which are regulated under the Atomic Energy Act (see Part II. Section B. below for details), included consideration of the original listing criteria, as well as the additional factors required by the Hazardous and Solid Waste Amendments (HSWA) of 1984. See Section 222 of HSWA, 42 U.S.C. 6921(f), and § 260.22(d)(2)–(4). Today's proposal to grant this petition for delisting is the result of the Agency's evaluation of DOE's petition.

II. Background

A. Authority

On January 16, 1981, as part of its final and interim final regulations implementing Section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published in § 261.31 and § 261.32. These wastes are listed as hazardous because they typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in subpart C of part 261 (i.e., ignitability, corrosivity, reactivity, and toxicity) or meet the criteria for listing contained in § 261.11(a)(2) or (a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be. For this reason, § 260.20 and § 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To have their wastes excluded, petitioners must show that wastes generated at their facilities do not meet any of the criteria for which the wastes were listed. See § 260.22(a) and the background documents for the listed wastes. In addition, the Hazardous and Solid Waste Amendments (HSWA) of 1984 require the Agency to consider any factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Accordingly, a petitioner also must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (i.e., ignitability, reactivity, corrosivity, and toxicity), and must present sufficient information for the Agency to determine whether the waste contains any other toxicants at hazardous levels. See § 260.22(a), 42 U.S.C. 6921(f), and the background documents for the listed wastes. Although wastes which are ''delisted'' (i.e., excluded) have been evaluated to determine whether or not they exhibit any of the characteristics of hazardous waste, generators remain obligated under RCRA to determine whether or not their waste remains non-hazardous based on the hazardous waste characteristics.

In addition, residues from the treatment, storage, or disposal of listed hazardous wastes and mixtures containing listed hazardous wastes are also considered hazardous wastes. See §§ 261.3(a)(2)(iv) and (c)(2)(i), referred to as the ''mixture'' and ''derived-from'' rules, respectively. Such wastes are also eligible for exclusion and remain hazardous wastes until excluded. On December 6, 1991, the U.S. Court of Appeals for the District of Columbia vacated the ''mixture/derived from'' rules and remanded them to the Agency on procedural grounds (*Shell Oil Co.* v. *EPA*, 950 F.2d 741 (D.C. Cir. 1991)). On March 3, 1992, EPA reinstated the mixture and derived-from rules on an interim basis, and solicited comments on other ways to regulate waste mixtures and residues (see 57 *FR* 7628). The Agency is going to address issues related to waste mixtures and residues in a future rulemaking.

B. Regulatory Status of Mixed Wastes

The petitioned wastes that are subject to today's notice are ''mixed wastes.'' Mixed wastes are defined as a mixture of hazardous wastes regulated under Subtitle C of RCRA and radioactive

wastes regulated under the Atomic Energy Act (AEA). Because section 1004 of RCRA excludes ''source,'' ''special nuclear,'' and ''byproduct materials,'' as defined under the AEA, from the definition of RCRA ''solid waste,'' there has been some confusion in the past as to the scope of EPA's authority over mixed waste under RCRA. EPA clarified this question in a **Federal Register** notice of July 3, 1986 (51 FR 24504).

EPA's clarification stated that the section 1004 exclusion applies only to the radioactive portion of mixed waste, not to the hazardous constituents. Therefore, a mixture of ''source,'' ''special nuclear,'' or ''byproduct materials'' and a RCRA hazardous waste must be managed as a hazardous waste, subject to the requirements of RCRA Subtitle C (that is, RCRA standards for the management of hazardous waste). EPA's oversight under RCRA, however, extends only to the hazardous waste components of the mixed waste, not to the source, special nuclear, or byproduct materials themselves. The exempted radionuclides are instead addressed under the AEA. DOE subsequently confirmed and clarified this interpretation in the **Federal Register** on May 1, 1987 (52 FR 15937).

III. Proposed Exclusion

A. Background

1. Approach Used to Evaluate This Petition

This petition requests a delisting for listed hazardous wastes. In making the initial delisting determination, the Agency evaluated the petitioned wastes against the listing criteria and factors cited in § 261.11(a)(2) and (a)(3). Based on this review, the Agency agreed with the petitioner that the wastes are non-hazardous with respect to the original listing criteria. (If the Agency had found that the wastes remained hazardous based on the factors for which the wastes were originally listed, EPA would have proposed to deny the petition.) EPA then evaluated the wastes with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors could cause the wastes to be hazardous. The Agency considered whether the wastes are acutely toxic, and considered the toxicity of the constituents, the concentration of the constituents in the wastes, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the wastes, plausible and specific types of management of the petitioned wastes, the quantities of wastes generated, and variability of the wastes.

For this delisting determination, the Agency used such information to identify plausible exposure routes (i.e., ground water, surface water, air) for hazardous constituents present in the petitioned wastes. The Agency determined that disposal in a land-based waste management unit is the most reasonable, worst-case scenario for DOE's wastes, and that the major exposure route of concern would be ingestion of contaminated ground water. The Agency notes that future land use on this site could change to private use and thus require protection of ground water resources (see the public docket for the final report on *The Future for Hanford: Uses and Cleanup,* December 1992). Therefore, the Agency is proposing to use a particular fate and transport model to establish maximum allowable concentrations of hazardous constituents for DOE's petitioned wastes. Specifically, the Agency used the model to estimate a dilution and attenuation factor (DAF) associated with the disposal of DOE's petitioned wastes in a land-based waste management unit, based on the estimated maximum annual volume of the wastes. The Agency used this DAF to back-calculate maximum allowable levels from the health-based levels for the constituents of concern.

EPA believes that this fate and transport model represents a reasonable worst-case scenario for disposal of the petitioned wastes in a land-based waste management unit, and that a reasonable worst-case scenario is appropriate when evaluating whether wastes should be relieved of the protective management constraints of RCRA Subtitle C. The use of a reasonable worst case scenario results ensures that the wastes, once removed from hazardous waste regulation, will not pose a threat to human health or the environment.

As an additional measure for evaluating this petition, the Agency believed that it should also consider the most likely disposal scenario for the petitioned wastes because these petitioned wastes are mixed wastes with limited disposal options. Therefore, EPA also evaluated the risks associated with the on-site disposal option selected by DOE, and accepted by the State of Washington, for the petitioned wastes. The preferred scenario is to pipe the treated waste effluents underground and discharge the effluents into a covered structure with an open bottom to the ground (i.e., a crib disposal system). DOE performed a ground water modeling study to assess the impacts of this disposal option. The results of DOE's ground water modeling study are discussed in Part III, Section C (Agency Evaluation).

The Agency also considers the applicability of ground-water monitoring data during the evaluation of delisting petitions. In this case, the Agency determined that, because DOE is seeking an upfront delisting (i.e., an exclusion based on data from wastes generated from pilot-scale treatment processes), ground-water monitoring data collected from the areas where the petitioner plans to dispose of the waste in the future are not necessary. Because the petitioned wastes are not currently generated or disposed of, ground-water monitoring data would not characterize the effects of the petitioned wastes on the underlying aquifer at the disposal sites and, thus, would serve no purpose. Therefore, the Agency did not request ground-water monitoring data.

DOE petitioned the Agency for an upfront exclusion (for wastes that have not yet been generated) based on descriptions of pilot-plant treatment processes used to treat samples comparable in composition to dilute aqueous hazardous waste streams at the Hanford facility, information about the sources of the dilute aqueous wastes that will be treated in the future, available characterization data for these wastes, and results from the analysis of treated effluent generated during studies of pilot-scale treatment processes.

Similar to other facilities seeking upfront exclusions, this upfront exclusion (i.e., an exclusion based on information characterizing the process and wastes) would be contingent upon DOE conducting analytical testing of representative samples of the petitioned wastes once the treatment unit is on-line at the Hanford site. Specifically, DOE will be required to collect representative samples from its full-scale 200 Area Effluent Treatment Facility (ETF), once it is operational, to verify that the treatment system is on-line and operating as described in the petition. The verification testing requires DOE to demonstrate that the ETF, once constructed and on-line, will generate non-hazardous wastes (i.e., wastes that meet the Agency's verification testing conditions).

From the evaluation of DOE's delisting petition, a list of constituents was developed for the verification testing conditions. Maximum allowable total constituent concentrations for these constituents were derived by back calculating from the delisting health-based levels through the proposed fate and transport model for a land-based management scenario. These concentrations (i.e., ''delisting levels'')

are the proposed verification testing conditions of the exclusion.

The Agency encourages the use of upfront delisting petitions because they have the advantage of allowing the applicant to know what treatment levels for constituents will be sufficient to render specific wastes non-hazardous, before investing in new or modified waste treatment systems. Therefore, upfront delistings will allow new facilities to receive exclusions prior to generating wastes, which, without upfront exclusions, would unnecessarily have been considered hazardous. Upfront delistings for existing facilities can be processed concurrently during construction or permitting activities; therefore, new or modified treatment systems should be capable of producing wastes that are considered non-hazardous sooner than otherwise would be possible. At the same time, conditional testing requirements to verify that the delisting levels are achieved by the fully operational treatment systems will maintain the integrity of the delisting program and will ensure that only non-hazardous wastes are removed from Subtitle C control.

Finally, the Hazardous and Solid Waste Amendments of 1984 specifically require the Agency to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, a final decision will not be made until all public comments on today's proposal are addressed.

2. Overview of Treatment Process

DOE's proposed treatment process for 242–A Evaporator PC consists of ten primary steps which are: (1) pH adjustment, (2) coarse filtration, (3) ultraviolet/oxidation (UV/OX), (4) pH adjustment, (5) hydrogen peroxide destruction, (6) fine filtration, (7) degasification, (8) reverse osmosis (RO), (9) ion exchange (IX), and (10) pH adjustment. DOE believes that efficient removals can be achieved through the proposed ETF for the remediation of 242–A Evaporator PC, and other liquid waste streams.

DOE chose to perform 242–A Evaporator PC treatability studies using pilot-scale treatment equipment configured similarly to the ETF design. The pilot-scale treatability studies included ultraviolet/oxidation (UV/OX), reverse osmosis (RO), and ion exchange (IX) treatment steps in addition to several intermediate steps such as pH adjustment, hydrogen peroxide destruction, and fine filtration. In addition, since the 242–A Evaporator was not scheduled to be on-line until late 1993 or later, process condensate was not available for treatability studies in the pilot-scale treatment processes in sufficient time to meet the August 1993 delisting submittal deadline. Therefore, DOE developed four surrogate test solutions (STSs) to characterize 242–A Evaporator PC, as well as other liquid wastes generated at the facility. DOE developed these four surrogate test solutions (i.e., STS–1 through STS–4) to evaluate the treatment capabilities of the ETF, in particular, the UV oxidation rate of organic compounds, and the removal efficiency of inorganic compounds using reverse osmosis and ion exchange. The STS constituents were selected from the 242–A Evaporator PC characterization data (obtained from 34 samples taken between August 1985 and March 1989), a Hanford site chemical inventory, and additional organic compounds representing a variety of chemicals of regulatory concern. DOE believes that the 200 gallons of each batch of STS treated using the three main treatment processes (*i.e.*, UV/OX, RO, and IX) in sequential steps provides pilot study capabilities with minimal infield scale-up issues. DOE's proposed full-scale ETF is designed to allow treatment of a wide range of constituents, in addition to those potentially present in the 242–A Evaporator PC.

B. Agency Analysis

DOE provided information quantifying concentrations of hazardous constituents in 34 samples of untreated process condensate effluent collected between August 1985 and March 1989. These samples were analyzed for metals and other inorganic constituents, organic constituents, and radioactive constituents. DOE used Methods SW–846 6010 to quantify concentrations of the TC metals and other inorganic constituents. DOE used Methods 8240 and 8270 to quantify concentrations of the volatile and semi-volatile organic constituents, and Method 9010 to quantify the total constituent concentrations of cyanide in the 242–A Evaporator PC. Radioactive constituents were analyzed using Method 9310. Table 1 presents 90th percentile upper confidence limit (90%CI) and maximum concentrations of hazardous constituents of concern detected in the 34 samples of 242–A Evaporator PC collected between August 1985 and March 1989.

Table 1 includes all hazardous constituents (listed in App. VIII, § 261) found in the condensate, as well as other detected constituents of concern that have health-based levels. Other constituents detected without health-based levels included inorganic salts (e.g., sodium, calcium) and organic compounds (e.g., alcohols, hydrocarbons, glycols) of relatively low toxicity. (See the public docket for this notice for a summary of constituents detected and health-based levels.)

TABLE 1.—HAZARDOUS CONSTITUENTS OF CONCERN DETECTED IN UNTREATED 242–A EVAPORATOR PC (PPM)

Parameter	Constituent concentrations	
	90% CI	Maximum
Barium	0.0072	0.008
Cadmium	SD	0.005
Chromium	0.066	0.156
Fluoride	0.971	12.27
Mercury	0.0003	0.0007
Nickel	0.015	0.017
Vanadium	0.0067	0.007
Zinc	0.017	0.044
Acetone	1.0	5.1
Benzaldehyde	SD	0.023
Benzyl alcohol	0.014	0.018
1-Butanol	11.0	88.0
Chloroform	0.014	0.027
Methyl ethyl ketone	0.053	0.12
Methylene chloride*	0.14	0.18
Methyl isobutyl ketone	0.014	0.068
N-Nitrosodimethylamine	SD	0.057
Phenol	SD	0.033
Pyridine	SD	0.55
1,1,1-Trichloroethane*	SD	0.005

SD Denotes a single detect.
*Constituent confirmed to be in blank samples only.

For the ETF treatability studies, DOE used SW–846 methods 8015 and 8240 for analysis of STS protocol characterization samples, with one exception. The semivolatile organic compound analysis was performed using a Contract Laboratory Program (CLP) analysis method, a method similar to SW–846 Method 8270. DOE used SW–846 Method 9010 to quantify the total constituent concentrations of cyanide in samples of the untreated and treated STSs.

Tables 2 through 5 present concentrations of inorganic and organic compounds in samples of untreated and treated STS–1 through STS–4 and percent removals. Nearly all of the 29 inorganic constituents were treated to below their detection levels based on the inorganic data for the STSs from the IX process; only inorganic constituents above detection limits are included in the tables. Treated values for organic constituents are based on the organic data for the STSs from the UV/OX process only. To fully illustrate the capabilities of the UV/OX system, all meaningful data for organic constituents are given in the tables.

TABLE 2.—TOTAL CONSTITUENT CONCENTRATIONS (PPM) STS–1, UNTREATED AND TREATED

Parameter	Constituent concentrations		
	Untreated	Treated	% removal
Aluminum	5.63	0.20	96
Ammonium	2,175.6	0.079	100
Barium	0.22	0.0075	97
Chloride	0.014	0.00024	98
Fluoride	0.02	0.0002	99
Mercury	0.095	0.00033	100
Nitrate	1.11	0.00022	100
Selenium	1.24	0.0048	100
Acetone	14.0	<0.01	100
Benzene	1.7	0.001	100
1-Butanol	120.0	<0.1	100
Carbon tetrachloride	0.480	0.002	100
Chloroform	1.9	0.029	98
Methyl ethyl ketone	5.3	<0.01	100
Methyl isobutyl ketone	5.8	<0.01	100
Naphthalene	1.9	<0.01	>99
Toluene	1.0	<0.005	100
1,1,1-Trichloroethane	1.3	0.0016	99
Phenol	2.7	<0.01	100
Tributyl Phosphate	15.0	<0.02	100
Tridecane	0.78	0.023	97

< Constituent below detection limit; % minimum removal calculated by assuming constituent is at the detection limit.

TABLE 3.—TOTAL CONSTITUENT CONCENTRATIONS (PPM) STS–2, UNTREATED AND TREATED

Parameter	Constituent concentrations		
	Untreated	Treated	% removal
Ammonium	2,351.0	1.94	100
Arsenic	2.66	0.008	100
Chloride	0.014	0.00079	94
Cyanide	0.002	0.000036	94
Fluoride	0.02	0.0013	94
Mercury	0.095	0.00084	99
Nitrate	1.05	0.00031	100
Acetone	3.9	0.034	99
Benzene	0.21	<0.005	98
1-Butanol	36.0	<0.1	100
Carbon tetrachloride	0.12	0.009	93
Chloroform	0.26	0.025	90
Methyl ethyl ketone	0.82	<0.01	>99
Methyl isobutyl ketone	0.47	<0.01	>98
Naphthalene	0.17	0.016	91
Toluene	0.16	<0.01	>94
1,1,1-Trichloroethane	0.15	<0.005	>97
Phenol	0.21	<0.01	>95
Tributyl Phosphate	8.0	<0.02	100
Tridecane	0.53	0.072	86

< Constituent below detection limit; % minimum removal calculated by assuming constituent is at the detection limit.

TABLE 4.—TOTAL CONSTITUENT CONCENTRATIONS (PPM) STS–3, UNTREATED AND TREATED

Parameter	Constituent Concentrations		
	Untreated	Treated	% removal
Ammonium	35.9	0.15	100
Chloride	0.00065	0.000078	88
Fluoride	0.0052	0.000069	99
Nitrate	0.048	0.0004	99
Selenium	0.94	0.0057	99
Acetone	1.8	<0.01	>99
Benzene	0.016	0.013	99
1-Butanol	7.1	<0.1	>99
Carbon tetrachloride	0.15	0.019	87
Chloroform	0.29	0.006	98
Methyl ethyl ketone	0.078	<0.01	>87
Methyl isobutyl ketone	0.39	0.01	97

TABLE 4.—TOTAL CONSTITUENT CONCENTRATIONS (PPM) STS–3, UNTREATED AND TREATED—Continued

Parameter	Constituent Concentrations		
	Untreated	Treated	% removal
Naphthalene	0.13	<0.01	>92
Toluene	0.18	<0.005	>97
1,1,1-Trichloroethane	0.24	0.005	98
Phenol	0.18	<0.01	>94
Tributyl Phosphate	4.9	<0.02	100
Tridecane	0.13	0.15	NM

< Constituent below detection limit; % minimum removal calculated by assuming constituent is at the detection limit.
NM Data for tridecane not meaningful due to solubility problems.

TABLE 5.—TOTAL CONSTITUENT CONCENTRATIONS (PPM) STS–4, Untreated and Treated

Parameter	Constituent concentrations		
	Untreated	Treated	% removal
Ammonium	2,047.0	0.74	100
Chloride	0.017	0.00042	98
Fluoride	0.024	0.0003	99
Mercury	0.075	0.0012	98
Nitrate	1.06	0.00064	100
Acrolein	2.4	0.02	99
Aniline	2.7	<0.02	>99
Bis (2-chloroethyl) ether	1.7	<0.01	>99
Bis(2-ethylhexyl)phthalate	0.059	0.014	76
1–Butanol	8.9	<0.1	>99
1, 4-Dichlorobenzene	1.9	<0.01	99
gamma-BHC	1.4	0.19	86
Hexachloroethane	0.93	0.57	39
Nitrobenzene	3.3	<0.01	100
N-Nitroso-di-n-propylamine	1.45	<0.01	99
Pentachlorophenol	1.5	<0.02	99
Tetrachloroethylene	1.2	0.24	80
Tetrahydrofuran	5.3	<0.005	100
Tributyl phosphate	4.8	<0.02	100
1,1, 2-Trichloroethane	2.4	1.0	58
Tridecane	0.36	0.14	61

< Constituent below detection limit; % Removal calculated by assuming constituent is at the detection limit.

DOE provided information, pursuant to § 260.22, indicating that the ETF effluent is not expected to demonstrate the characteristics of ignitability, corrosivity, or reactivity. According to DOE, the 242–A Evaporator PC is a dilute aqueous waste with low levels of volatile organic compounds which, when passed through the ETF, are expected to be destroyed or present at very low concentrations. Therefore, the ETF effluents are not likely to be ignitable wastes. The wastes are not expected to be corrosive because measured pH for the 242–A Evaporator PC ranged from 9.72 to 10.83 standard units. Also, the pH of the ETF effluents will be adjusted to be between 6.5 and 8.5 before disposal. To be designated corrosive, pH must be less than 2, or greater than or equal to 12.5 standard units. The wastes are not expected to be reactive because the 242–A evaporator PC (a dilute aqueous waste) does not readily undergo violent chemical change, react violently or form potentially explosive mixtures with water, explode when subject to a strong initiating force, explode at normal temperatures and pressures, or fit the definition of a class A or Class B explosive. The 242–A Evaporator PC also does not contain sufficient quantities of sulfide or cyanide to generate toxic fumes when mixed with water or acid. See § 261.21, § 261.22, and § 261.23 respectively.

DOE estimated that a maximum of 19 million gallons of liquid effluents will be generated annually from treating the petitioned wastes in the ETF. The Agency may review a petitioner's

estimates and, on occasion, has requested a petitioner to re evaluate the estimated waste generation rate. EPA accepts DOE's certified estimate of 19 million gallons per year (approximately 95,000 cubic yards) of ETF effluents to be generated at its Hanford facility.

EPA does not generally verify submitted test data before proposing delisting decisions. The sworn affidavit submitted with this petition binds the petitioner to present truthful and accurate results. The Agency, however, has maintained a spot-check sampling and analysis program to verify the representative nature of the data for some percentage of the submitted petitions. A spot-check visit to a selected facility may be initiated before finalizing a delisting petition or after granting an exclusion.

C. Agency Evaluation

Review of this petition included consideration of the original listing criteria as well as the additional factors required by the Hazardous and Solid Waste Amendments (HSWA) of 1984. See Section 222 of HSWA, 42 U.S.C. 6921(f), and 260.22(d)(2)-(4).

The Agency considers characterization information and data for the untreated liquid waste to be sufficient to evaluate the potential constituents of concern in the untreated wastes. The Agency believes that DOE's inventory of chemicals used in production plants and supporting operations provides an understanding of the hazardous constituents that are potentially present in the DSTs. In addition, the Agency believes that the analytical data characterizing the untreated 242–A Evaporator PC represents the types of liquid waste that will be treated in the ETF. Furthermore, the Agency believes that DOE has conducted sufficient studies of its pilot-scale treatment processes to demonstrate that the system, once on-line, will be able to treat dilute aqueous wastes containing hazardous constituents of concern to levels below the level of concern for human health and the environment.

The results of the treatability studies were used by DOE to estimate maximum concentrations of hazardous constituents in the untreated wastes once treated by the ETF. The data from this evaluation clearly demonstrated that the ETF would have the capability of treating hazardous constituents in the PC to below delisting levels.

DOE estimated the maximum concentrations of hazardous constituents that can be treated by the ETF based on one pass of the STSs (waste waters) through the ETF. (If necessary, the ETF design provides for recycle of the treated waters.) The maximum concentrations of constituents that the ETF is capable of treating are also low. This is because many inorganic constituents were treated to below detection limits by the RO process so that the ability of the IX to remove inorganic constituents was not considered. In addition, the ability of RO and IX processes to further remove organic constituents after the UV/OX process was not considered.

The treatment data showed ETF to be extremely effective for all classes of inorganic species (i.e., monovalent and divalent cations and anions). Furthermore, the levels of inorganic constituents in the PC are expected to be relatively low in any case because it is a condensate derived from an evaporation process. The non-volatile inorganic metals are not expected from such a waste generating process. The existing PC data confirms that only trace levels of the non-volatile metals are present, while salts generated from dissolved ammonia are present at levels above 500 ppm. Because removal efficiencies for ammonia in the treatment studies were demonstrated to be 99–100%, this indicates that ETF should be able to effectively remove any inorganic constituents of concern in the PC.

The treatability studies also demonstrated that organic constituents can be effectively treated by the UV/OX process. In the UV/OX process, the oxidation (destruction) of organic constituents was shown to follow first order kinetics. This means that the organic constituent concentration decreased logarithmically with time. Under the conditions used for the process (large excess of oxidant), the rate of destruction typically will not depend on the concentration of the constituent.

The constituent concentrations in the STSs were varied to span the concentrations of constituents observed in the PC and to evaluate the treatment capabilities of the ETF. STS–1 and STS–4 contained relatively high levels of organics in comparison to STS–2 and STS–3. The pilot-scale UV/OX unit was able to decrease the concentrations of most organic constituents by greater than 90 percent (long before testing times had expired). The organic compounds that were somewhat more difficult to destroy were the chlorinated compounds (i.e., hexachloroethane and 1,1,2-trichloroethane) contained in STS–4 and tridecane contained in STS–3 and STS–4.

STS–4 contained high concentrations of inorganic constituents and additional organic constituents (which are not expected to be in the PC) representing various chemical groups. The organic constituents were generally the easier to oxidize compounds at a concentration of greater than 25 times the quantitation level (exception being the chlorinated compounds listed above and tridecane). The purpose of the organic constituents contained in STS–4 was to demonstrate the versatility of the ETF to treat a variety of constituents representing various chemical groups.

The testing of STSs performed with the UV/OX process was primarily designed to determine the oxidation rate for a wide range of organic groups. The testing was not intended to show 100 percent destruction of each of the organic constituents in the STSs. The destruction efficiency is a function of the oxidation rate and exposure time in the UV/OX unit. The exposure time for each of the STSs was based on the type of organic and inorganic constituents they contained and their respective concentrations. The exposure time in the UV/OX unit for STS–4 (5 minutes) was kept the shortest of the four STSs because the test solution generally did not contain the difficult to oxidize organic constituents. This exposure time did not prove to be sufficient for several organic compounds which were difficult to oxidize (i.e., the chlorinated compounds referred to above and tridecane). However, STS–1, which also contained relatively high levels of inorganics and organics (including difficult to oxidize chlorinated compounds similar to STS–4), demonstrated more complete oxidation of the organic constituents based on longer exposure time in the UV/OX unit (46 minutes).

The organic constituent levels in the STSs, particularly STS–1 and STS–4, are worst-case levels. In addition, most of the organic constituents in STS–4 have never been detected in the PC. The Agency believes that the ETF should be able to effectively remove the organic constituents found in the PC. If necessary, it is also possible to increase the amount of UV/OX exposure (and thus treatment) provided for organic compounds in the ETF by either recycling the treated PC or by reducing the flow rate through the UV/OX unit.

As discussed previously in this notice, the Agency is proposing to include monitoring and testing requirements in DOE's exclusion in order to ensure that the ETF is capable of treating dilute aqueous wastes such that concentrations of hazardous constituents are below delisting levels of concern. As part of these testing requirements, EPA established

maximum allowable waste concentrations for hazardous inorganic and organic constituents of concern. To set these levels, the Agency identified a fate and transport model that would provide some estimate of the dilution afforded to a constituent once the petitioned wastes were disposed of, based on the reasonable, worst-case management scenario for the wastes. The Agency considered the appropriateness of alternative waste management scenarios for DOE's liquid wastes and decided that disposal in a land-based waste management unit, such as a surface impoundment, is a reasonable, worst-case scenario. Under a surface impoundment disposal scenario, the major exposure route of concern for hazardous constituents would be ingestion of contaminated ground water.

The Agency, therefore, used the modified EPACML, which predicts the potential for ground-water contamination from wastes that are disposed of in a surface impoundment, to establish maximum allowable waste concentrations for DOE's petitioned wastes. See 56 FR 32993 (July 18, 1991), 56 FR 67197 (December 30, 1991) (and the RCRA public docket for these notices) for a detailed description of the EPACML model and the modifications made for delisting. This model, which includes both unsaturated and saturated zone transport modules, estimates the dilution and attenuation factor (DAF) resulting from subsurface processes such as three-dimensional dispersion and dilution from ground-water recharge for a specific volume of waste. Using this model, the Agency obtained a DAF of 10 for the maximum annual volume of petitioned wastes expected to be generated (i.e., 95,000 cubic yards or 19 million gallons). The Agency used this DAF to back-calculate maximum allowable levels (from the health-based levels) for the constituents of concern in ground water at a compliance point (i.e., a receptor well serving as a drinking-water supply). The Agency requests comments on the use of the modified EPACML to set maximum allowable waste concentrations (see also Section F—Verification Testing Conditions).

Because the petitioned wastes are mixed wastes, the disposal options for the petitioned wastes are realistically limited to disposal on-site in a State-approved land disposal facility. The preferred disposal system is an infiltration crib, which is described as a grid of diffuser pipes placed in a trench and covered by 6 feet of sand. DOE submitted to EPA a summary of a modeling effort which predicts tritium concentrations in ground water that would result from the operation of the infiltration crib. Based on the modeling information provided by DOE, the crib system would ensure that petitioned wastes (i.e., waste waters) containing tritium are isolated for many years while they migrate slowly through the subsurface environment from the crib to the Columbia River. By the time the waste waters reach the river (estimated to take more than 120 years), the effect of radioactive decay will have lowered concentrations of tritium in the waste waters to acceptable levels. In addition, the crib system would significantly reduce volatilization of organics.

Because EPA evaluated the hazardous constituents in the petitioned wastes, EPA requested DOE to provide additional modeling information concerning transport of hazardous chemical constituents using its existing model for transport of tritium. DOE submitted a ground water modeling study that was based on several conservative assumptions. A continuous waste water discharge of 150 gallons per minute (gpm) was assumed in the modeling (ETF is designed to handle a maximum feed rate of 150 gpm at 72 percent efficiency), which translates into approximately 78 million gallons per year (more than 4 times greater than the maximum annual volume of petitioned wastes expected to be generated). DOE's study also assumed that the ETF will treat hazardous waste forever (rather than the estimated period of 30 years or less needed to treat the petitioned wastes), chemical constituents will not be retarded in the unsaturated or the saturated zones, and there will be no attenuation processes (i.e., volatilization, biodegradation, hydrolysis, or adsorption). Under these worst-case assumptions, the DOE study predicted minimum dilution factors at the Columbia River ranging from 14 (after 200 years) to 9 (after 300 years).

Although the modeling assumptions were different, the dilution factors estimated from DOE's study (9 to 14) are consistent with the DAF of 10 calculated using the modified EPACML. Therefore, based on the results of both of these conservative analyses, EPA is assuming a DAF of 10 to establish delisting levels for the effluent wastes.

During the evaluation of DOE's petition, the Agency also considered the potential impact of the petitioned waste via non-ground-water routes. The Agency evaluated the potential hazards resulting from airborne exposure to volatile constituents present in DOE's treated effluent using a simple air dispersion model for releases from an underground crib disposal system. Similar to its use of the EPACML, the Agency used this model to back-calculate maximum allowable concentrations of volatile constituents that could be present in the treated effluent without presenting a potential hazard. The Agency then compared these concentrations with those set in the conditions proposed in today's notice (using the modified EPACML) to determine whether concentrations of volatile constituents would be of concern if the treated effluent met the criteria set forth in the proposed testing conditions. The results of this conservative evaluation indicated that there is no substantial present or potential hazard from airborne exposure to constituents from DOE's petitioned waste. A description of the Agency's assessment of the potential impact of DOE's waste, with regard to exposure to volatile constituents, is presented in the docket for today's proposed rule.

The Agency also considered the potential impact of the petitioned waste via a surface water route. (A description of the Agency's assessment is included in the RCRA public docket for today's notice.) In general, the Agency believes that constituents from the petitioned waste will not directly enter a surface water body without first traveling through the saturated subsurface where dilution of hazardous constituents, such as that modeled by the modified EPACML (or DOE's study), may occur. Further, the Agency believes that any constituents transported here would be diluted once they reached the Columbia River. The Agency, therefore, believes that this route of exposure is not of concern.

D. Conclusion

The Agency concludes that the descriptions of DOE's 200 Area Evaporator Treatment Facility process and analytical characterizations, in conjunction with the proposed delisting testing requirements, provide a reasonable basis to grant DOE's petition for an upfront conditional exclusion. The Agency believes that the samples collected from the treatability studies and waste variability study adequately represent the variations in raw materials and processing. The data submitted in support of the petition show that DOE's proposed ETF can substantially reduce the toxicity of the waste, and render effluent generated on site non-hazardous by reducing the levels of inorganic and organic constituents of concern in the waste to below delisting levels. In addition, under the testing provisions of the conditional exclusion, DOE will be required to retreat effluents in a verification tank exhibiting total constituent levels above a specified

level (i.e., ''delisting level'') (see Section F—Verification Testing Conditions).

The Agency proposes to grant a conditional exclusion to DOE–RL, located in Richland, Washington, for the liquid wastes described in its petition as EPA Hazardous Waste Nos. F001, F002, F003, F004, F005, and F039 (derived from F001 through F005). The Agency's decision to exclude this waste is based on process descriptions, characterization of untreated 242–A Evaporator PC, and results from the analysis of liquid wastes generated by a pilot-scale ETF using surrogate test solutions. If the proposed rule becomes effective, the petitioned liquid wastes, provided the conditions of the exclusion are met, will no longer be subject to regulation under parts 262 through 268 and the permitting standards of part 270.

E. Verification Testing Conditions

The testing requirements are to be conducted in two phases, initial and subsequent testing. The initial testing requirements apply to the first three verification tanks filled with treated effluent generated from the full-scale ETF at typical operating conditions. Following completion of testing requirements with the initial three verification tanks, the subsequent testing requirements would apply to every tenth verification tank filled with treated effluent.

If the final exclusion is granted as proposed, DOE will be required to: (1) Submit information on the operating parameters of the process units comprising the ETF; (2) collect and analyze a representative sample from each of the first three verification tanks filled with ETF effluent to verify that the units comprising the ETF meet the treatment capabilities of the pilot-scale units described in the petition; and (3) continue to collect and analyze representative samples from every tenth verification tank filled with ETF effluent to verify that the ETF effluent continues to meet the Agency's verification testing limitations (i.e., ''delisting levels''). These proposed conditions are specific to the upfront exclusion petitioned for by DOE. The Agency may choose to modify these proposed conditions based on comments that may be received during the public comment period for this proposed rule. The proposed exclusion for DOE's Effluent Treatment Facility in Hanford, Washington, is conditional upon the following requirements:

(1) *Testing:* Sample collection and analyses (including quality control (QC) procedures) must be performed according to SW–846 (or other EPA-approved) methodologies. If EPA judges the treatment process to be effective under the operating conditions used during the initial verification testing, DOE may replace the testing required in Condition (1)(A) with the testing required in Condition (1)(B). DOE must continue to test as specified in Condition (1)(A) until notified by EPA in writing that testing in Condition (1)(A) may be replaced by Condition (1)(B).

(A) *Initial Verification Testing:* During the period required to fill the first three verification tanks (each designed to hold approximately 650,000 gallons) with effluents generated from an on-line, full-scale Effluent Treatment Facility (ETF), DOE must monitor the range of typical operating conditions for the ETF. DOE must collect a representative sample from each of the first three verification tanks filled with ETF effluents. The samples must be analyzed, prior to disposal of ETF effluents, for all constituents listed in Condition (3). DOE must report the operational and analytical test data, including quality control information, obtained during this initial period no later than 90 days after the first verification tank is filled with ETF effluents.

The Agency believes that an initial period of approximately 10 days (based on an estimated 3-day period to fill each of the first three verification tanks) is appropriate for DOE to collect sufficient data to verify that a full-scale treatment process comprised of units such as those described in the petition (*e.g.*, ultraviolet/oxidation, reverse osmosis, ion exchange, etc.) is operating correctly. The initial verification testing conditions, if promulgated as proposed, will require a representative sample from each of the first three verification tanks filled with ETF effluents generated from an on-line, full-scale ETF. The Agency proposes this initial verification testing condition to ensure that the full-scale ETF is closely monitored during the start-up period, and to enable the collection of complete information characterizing the ETF effluents. If the Agency determines that the data from the initial verification period demonstrates that the treatment process is effective and that hazardous constituents of concern in the ETF effluents are consistently below delisting levels, EPA will notify DOE in writing that the testing conditions in (1)(A) may be replaced with the testing conditions in (1)(B).

(B) *Subsequent Verification Testing:* Following notification by EPA, DOE may substitute the testing conditions in this condition for (1)(A). DOE must continue to monitor operating conditions, and collect and analyze representative samples from every tenth verification tank filled with ETF effluents. These representative samples must be analyzed, prior to disposal of ETF effluents, for all constituents listed in Condition (3). If all constituent levels in a sample do not meet the delisting levels specified in Condition (3), DOE must analyze representative samples from the following two verification tanks generated prior to disposal. DOE may also collect and analyze representative samples more frequently.

The Agency believes that the concentrations of the constituents of concern in the ETF effluents may vary somewhat over time. As a result, in order to ensure that DOE's ETF can effectively handle any variation in constituent concentrations in the PC derived from the on-site double shell tanks, the Agency is proposing a subsequent testing condition. The proposed subsequent testing would verify that the ETF is operated in a manner similar to its operation during the initial verification testing and that the ETF effluents do not exhibit unacceptable levels of toxic constituents. Therefore, the Agency is proposing to require DOE to analyze representative samples from every tenth verification tank filled with ETF effluents as described in Condition (1)(B). The Agency believes that collecting representative samples from every tenth verification tank will ensure that the ETF is able to handle any potential variability in concentrations of those constituents of most concern. If DOE makes any significant changes in operating conditions as described in Condition (4), then DOE must re-institute all testing in Condition (1)(A), pending a new demonstration under this condition for reduced testing.

Future delisting proposals and decisions issued by the Agency may include different testing and reporting requirements based on an evaluation of the manufacturing and treatment processes, the waste, the volume of waste, and other factors normally considered in the petition review process.

(2) *Waste Holding and Handling:* DOE must store as hazardous all ETF effluents generated during verification testing (as specified in Conditions (1)(A) and (1)(B)), that is until valid analyses demonstrates that Condition (3) is satisfied. If the levels of hazardous constituents in the samples of ETF effluents are equal to or below all of the levels set forth in Condition (3), then the ETF effluents are not hazardous and may be managed and disposed of in accordance with all applicable solid

waste regulations. If hazardous constituent levels in any representative sample collected from a verification tank exceed any of the delisting levels set in Condition (3), the ETF effluents in that verification tank must be re-treated until the ETF effluents meet these levels. Following re-treatment, DOE must repeat analyses in Condition (3) prior to disposal.

The purpose of this condition is to ensure that ETF effluents which contain hazardous levels of inorganic or organic constituents are managed and disposed of in accordance with Subtitle C of RCRA. Holding the ETF effluents until characterization is complete will protect against improper handling of hazardous materials. The representative samples from the specified verification tanks must be analyzed for the appropriate parameters, and must meet the appropriate delisting levels, in order for the wastes to be considered non-hazardous.

(3) *Delisting Levels:* All total constituent concentrations in the waste samples must be measured using the appropriate methods specified in ''Test Methods for Evaluating Solid Wastes: Physical/Chemical Methods,'' U.S. EPA Publication SW–846 (or other EPA-approved methods). All total constituent concentrations must be equal to or less than the following levels (ppm):

Inorganic Constituents:	
Ammonium	10.0
Antimony	0.06
Arsenic	0.5
Barium	20.0
Beryllium	0.04
Cadmium	0.05
Chromium	1.0
Cyanide	2.0
Fluoride	40.0
Lead	0.15
Mercury	0.02
Nickel	1.0
Selenium	0.5
Silver	2.0
Vanadium	2.0
Zinc	100.0
Organic Constituents:	
Acetone	40.0
Benzene	0.05
Benzyl alcohol	100.0
1-Butyl alcohol	40.0
Carbon tetrachloride	0.05
Chlorobenzene	1.0
Chloroform	0.1
Cresol	20.0
1,4-Dichlorobenzene	0.75
1,2-Dichloroethane	0.05
1,1-Dichloroethylene	0.07
Di-n-octyl phthalate	7.0
Hexachloroethane	0.06
Methyl ethyl ketone	200.0
Methyl isobutyl ketone	30.0
Naphthalene	10.0
Tetrachloroethylene	0.05
Toluene	10.0
Tributyl phosphate	0.2
1,1,1-Trichloroethane	2.0
1,1,2-Trichloroethane	0.05
Trichloroethylene	0.05
Vinyl Chloride	0.02

The Agency selected the set of constituents specified in Condition (3) after evaluating information provided in DOE's petition describing the inventory of chemicals used in production plants and supporting operations feeding wastes to the double-shell tank system, reviewing information about the composition of the wastes in the double-shell tanks, and identifying available information about the health-based effects of these constituents. The constituents listed in Condition (3) include those constituents with available health-based levels that were: (1) detected in samples of the 242–A Evaporator effluent (i.e., the untreated waste), and (2) identified by DOE to be on the inventory of chemicals used at the Hanford site. The Agency is also proposing to require testing for other volatile chlorinated organic constituents of possible concern, i.e., those listed under the toxicity characteristic (§ 261.24). While these constituents were not found in the evaporator condensate samples, chlorinated compounds were one of the most difficult groups of chemicals to treat using the UV/OX process. Including these chlorinated constituents (many of which are common solvents) will help ensure that the treated effluent is nonhazardous.

As a further check on the operational efficiency of the treatment process, the Agency is also proposing to require testing for two key indicator parameters with no verified HBL, i.e., ammonia and tributyl phosphate. The Agency believes that ammonia is a good indicator of the efficiency of the RO stage of the treatment process, because ammonia was found at relatively high levels in most evaporator condensate samples (90th percentile upper confidence limit concentration was 511 ppm). Based on the maximum level of ammonia found in the waste feed (9350 ppm), and assuming the RO process is operating at a 99.9% removal efficiency, the Agency is proposing that the treated effluent be below a maximum of 10 ppm.

The Agency proposes to add tributyl phosphate as an additional indicator of the UV/OX treatment efficiency, because this chemical was found in nearly all evaporator condensate samples at significant levels (90th percentile upper confidence limit concentration was 4.1 ppm and the maximum concentration was 21 ppm). Tributyl phosphate was the only organic compound found above 1 ppm, except for 1-butyl alcohol and acetone (both of which are already on the testing list). The Agency is proposing that the concentration of tributyl phosphate in the treated effluents be below 0.2 ppm. The level of 0.2 ppm is an order of magnitude above the detection limit for tributyl phosphate, and would allow a sufficient margin for any variability in the waste sampling and analysis. The Agency has often used an order of magnitude (i.e., a factor of 10) in chemical analyses to allow for variations in analyses and matrices (for example, see 55 FR 22541, June 1, 1990, and 55 *FR* 30414, July 25, 1990).

The proposed list of analytes in condition (3) does not include four constituents given in Table 1 (i.e., benzaldehyde, N-nitrosodimethylamine, phenol, and pyridine), because these constituents were only found in one sample, and may be analytical anomalies. None were contained on DOE's inventory of chemicals used at the Hanford site, and these constituents are members of chemical classes that are readily destroyed by the UV/OX process. Therefore, the Agency believes that there is no reason to require analysis for these chemicals. EPA also is not placing methylene chloride on the list of analytes in condition (3), because this chemical was only detected in blanks obtained during characterization of the PC. Therefore, the Agency believes that this consitutent is unlikely to be present in the PC. Methylene chloride is well known as a common laboratory contaminant, and if it were on the list, the occurrence of ''false-positives'' (i.e., detections due to lab contamination) may lead to unnecessary retreatment of ETF effluents.

The Agency established the delisting levels by back-calculating the maximum allowable levels (MALs) from the HBLs (see docket for today's rule for complete list) for the constituents of concern using the modified EPACML dilution and attenuation factor (DAF) of 10, i.e., MAL=HBL×DAF. This factor corresponds to a maximum annual waste volume of 19 million gallons (e.g., approximately 95,000 cubic yards) for a surface impoundment scenario.

(4) *Changes in Operating Conditions:* After completing the initial verification testing in Condition (1)(A), if DOE significantly changes the operating conditions established in Condition (1), DOE must notify the Agency in writing. After written approval by EPA, DOE must re-institute the testing required in Condition (1)(A). DOE must report the operations and test data, required by Condition (1)(A), including quality control data, obtained during this period no later than 60 days after the changes

take place. Following written notification by EPA, DOE may replace testing Condition (1)(A) with (1)(B). DOE must fulfill all other requirements in Condition (1), as appropriate.

To ensure consistent and efficient treatment, the Agency is requiring DOE to operate the ETF in accordance with the operating conditions established under Condition (1). However, the proposed exclusion allows DOE some flexibility in modifying the operating conditions to optimize its treatment process, if DOE can demonstrate the effectiveness of the modified operating conditions through new initial verification testing under Condition (1)(A).

(5) *Data Submittals:* At least two weeks prior to system start-up, DOE must notify, in writing, the Chief of the Waste Identification Branch (see address below) when the Effluent Treatment Process will be on-line and waste treatment will begin. The data obtained through Condition (1)(A) must be submitted to the Branch Chief, Waste Identification Branch, OSW (Mail Code 5304), U.S. EPA, 401 M Street, S.W., Washington, DC 20460 within the time period specified. Records of operating conditions and analytical data from Condition (1) must be compiled, summarized, and maintained on site for a minimum of three years. These records and data must be furnished upon request by EPA or the State of Washington and made available for inspection. Failure to submit the required data within the specified time period or to maintain the required records on site for the specified time will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent directed by EPA. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted:

Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 USC 1001 and 42 USC 6928), I certify that the information contained in or accompanying this document is true, accurate, and complete.

As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete.

In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate, or incomplete, and upon conveyance of this fact to DOE, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA and that the DOE will be liable for any actions taken in contravention of its RCRA and CERCLA obligations premised upon DOE's reliance on the void exclusion.

If made final, the proposed exclusion will apply only to the wastes and waste volume (a maximum of 19 million gallons or 95,000 cubic yards generated annually) covered by the original demonstration. DOE would require a new exclusion if either its wastes or treatment processes are significantly altered beyond the changes in operating conditions described in Condition (4), such that an adverse change in waste composition (e.g., if levels of hazardous constituents increased significantly) or increase in waste volume occurred. Accordingly, DOE would need to file a new petition for the altered waste. DOE must treat waste generated in excess of 95,000 cubic yards per year or from changed processes as hazardous until a new exclusion is granted.

Although management of the wastes covered by this petition would be relieved from Subtitle C jurisdiction upon final promulgation of an exclusion, the generator of a delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste.

IV. Effective Date

This rule, if finalized, will become effective immediately upon such finalization. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here, because this rule, if finalized, would reduce the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after publication and the fact that a six-month deadline is not necessary to achieve the purpose of Section 3010, EPA believes that this exclusion should be effective immediately upon final publication. These reasons also provide a basis for making this rule effective immediately, upon final promulgation, under the Administrative Procedure Act, 5 U.S.C. 553(d).

V. Regulatory Impact

Under Executive Order 12866, EPA must conduct an ''assessment of the potential costs and benefits'' for all ''significant'' regulatory actions. This proposal to grant an exclusion is not significant, since its effect, if promulgated, would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding wastes generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling this facility to treat its wastes as non-hazardous. There is no additional impact due to today's rule. Therefore, this proposal would not be a significant regulation, and no cost/benefit assessment is required. The Office of Management and Budget (OMB) has also exempted this rule from the requirement for OMB review under Section (6) of Executive Order 12866.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the head of the Agency certifies that the rule will not have any impact on any small entities.

This rule, if promulgated, will not have any adverse economic impact on any small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations and would be limited to one facility. Accordingly, I hereby certify that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

Information collection and record-keeping requirements associated with this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (P.L. 96–511, 44 USC 3501 *et seq.*) and

have been assigned OMB Control Number 2050–0053.

List of Subjects in 40 CFR Part 261

Hazardous Waste, Recycling, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

Dated: January 24, 1995.

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

For the reasons set out in the preamble, Part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In table 2 of appendix IX, part 261 add the following wastestream in alphabetical order by facility to read as follows:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22

* * * * *

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * * * *
DOE–RL	Richland, Washington	Effluents (EPA Hazardous Waste Nos. F001, F002, F003, F004, F005, and F039 derived from F001 through F005) generated from the 200 Area Effluent Treatment Facility (ETF) located at the Hanford site (at a maximum annual generation rate of 19 million gallons per year) after [insert effective date of final rule]. To ensure that hazardous constituents are not present in the wastes at levels of regulatory concern while the treatment facility is in operation, DOE must implement a testing program. This testing program must meet the following conditions for the exclusion to be valid: (1) *Testing*: Sample collection and analyses (including quality control (QC) procedures) must be performed according to SW–846 (or other EPA-approved) methodologies. If EPA judges the treatment process to be effective under the operating conditions used during the initial verification testing, DOE may replace the testing required in Condition (1)(A) with the testing required in Condition (1)(B). DOE must continue to test as specified in Condition (1)(A) until notified by EPA in writing that testing in Condition (1) (A) may be replaced by Condition (1)(B). (A) *Initial Verification Testing:* During the period required to fill the first three verification tanks (each designed to hold approximately 650,000 gallons) with effluents generated from an on-line, full-scale Effluent Treatment Facility (ETF), DOE must monitor the range of typical operating conditions for the ETF. DOE must collect a representative sample from each of the first three verification tanks filled with ETF effluents. The samples must be analyzed, prior to disposal of ETF effluents, for all constituents listed in Condition (3). DOE must report the operational and analytical test data, including quality control information, obtained during this initial period no later than 90 days after the first verification tank is filled with ETF effluents. (B) *Subsequent Verification Testing:* Following notification by EPA, DOE may substitute the testing conditions in this condition for (1)(A). DOE must continue to monitor operating conditions, and collect and analyze representative samples from every tenth verification tank filled with ETF effluents. These representative samples must be analyzed, prior to disposal of ETF effluents, for all constituents listed in Condition (3). If all constituent levels in a sample do not meet the delisting levels specified in Condition (3), DOE must analyze representative samples from the following two verification tanks generated prior to disposal. DOE may also collect and analyze representative samples more frequently. (2) *Waste Holding and Handling:* DOE must store as hazardous all ETF effluents generated during verification testing (as specified in Conditions (1)(A) and (1)(B)), that is until valid analyses demonstrates that Condition (3) is satisfied. If the levels of hazardous constituents in the samples of ETF effluents are equal to or below all of the levels set forth in Condition (3), then the ETF effluents are not hazardous and may be managed and disposed of in accordance with all applicable solid waste regulations. If hazardous constituent levels in any representative sample collected from a verification tank exceed any of the delisting levels set in Condition (3), the ETF effluents in that verification tank must be re-treated until the ETF effluents meet these levels. Following re treatment, DOE must repeat analyses in Condition (3) prior to disposal. (3) *Delisting Levels*: All total constituent concentrations in the waste samples must be measured using the appropriate methods specified in ''Test Methods for Evaluating Solid Wastes: Physical/Chemical Methods,'' U.S. EPA Publication SW–846 (or other EPA-approved methods). All total constituent concentrations must be equal to or less than the following levels (ppm): *Inorganic Constituents:* Ammonium: 10.0 Antimony: 0.06 Arsenic: 0.5 Barium: 20.0 Beryllium: 0.04 Cadmium: 0.05 Chromium: 1.0 Cyanide: 2.0 Fluoride: 40.0 Lead: 0.15 Mercury: 0.02 Nickel: 1.0

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		Selenium: 0.5 Silver: 2.0 Vanadium: 2.0 Zinc: 100.0 *Organic Constituents:* Acetone: 40.0 Benzene: 0.05 Benzyl alcohol: 100.0 1-Butyl alcohol: 40.0 Carbon tetrachloride: 0.05 Chlorobenzene: 1.0 Chloroform: 0.1 Cresol: 20.0 1,4-Dichlorobenzene: 0.75 1,2-Dichloroethane: 0.05 1,1-Dichloroethylene: 0.07 Di-n-octyl phthalate: 7.0 Hexachloroethane: 0.06 Methyl ethyl ketone: 200.0 Methyl isobutyl ketone: 30.0 Naphthalene: 10.0 Tetrachloroethylene: 0.05 Toluene: 10.0 Tributyl phosphate: 0.2 1,1,1-Trichloroethane 2.0 1,1,2-Trichloroethane: 0.05 Trichloroethylene: 0.05 Vinyl Chloride: 0.02 (4) *Changes in Operating Conditions:* After completing the initial verification testing in Condition (1)(A), if DOE significantly changes the operating conditions established in Condition (1), DOE must notify the Agency in writing. After written approval by EPA, DOE must re-institute the testing required in Condition (1)(A). DOE must report the operations and test data, required by Condition (1)(A), including quality control data, obtained during this period no later than 60 days after the changes take place. Following written notification by EPA, DOE may replace testing Condition (1)(A) with (1)(B). DOE must fulfill all other requirements in Condition (1), as appropriate. (5) *Data Submittals:* At least two weeks prior to system start-up, DOE must notify, in writing, the Chief of the Waste Identification Branch (see address below) when the Effluent Treatment Process will be on-line and waste treatment will begin. The data obtained through Condition (1)(A) must be submitted to the Branch Chief, Waste Identification Branch, OSW (Mail Code 5304), U.S. EPA, 401 M Street, S.W., Washington, DC 20460 within the time period specified. Records of operating conditions and analytical data from Condition (1) must be compiled, summarized, and maintained on site for a minimum of three years. These records and data must be furnished upon request by EPA or the State of Washington and made available for inspection. Failure to submit the required data within the specified time period or to maintain the required records on site for the specified time will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent directed by EPA. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted: Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 USC 1001 and 42 USC 6928), I certify that the information contained in or accompanying this document is true, accurate, and complete. As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete. In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate, or incomplete, and upon conveyance of this fact to DOE, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA and that the DOE will be liable for any actions taken in contravention of its RCRA and CERCLA obligations premised upon DOE's reliance on the void exclusion.
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[FR Doc. 95–2499 Filed 1–31–95; 8:45 am]
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DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 381

[Docket No. R–153]

RIN 2133–AB17

Cargo Preference—U.S.-Flag Vessels; Available U.S.-Flag Commercial Vessels

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Proposed rule.

SUMMARY: This amendment to the cargo preference regulations of the Maritime Administration (MARAD) would provide that during the 1995 shipping season when the St. Lawrence Seaway is in use, MARAD will consider the legal requirement for the carriage of bulk agricultural commodity preference cargoes on privately-owned ''available'' U.S.-flag commercial vessels to have been satisfied where the cargo is initially loaded at a Great Lakes port on one or more U.S.-flag or foreign-flag vessels, transferred to a U.S.-flag commercial vessel at a Canadian transshipment point outside the St. Lawrence Seaway, and carried on that U.S.-flag vessel to a foreign destination. This amendment would allow Great Lakes ports to compete for agricultural commodity preference cargoes during an entire season trial period. MARAD issued a prior final rule on August 8, 1994, that adopted this policy for the 1994 Great Lakes shipping season that had been in progress since April 1994. This did not allow for a true trial period that MARAD could evaluate in determining whether to make this a permanent policy.

DATES: Comments must be received on or before March 3, 1995.

ADDRESSES: Send original and two copies of comments to the Secretary, Maritime Administration, Room 7210, Department of Transportation, 400 7th Street S.W., Washington, D.C. 20590. To expedite review of comments, the Agency requests, but does not require, submission of an additional ten (10) copies. All comments will be made available for inspection during normal business hours at the above address. Commenters wishing MARAD to acknowledge receipt of comments should enclose a self-addressed envelope or postcard.

FOR FURTHER INFORMATION CONTACT: John E. Graykowski, Deputy Maritime Administrator for Inland Waterways and Great Lakes, Maritime Administration, Washington, DC 20590, Telephone (202) 366–1718.

SUPPLEMENTARY INFORMATION: United States law at sections 901(b) (the ''Cargo Preference Act'') and 901b, Merchant Marine Act, 1936, as amended (the ''Act''), 46 App. U.S.C. 1241(b) and 1241f, requires that at least 75 percent of certain agricultural product cargoes ''impelled'' by Federal programs (preference cargoes), and transported by sea, be carried on privately-owned United States-flag commercial vessels, to the extent that such vessels ''are available at fair and reasonable rates.'' The Secretary of Transportation wishes to administer that program so that all ports and port ranges may participate.

Prior Rulemaking

On August 8, 1994, MARAD published a final rule on this subject in the **Federal Register** (59 FR 40261). That rule stated that it was intended to allow U.S. Great Lakes ports to participate with ports in other U.S. port ranges in the carriage of bulk agricultural commodity preference cargoes. Dramatic changes in shipping conditions have occurred since 1960, including the disappearance of any all-U.S.-flag commercial ocean-going service to foreign countries from U.S. Great Lakes ports. The static configuration of the St. Lawrence Seaway system and the evolving greater size of commercial vessels contributed to the disappearance of any all-U.S.-flag service.

No preference cargo has moved on U.S.-flag vessels out of the Great Lakes since 1989, with the exception of one trial shipment in 1993. Under the Food Security Act of 1985, Public Law 99–198, codified at 46 App. U.S.C. 1241f(c)(2), a certain minimum amount of Government-impelled cargo was required to be allocated to Great Lakes ports during calendar years 1986, 1987, 1988, and 1989. That ''set-aside'' expired in 1989, and was not renewed by the Congress. The disappearance of Government-impelled cargo flowing from the Great Lakes coincided with the expiration of the Great Lakes ''set aside.''

At the time of the opening of the 1994 Great Lakes shipping season on April 5, 1994, the Great Lakes did not have any all-U.S.-flag ocean freight capability for carriage of bulk preference cargo. In contrast, the total export nationwide by non-liner vessels of USDA and USAID agricultural assistance program cargoes subject to cargo preference in the 1992–1993 cargo preference year (the latest program year for which figures are available) amounted to 6,297,015 metric tons, of which 4,923,244, or 78.2 percent, was transported on U.S.-flag vessels. (Source: Maritime Administration database.)

MARAD issued the previous rule to provide Great Lakes ports with the opportunity to compete for agricultural commodity preference cargoes for only the 1994 Great Lakes shipping season cargoes, and to assess the results.

Extension of Trial Period

As predicted by numerous commenters, the timing of the final rule, which was not published until August 18, 1994, did not allow for a true trial period since it actually extended for less than one-half of the 1994 Great Lakes Shipping season. Because of the long lead time required for arranging shipments of bulk agriculture commodity preference cargoes, there apparently was no real opportunity for U.S.-flag vessel operators to make the necessary arrangements and bid on preference cargoes. Accordingly, MARAD proposes to extend the trial period for applying its modified policy with respect to shipment of preference cargoes on U.S.-flag vessels through the 1995 Great Lakes shipping season.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review)

This rulemaking has been reviewed under Executive Order 12866 and Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). It is not considered to be an economically significant regulatory action under section 3(f) of E.O. 12866, since it has been determined that it is not likely to result in a rule that may 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. However, since this rule would affect other Federal agencies, is of great interest to the maritime industry, and has been determined to be a significant rule under the Department's Regulatory Policies and Procedures, it is considered to be a significant regulatory action under E.O. 12866.

MARAD projects that this rule would allow the movement of up to 300,000 metric tons of agricultural commodities from Great Lakes ports, with a reduction in the shipping cost to sponsoring

Federal agencies up to $3 per metric ton ($900,000).

Since the substance of this rule is identical to that contained in the May 11, 1994 NPRM, which solicited comments that MARAD addressed in its final rule issued on August 8, 1994, and since no commenter opposed a one-season trial period MARAD is allowing a 30-day comment period for this second proposed rule.

If this rule is finalized, MARAD will evaluate the results of the one-season trial period before determining whether to issue a rule to make this arrangement permanent.

This rule has been reviewed by the Office of Management and Budget under Executive Order 12866.

Federalism

The Maritime Administration has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that these regulations do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Maritime Administration certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities.

Environmental Assessment

The Maritime Administration has considered the environmental impact of this rulemaking and has concluded that an environmental impact statement is not required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act

This rulemaking contains no reporting requirement that is subject to OMB approval under 5 CFR Part 1320, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.)

List of Subjects in 46 CFR Part 381

Freight, Maritime carriers.

Accordingly, MARAD hereby proposes to amend 46 CFR part 381 as follows:

PART 381—[AMENDED]

1. The authority citation for Part 381 continues to read as follows:

Authority: 46 App. U.S.C. 1101, 1114(b), 1122(d) and 1241; 49 CFR 1.66.

2. Section 381.9 would be revised to read as follows:

§ 381.9 Available U.S.-flag service for 1995.

For purposes of shipping bulk agricultural commodities under programs administered by sponsoring Federal agencies from U.S. Great Lakes ports during the 1995 shipping season, if direct U.S.-flag service, at fair and reasonable rates, is not available at U.S. Great Lakes ports, a joint service involving a foreign-flag vessel(s) carrying cargo no farther than a Canadian port(s) or other point(s) on the Gulf of St. Lawrence, with transshipment via a U.S.-flag privately owned commercial vessel to the ultimate foreign destination, will be deemed to comply with the requirement of ''available'' commercial U.S.-flag service under the Cargo Preference Act of 1954. Shipper agencies considering bids resulting in the lowest landed cost of transportation based on U.S.-flag rates and service shall include within the comparison of U.S.-flag rates and service, for shipments originating in U.S. Great Lakes ports, through rates (if offered) to a Canadian port or other point on the Gulf of St. Lawrence and a U.S.-flag leg for the remainder of the voyage. The ''fair and reasonable'' rate for this mixed service will be determined by considering the U.S.-flag component under the existing regulations at 46 CFR Part 382 or 383, as appropriate, and incorporating the cost for the foreign-flag component into the U.S.-flag ''fair and reasonable'' rate in the same way as the cost of foreign-flag vessels used to lighten U.S.-flag vessels in the recipient country's territorial waters. Alternatively, the supplier of the commodity may offer the Cargo FOB Canadian transshipment point, and MARAD will determine fair and reasonable rates accordingly.

Dated: January 26, 1995.

By Order of the Maritime Administrator.

Joel Richard,

Secretary, Maritime Administration.

[FR Doc. 95–2410 Filed 1–31–95; 8:45 am]

BILLING CODE 4910–81–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket Nos. 94–149 and 91–140; FCC 94–323]

Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The *Notice of Proposed Rule Making* seeks comment on a number of initiatives aimed at increasing minority and female ownership of mass media facilities. These initiatives include an incubator program whereby existing operators assist minority and female operators in purchasing facilities, an exception to the Commission's attribution rules to permit an individual to hold a larger interest in minority or female-controlled properties than is generally permissible, modifications to the Commission's existing tax certificate policy, and other mechanisms designed to facilitate minority and female ownership. The actions proposed in the *Notice of Proposed Rule Making* are needed to provide greater opportunities for minorities and women to become operators of mass media facilities and, where applicable, to expand their present holdings.

DATES: Comments are due April 17, 1995 and reply comments are due May 17, 1995.

ADDRESSES: Federal Communication Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jane Hinckley Halprin or Diane Conley, Mass Media Bureau, Policy and Rules Division, (202) 418–2130.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making* in MM Docket Nos. 94–149 and 91–140, adopted December 15, 1994, and released January 12, 1995.

The complete text of the *Notice of Proposed Rule Making* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, NW., Washington, DC 20036, (202) 857–3800.

Synopsis of Notice of Proposed Rule Making

1. The Commission initiates this proceeding to explore ways to provide minorities and women with greater opportunities to enter the mass media industry, specifically including the broadcast, cable, wireless cable and low power television services. Its purpose in doing so is to further the core Commission goal of maximizing the diversity of points of view available to the public over the mass media, and to provide incentives for increased economic opportunity.

2. While the Commission's existing minority ownership incentives (including the tax certificate and distress sale policies and the minority ownership rules) have facilitated the acquisition of broadcast and cable

properties by minorities, the overall representation of minorities among broadcast station or cable owners remains for below their presence in the national population and the civilian labor force. Women have likewise traditionally been underrepresented among mass media owners.

3. The Commission requests that commenters provide current data regarding female ownership of mass media facilities. The Commission invites commenters to discuss whether, if it is ultimately established that women are underrepresented, each of the initiatives proposed below to promote minority ownership should also be applied to women. The Commission notes that, in the past, female owners were eligible for a preference in comparative broadcast hearings, but that policy was invalidated by the U.S. Court of Appeals for the District of Columbia in *Lamprecht* v. *FCC*, 958 F.2d 382 (DC Cir. 1992). *Lamprecht* found that the Commission had failed to show a nexus between women's ownership of broadcast stations and diversity of programming. The Commission asks commenters to specifically address the extent to which female ownership contributes to diversity of programming distributed by the mass media and to provide evidence.

4. As an alternative legal justification for providing incentives for greater ownership of mass media facilities by both minorities and women, apart from diversity of programming, the Commission solicits comment on whether it should instead rely on an economic rationale. This concept was espoused by Congress in 1993 when it adopted Section 309(j) of the Communications Act, 47 U.S.C. § 309(j), in which Congress specifically recognized that it is consistent with the public interest to adopt competitive bidding procedures that promote economic opportunity for a wide variety of applicants, including minorities and women. The Commission seeks comment on economic disadvantages faced by minorities and women.

5. The *Notice* proposes specific mechanisms intended to increase minority and female ownership of mass media facilities, and particularly seeks to increase those groups' access to capital. The suggestions presented in the *Notice* are not intended to be exhaustive; the Commission encourages commenters to propose other ways to advance minority and female ownership of mass media outlets.

Incubator Programs

6. First, the Commission discusses ways to refine the Commission's previous proposal to create an ''incubator'' program whereby existing mass media entities would be encouraged, through ownership-based incentives, to assist new entrants to the communications industry. In return for providing certain types of assistance to a minority or female entrepreneur seeking to acquire a mass media facility, the incubating entity would be permitted to exceed the otherwise applicable ownership limits.

7. The Commission seeks comment on the structure of an acceptable incubator program. The Commission proposes that an acceptable incubator program must include, at a minimum, three elements: (1) substantial financial assistance (*e.g.*, direct equity participation, loan guarantees or long-term low interest loans at, for example, one-half the market rate); (2) operational assistance (such as technical advice or assistance with station operations and management); and (3) training programs for new broadcasters and/or station personnel.

8. The Commission also asks commenters to discuss at what point the incubating owner should be permitted to acquire additional facilities. For example, should the Commission adopt a one-year waiting period *i.e.*, an incubator program must have been in place for one year before the incubating entity may purchase additional facilities? In the alternative, given that the purpose of an incubator program is to enable the incubated entity to purchase a facility, the incubating entity could be permitted to acquire an additional facility as soon as the incubated facility is purchased and operational, subject to a one-year holding requirement on the part of the incubated owner.

9. In addition, the Commission seeks comment on how many mass media properties a group owner participating in such a program should be permitted to acquire above the applicable ownership limit. Should a TV licensee, for example, be allowed to acquire one additional TV station for every two TV stations it incubates? Further, the Commission proposes to require that the additional facilities acquired by the incubating owner are of comparable value to the incubated station. It would not permit, for example, an owner incubating an FM radio station to acquire an additional VHF TV station. It also proposes that the facility acquired by the incubating entity must be within five markets above the incubated facility's market rank, or must be in a market ranked below the incubated facility's market. A parallel formulation would also be needed in the cable television context so that the additional facilities or ''households'' passed in excess of what is ordinarily permitted by the rules has comparable size or value in relationship to the incubated facility. The Commission also asks whether broadcasters participating in the incubator program should be allowed to exceed both the national and local multiple ownership limits.

Attribution Rules

10. Next, the Commission seeks comment on whether and how to modify its ownership attribution rules to increase investment in minority and female-controlled properties and further to benefit minority and female owners. The Commission's broadcast attribution rules, set forth in the notes to 47 CFR 73.3555, are used to determine whether particular media holdings will be considered ownership interests for purposes of applying the Commission's multiple ownership rules. Parallel provisions appear in the cable television rules, 47 CFR 76.501. In general, any interest that represents five percent or more of the outstanding voting stock of a company is an attributable ownership interest and thus is counted in determining compliance with the multiple ownership limits.

11. The Commission suggests that one of the options made available to ''designated entities'' bidding for PCS licenses could be adapted as follows: If a minority or female individual or entity or group of individuals or entities holds more than 50 percent of the voting stock of a corporate broadcast licensee or other mass media entity, with at least 15 percent of the company's equity, then no other interests in that entity will be attributable. The Commission asks whether the rule should apply locally as well as nationally, and, if so, whether the rule should be limited to large markets with a specified number of outlets and independent voices.

12. The above rule, as proposed, would permit an investor to hold 49.9 percent of the voting stock in an unlimited number of minority or female-controlled entities. The Commission seeks comment on whether to adopt a numerical limit on the number of interests in minority or female-controlled stations that would, under this exception, be considered not attributable to the investor.

13. Further, this proposed rule would require that the minority or female owner or owners actually control the licensee. The Commission questions

how control should be determined. The Commission proposes to require, as a safeguard against misuse, that each licensee wishing to qualify for the benefits of the rule certify on its application for transfer, assignment or renewal that investors taking advantage of this exception (*i.e.*, non-minority or male investors holding shares above the applicable attribution benchmark who seek to have their interests deemed non-attributable) do not exercise control over the day-to-day operations of the broadcast station.

Tax Certificates

14. The Commission next explores ways to expand its existing tax certificate policy to encourage entities to sell their mass media holdings to minorities and women, and to make it easier for minority and female operators to upgrade their facilities.

15. Exercising the authority conferred upon it by Section 1071 of the Internal Revenue Code, 26 U.S.C. 1071, the Commission has, since 1978, issued tax certificates to promote minority ownership of broadcast stations. Under the current policy, tax certificates are available to (1) individuals and entities that sell a broadcast station or cable system to a minority-controlled purchaser and (2) equity holders in a minority-controlled broadcasting or cable entity upon the sale of their equity, provided that their interest assisted in financing the acquisition of a broadcast or cable property or was purchased within the first year after broadcast license issuance, thus contributing to the stabilization of the entity's capital base.

16 A tax certificate enables the seller to defer for two years the gain realized by (1) treating it as an involuntary conversion, under 26 U.S.C. 1033, with the recognition of gain avoided by the acquisition of qualified replacement property; or (2) electing to reduce the basis of certain depreciable property, under 26 U.S.C. 1071, or both.

17. Over the past several years, a number of parties have suggested that the policy could be of even greater benefit to minority owners if the Commission and the Internal Revenue Service set up a working group to change certain IRS rules regarding tax certificates. They proposed, for example, that the Commission ask the IRS to revise its 1966 ruling that requires a holder of a tax certificate to reinvest the proceeds of a sale in a corporation that directly operates a communications business, as opposed to a holding company. They also proposed that the Commission ask the IRS to revisit revenue rulings holding that the purchase of interests in a partnership does not qualify as replacement property. In addition, they urge the Commission to ask the IRS to increase the deferred period from two years to at least four years. Another suggestion that has come up in informal discussion with minority mass media operators in that the Commission seek to expand the definition of suitable reinvestment property for a mass media seller to include any communications business. The Commission seeks comment on these proposals and invite commenters to suggest other ways the tax certificate policy could be used to further the goals set out in the *Notice*.

18. Further, the Commission notes that it has been suggested that the tax certificate policy be extended to investors that provide start-up capital for minority-controlled cable programmers, and seeks comment on this proposal. The Commission also asks whether it should grant tax certificates to minority MMDS operators or minority video programmers. The Commission also raises the issue of making a tax certificate available to a minority operator that sells its facility to a non-minority buyer if the minority seller uses the proceeds to invest in a controlling interest in a more valuable mass media property. In addition, commenters are requested to discuss how the tax certificate policy could be modified to increase female ownership of mass media facilities.

Other Mechanisms

19. The Commission discusses other ideas that might also contribute to greater minority and female ownership of mass media facilities, including (1) proposing legislation regarding an investment tax credit for investors in minority-controlled communications corporations; (2) streamlining certain aspects of its broadcast application procedures for applicants funded by Specialized Small Business Investment Companies (SSBICs); and (3) adopting a local radio ownership cap that would permit a minority-controlled entity to own up to three AM stations of any type and up to three Class A FM stations in markets with at least 15 stations, subject to a combined audience share limitation of 30 percent. The Commission seeks comment on these proposals, and specifically asks whether it should adopt a national ownership cap for women similar to its national TV and radio ownership caps for minority, or any other parallel proposal.

Data Collection

20. Finally, the Commission seeks comment on whether to revise its Annual Ownership Report form, FCC Form 323, to include a section requiring owners to identify their race or ethnicity and their gender. The Commission also asks commenters to submit relevant data regarding any apparent impact that increased consolidation of facilities resulting from relaxation of the multiple ownership rules has had on minority and female owners, including the impact of local marketing agreements (LMAs) between stations.

21. *Ex Parte Rules—Non-Restricted Proceeding.* This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's Rules. *See* 47 CFR 1.1202, 1.1203, 1.1206.

22. *Comment Information.* Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before April 17, 1995, and reply comments on or before May 17, 1995. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

23. *Initial Regulatory Flexibility Analysis.*

I. Reason for the Action

This proceeding was initiated to explore ways to increase minority and female ownership of broadcasting facilities.

II. Objective of This Action

The actions proposed in the *Notice* are intended to facilitate minority and female entry into mass media services, and are particularly aimed at increasing those groups' access to capital.

III. Legal Basis

Authority for the actions proposed in this *Notice* may be found in sections 4 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 303.

IV. Reporting, Recordkeeping and Other Compliance Requirements Inherent in the Proposed Rule

The *Notice* seeks comment as to whether to add to the Commission's annual ownership report form a section in which owners would disclose their gender and their race or ethnicity.

V. Federal Rules Which Overlap, Duplicate or Conflict With the Proposed Rule

None.

VI. Description, Potential Impact and Number of Small Entities Involved

Approximately 11,000 existing television and radio broadcasters, approximately 11,000 cable television operators and approximately 150 MMDS operators of all sizes may be affected by the proposals contained in this decision.

VII. Any Significant Alternatives Minimizing the Impact on Small Entities and Consistent With the Stated Objectives

The proposals contained in this *Notice* do not impose additional burdens on small entities.

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 this document. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Notice*, but they must have a separate and distinct heading designating them as responses to the Regulatory Flexibility Analysis. The Secretary shall send a copy of this *Notice* of Proposed Rule Making, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. Section 601 *et seq.* (1981)).

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–2420 Filed 1–31–95; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register

Vol. 60, No. 21

Wednesday, February 1, 1995

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

Natural Resources Conservation Service

Lower Little Tallapoosa River Watershed, Carroll, Haralson, and Heard; Counties, Georgia

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Natural Resources Conservation Service Regulations ((7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the revised Lower Little Tallapoosa River Watershed Plan in Carroll, Haralson, and Heard Counties, Georgia.

FOR FURTHER INFORMATION CONTACT: Earl Cosby, State Conservationist, Natural Resources Conservation Service, Federal Building, Box 13, 355 East Hancock Avenue, Athens, Georgia 30601; telephone: 706–546–2116.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action, developed by the Natural Resources Conservation Service, indicates that the project will not cause significant local, regional, or national impacts on the environment.

As a result of these findings, Earl Cosby, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this Project.

The project purpose is watershed protection for improvement of water quality and includes reduction of agricultural animal waste related pollution. The planned improvements include cost sharing and technical assistance to:

Develop and install approximately 97 animal waste management systems covering 20,800 acres of pastureland and adjoining stream banks. Systems will include all or parts of the following: fencing, cross fencing with gates, alternative livestock water supply with piping and troughs, stream crossings, filter strips, and heavy use protection areas, solid waste stack facilities and dead bird composters on 55 beef, 15 poultry and 27 beef-poultry operations to control and utilize manure.

Conservation management with nutrient and grazing land management practices will be used when applying animal waste.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Earl Cosby.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Dated: February 23, 1995.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Earl Cosby,

State Conservationist.

[FR Doc. 95–2378 Filed 1–31–95; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 941257–4357]

RIN 0693–ZA03

Fire Research Grants Program—Availability of Funds

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform potential applicants that the Fire Research Program, National Institute of Standards and Technology (NIST), is continuing its Fire Research Grants Program. Previous notices of this research grant program were published in the **Federal Register** on February 20, 1991 (46 FR 13250, November 19, 1984 (49 FR 45636), May 6, 1986 (51 FR 16730), June 5, 1987 (52 FR 21342) June 6, 1988 (53 FR 20675), May 31, 1989 (54 FR 23243), July 23, 1990 (FR 90–17041), May 7, 1991 (FR 91–10717), April 22, 1992 (FR 57–14695), March 17, 1993 (FR DoC. 93–6157), May 11, 1994 (FR DoC 94–11351), and FR 58–14379.

DATES: Applications will be received through September 30, 1995.

ADDRESSES: Applicants must submit one signed original plus two (2) copies of the proposal along with Standard Form 424 (Rev. 4/92) and other required forms, as referenced under the provisions of OMB Circular A–110 to: Building and Fire Research Laboratory, Attention: Sonya Cherry, Building 226, Room B206, National Institute of Standards and Technology, Gaithersburg, Maryland 20899–0001.

FOR FURTHER INFORMATION CONTACT: Technical questions concerning the NIST Fire Research Grants Program should be directed to Sonya Cherry at (301) 975–6854. Administrative questions concerning the NIST Fire Research Grants Program may be directed to the Grants Office at (301) 975–6329. Written inquiries should be forwarded to the following address: Grants Office, Acquisition and Assistance Division, Building 301, Room B129, National Institute of Standards and Technology, Gaithersburg, MD 20899–0001.

SUPPLEMENTARY INFORMATION:

Catalog of Federal Domestic Assistance Name and Number: Measurement and Engineering Research and Standards; 11.609.

Authority: As authorized by Section 16 of the Act of March 3, 1901, as amended (15 U.S.C. 278f), the NIST Building and Fire Research Laboratory conducts directly and through grants and cooperative agreements, a basic and applied fire research grants program. This program has been in existence for several years at approximately $1.5 million per fiscal year. No increase in funds has taken place. The Fire Research Grants Program is limited to innovative ideas which

are generated by the proposal writer on what research to be performed and how. All proposals submitted must be in accordance with the programs and objectives listed below. Grants awarded under the Fire Research Grants Program will generally provide financial assistance to a recipient without substantial NIST involvement in the projects. Cooperative Agreements awarded for Fire Research Grants Program projects will generally involve a close working relationship between a group of NIST experts and the recipient.

Program Description

A. Fire Modeling and Applications: Performs research, develops, and demonstrates the application of analytical models for the quantitative prediction of the consequences of fires and the means to assess the accuracy of those models. This includes: Developing methods to assess fire hazard and risk; creating advanced, usable models for the calculation of the effluent from building fires; modeling the ignition and burning of furniture, contents, and building elements such as walls; developing methods of evaluating and predicting the performance of building safety design features; developing a protocol for determining the accuracy of algorithms and comprehensive models; and development data bases to facilitate use of fire models.

b. Large Fire Research: Performs research on and develops techniques to measure, predict the behavior of, and mitigate large fire events. This includes: Understanding the mechanisms of large fires that control the gas phase combustion, burning rate, thermal and chemical emissions, transport processes; developing techniques for computer simulation; developing field measurement techniques to assess the near and far field impact of large fires and their plumes; performing research on the use of combustion for environmental cleanup; predicting the performance and environmental impact of fire protection measures and fire fighting systems and techniques; developing and operating the Fire Research Grants Program large scale experiment facility.

c. Smoke Dynamics Research: Produces scientifically sound principles, metrology, data, and predictive methods for the formation/evolution of smoke components in flames for use in understanding and predicting general fire phenomena. This includes: Research on the effects of within-flame and post-flame fluid mechanics on the formation and emission of smoke, including particulates, aerosols, and combustion gases; understanding the mechanistic pathway for soot from chemical inception to post-flame agglomerates; developing calculation methods for the prediction of the yields of CO (and eventually other toxicant) as a function of fuel type, availability of air, and fire scale.

d. Materials Fire Research: Performs research to understand fundamentally the mechanisms that control the ignition, flame spread, and burning rate of materials and the chemical and physical characteristics that affect these aspects of flammability; develops methods of measuring and predicting the response of a material to a fire. This includes: Characterizing the burning rates of charring and non-charring polymers and composites; delineating and modeling the enthalpy and mass transfer mechanisms of materials combustion; and developing computational molecular dynamics and other mechanistic approaches to understand the relationships between polymer structure and flammability.

e. Fire Sensing and Extinguishment: Develops understanding, metrology, and predictive methods to enable high-performance fire sensing and extinguishment systems; devises new approaches to minimizing the impact of unwanted fires and the suppression process. This includes: Research for the identification and *in-situ* measurements of the symptoms of pending and nascent fires or explosions, and the consequences of suppression; devising or adapting monitors for these variables and creating the intelligence for timely interpretation of the data; determining mechanisms for deflagration and detonation suppression by advanced agents and principles for their optimal use; modeling the extinguishment process; and developing performance measures for the effectiveness of suppression system design.

Award Period: Proposals will be considered for research projects from one to three years. When a proposal for a multi-year award is approved, funding will be provided for only the first year of the program. There is no definite commitment to fund future years of the project. The work performed during the year being funded must represent solid accomplishments if prospective funding is not made available to the applicant.

Matching Requirements: The Fire Research Grants Program does not involve the payment of any matching funds and does not directly affect any state or local government.

Eligibility: Academic institutions, non-Federal agencies, and independent and industrial laboratories are eligible to apply.

Proposal Review Process: All proposals are assigned to the appropriate group leader of the five programs listed above for review, including external peer review, and recommendations on funding. Both technical value of the proposal and the relationship of the work proposed to the needs of the specific program are taken into consideration in the group leader's recommendation to the Deputy Director. Applicants should allow up to 60 days processing time. Proposals are evaluated for technical merit by at least three professionals from NIST, the Building and Fire Research Laboratory, or technical experts from other interested government agencies; and experts from the fire research community at large.

Evaluation Criteria:

a. Rationality: 0–20.

b. Qualification of Technical Personnel: 0–20.

c. Resources Availability: 0–20.

d. Technical Merit of Contribution: 0–40.

Selection Procedure: The results of the evaluations are transmitted to the group leader of the appropriate research unit in the Building and Fire Research Laboratory who prepares an analysis of comments and makes a recommendation. The Building and Fire Research Laboratory will also consider compatibility with programmatic goals and financial feasibility.

Paperwork Reduction Act: The Standard Forms 424, 424A, 424B, and LLL mentioned in this notice are subject to the requirements of the Paperwork Reduction Act and have been approved by the Office of Management and Budget (OMB) under Control Numbers 0348–0043, 0348–0044, 0348–0040, and 0348–0046.

Application Kit: An application kit, containing all required application forms and certifications is available by calling Sonya Cherry, NIST Fire Research Grants Program (301) 975–6854. An application kit includes the following:

SF–424 (Rev 4/92)—Application for Federal Assistance

SF–424A (Rev 4/92)—Budget Information—Non-Construction Programs

SF–424B (Rev 4/92)—Assurances—Non-Construction Programs

CD–511 (7/91)—Certification Regarding Debarment, suspension, and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying

CD–512 (7/91)—Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusions—Lower Tier Covered Transactions and Lobbying

SF–LLL—Disclosure of Lobbying Activities

SF–LLL–A—Disclosure of Lobbying Activities Continuation Sheet

Additional Requirements

Past Performance: Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

Preaward Activities: Applicants that incur any costs prior to an award being made do so solely at their own risk of not being reimbursed by the Government. Applicants are also hereby notified that notwithstanding any verbal assurance that they may have received, there is no obligation on the part of DoC to cover preaward costs.

Primary Application Certification: All primary applicants must submit a completed Form CD–511, ''Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying,'' and the following explanations are hereby provided:

1. Nonprocurement Debarment and Suspension. Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies;

2. Drug-Free Workplace. Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, ''Governmentwide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies;

3. Anti-Lobbying. Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater, and

4. Anti-Lobbying Disclosure. Any applicant that has been paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR Part 28, Appendix B.

5. Lower Tier Certifications. Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to NIST. SF–LLL submitted by any tier recipient or subrecipient should be submitted to NIST in accordance with the instructions contained in the award document.

Name Check Reviews: All for-profit and nonprofit applicants will be subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

False Statements: Applicants are reminded that a false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by fine or imprisonment as provided in 18 U.S.C. 1001.

Delinquent Federal Debts: No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

1. The delinquent account is paid in full;

2. A negotiated repayment schedule is established and at least one payment is received or;

3. Other arrangements satisfactory to DoC are made.

No Obligation For Future Funding: If an application is accepted for funding, DoC has no obligation to provide any additional future funding in connection with that award. Renewal of an award, increased funding, or extending the period of performance is at the total discretion of NIST.

Federal Policies and Procedures: Recipients and subrecipients under the Fire Research Grants Program are subject to all Federal laws and Federal and Departmental policies, regulations, and procedures applicable to Federal financial assistance awards. The Fire Research Grants Program does not directly affect any state or local government. Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Purchase of American-Made Equipment and Products—Applicants are hereby notified that they are encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent as set forth in the resolution contained in Public Law 103–317, Sections 607 (a) and (b).

Indirect Costs: The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less.

Executive Order 12866: This funding notice has been determined to be ''not significant'' for purposes of E.O. 12866.

Dated: January 26, 1995.

Samuel Kramer,

Associate Director.

[FR Doc. 95–2370 Filed 1–31–95; 8:45 am]

BILLING CODE 3510–13–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the United Mexican States

January 27, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing levels under the North America Free Trade Agreement.

EFFECTIVE DATE: February 3, 1995.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these levels, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6711. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In order to implement Annex 300–B of the North America Free Trade Agreement (NAFTA), restrictions and consultation levels for certain cotton, wool and man-made fiber textile products from Mexico are being established for the period beginning on January 1, 1995 and extending through December 31, 1995.

These restrictions and consultation levels do not apply to NAFTA originating goods, as defined in Annex 300–B, Chapter 4 and Annex 401 of the agreement. In addition, restrictions and consultation levels do not apply to textile and apparel goods that are assembled in Mexico from fabrics wholly formed and cut in the United States and exported from and re-imported into the United States under U.S. tariff item 9802.00.90. Restrictions and consultation levels will also not apply to textile and apparel goods which are exported from the United States and subsequently re-imported after repairs or alterations and entered under Harmonized Tariff Schedule (HTS) number 9802.00.40 or 9802.00.50.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to implement levels for the 1995 period.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of NAFTA, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 27, 1995.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the provisions of Executive Order 11651 of March 3, 1972, as amended; and pursuant to the North America Free Trade Agreement (NAFTA) between the Governments of the United States, the United Mexican States and Canada, you are directed to prohibit, effective on February 3, 1995, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Mexico and exported during the twelve-month period beginning on January 1, 1995 and extending through December 31, 1995, in excess of the following levels:

Category	Twelve-month level
219	9,438,000 square meters.
313	16,854,000 square meters.
314	6,966,904 square meters.
315	6,966,904 square meters.
317	8,427,000 square meters.
338/339/638/639	650,000 dozen.
340/640	128,822 dozen.
347/348/647/648	650,000 dozen.
410	397,160 square meters.
433	11,000 dozen.
443	156,000 numbers.
611	1,267,710 square meters.
633	10,000 dozen.
643	155,556 numbers.

Imports charged to these category levels for the period January 1, 1994 through December 31, 1994 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the levels established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The levels set forth above are subject to adjustment in the future pursuant to the provisions of Annex 300–B of the NAFTA.

The foregoing levels do not apply to NAFTA originating goods, as defined in Annex 300–B, Chapter 4 and Annex 401 of the agreement. In addition, restrictions and consultation levels do not apply to textile and apparel goods that are assembled in Mexico from fabrics wholly formed and cut in the United States and exported from and re-imported into the United States under U.S. tariff item 9802.00.90. Restrictions and consultation levels will also not apply to textile and apparel goods which are exported from the United States and subsequently re-imported after repairs or alterations and entered under Harmonized Tariff Schedule (HTS) number 9802.00.40 or 9802.00.50.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–2486 Filed 1–31–95; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

New York Cotton Exchange: Proposed Amendments Relating to Permissible Compression, Bale Weight, and Numbers of Bales in a Delivery Unit for the Cotton No. 2 Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract rule change.

SUMMARY: The New York Cotton Exchange (''NYCE'') has submitted proposed amendments to its cotton No. 2 futures contract that will: (1) Provide that only cotton bales that have been gin universal density (GUD) compressed may be delivered on the futures contract; (2) narrow the weight range for deliverable individual bales of cotton to 400 to 650 pounds from the existing range of 325 to 675 pounds; and (3) specify that the total number of bales in a delivery unit may not be fewer than 92 or greater than 108. In accordance with Section 5a(a)(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Acting Director of the Division of Economic Analysis (''Division'') of the Commodity Futures Trading Commission (''Commission'') has determined, on behalf of the Commission, that publication of the proposed amendments is in the public interest and will assist the Commission in considering the views of interested persons.

DATES: Comments must be received on or before March 3, 1995.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW, Washington, D.C. 20581. Reference should be made to the proposed amendments relating to permissible compression, bale weight, and numbers of bales in a delivery unit for the cotton No. 2 futures contract.

FOR FURTHER INFORMATION CONTACT: Frederick V. Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW, Washington, D.C. 20581, telephone (202) 254–7303.

SUPPLEMENTARY INFORMATION: The existing terms of Section 6.03 of the NYCE By-Laws describe the types of compressed bales that may be deliverable on the futures contract. Section 6.03(o) currently specifies that deliverable cotton bales may be standard compressed, universal compressed, or GUD compressed. Bales

of cotton which have been compressed to high density are not deliverable on the contract. The existing terms of Section 5.06(c) of the By-laws specify that deliverable cotton bales must weigh no less than 325 pounds or no more than 675 pounds.

Under the proposed amendments, Section 6.03(o) will be modified to specify that GUD compressed bales shall be the only bales permitted for delivery, thereby eliminating the delivery of cotton bales that have been standard compressed or universal compressed. The proposed amendments also will revise Section 5.06(c) of the By-laws to the extent that the deliverable weight range for individual bales will be reduced to 400 to 650 pounds from the existing range of 325 to 675 pounds. In addition, the proposed amendments will establish a new requirement that the number of bales in a delivery unit be no less than 92 or more than 108.[1]

The Exchange intends to implement the proposed amendments for all newly certificated cotton on and after August 1, 1995.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW, Washington, D.C. 20581. Copies of the amended terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by telephone at (202) 254–6314.

The materials submitted by the NYCE in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 C.F.R. Part 145 (1987)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with C.F.R. 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW, Washington, D.C. 20581 by the specified date.

Issued in Washington, D.C. on January 26, 1995.

Blake Imel,

Acting Director, Division of Economic Analysis.

[FR Doc. 95–2425 Filed 1–31–95; 8:45 am]

BILLING CODE 6351–01–P

[1] Further, the proposed amendments will delete an existing provision of the Exchange's rules which requires that the party submitting cotton for inspection and certification furnish a statement that specifies the manner in which the cotton has been compressed. The proposed amendments also will delete the contract's existing specifications that the deliverer must pay to the receiver the prevailing penalty charges assessed by the delivery warehouse for any cotton which such warehouse has not compressed and that no penalties will be allowed unless the penalties due are stamped on the warehouse receipt at the time it is issued.

CONSUMER PRODUCT SAFETY COMMISSION

Senior Executive Service; Performance Review Board; Membership

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of names of members.

SUMMARY: This notice lists the individuals who have been appointed to the Commission's Senior Executive Service Performance Review Board.

EFFECTIVE DATE: February 1, 1995.

ADDRESSES: Consumer Product Safety Commission, Office of the Secretary, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Joseph F. Rosenthal, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207–001, telephone (301) 504–980.

Members of the Performance Review Board are listed below:

Mary Sheila Gall
Bertram Robert Cottine
Ronald L. Medford
Warren J. Prunella
Thomas W. Murr, Jr.
Alfred L. Roma
Eric A. Rubel
David Schmeltzer (alternate)
Douglas L. Noble (alternate)
Andrew G. Ulsamer (alternate)
Robert D. Verhalen (alternate)

Alternate members may be designated by the Chairman or the Chairman's designee to serve in the place of regular members who are unable to serve for any reason.

Dated: January 26, 1995.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 95–2490 Filed 1–31–95; 8:45 am]

BILLING CODE 6355–01–F

DEPARTMENT OF DEFENSE

Department Of The Army

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting; 16 & 17 February 1995.

Time of Meeting: 0800–1700, 16 February 1995, 0800–1200, 17 February 1995.

Place: Pentagon—Washington, DC.

Agenda: The Army Science Board's Kick-Off Meeting for the ASB 1995 Summer Study on ''The Transition of Technology from the Technology Base to the Customer'' will hold a meeting of the panel members. This meeting will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781.

Sally A. Warner,

Administrator Officer, Army Science Board.

[FR Doc. 95–2377 Filed 1–31–95; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. ER95–423–000, et al.]

El Paso Electric Company, et al. Electric Rate and Corporate Regulation Filings

January 24, 1995.

Take notice that the following filings have been made with the Commission:

1. El Paso Electric Company

[Docket No. ER95–423–000]

Take notice that on January 13, 1995, El Paso Electric Company (''EPE''), tendered for filing the ''Long Term Firm Transmission Service Agreement'' between EPE and Plains Electric Generation and Transmission Cooperative, Inc. (''Plains''), which agreement provides the terms and conditions under which EPE will provide Plains with firm transmission service. EPE also requests waiver of the 120-day filing and posting requirement of § 35.3(b) of the Commission's regulations, 18 CFR 35.3(b) (1994), to permit the Agreement to become effective on the earlier of the in-service date of a phase shifting transformer EPE is planning to install at its Arroyo substation, or November 1, 1995.

Copies of the filing were served upon applicable state public service commissions.

Comment date: February 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Pacific Gas and Electric Company

[Docket No. ER95–424–000]

Take notice that on January 13, 1995, Pacific Gas and Electric Company (PG&E), tendered for filing the Electric Clearinghouse, Inc.—PG&E Power Enabling Agreement between Electric Clearinghouse, Inc. (ECI) and PG&E. The Enabling Agreement documents terms and conditions for the purchase, sale or exchange of economy energy and surplus capacity which the Parties agree to make available to one another at defined control area border interconnection points.

Copies of this filing have been served upon ECI and the California Public Utilities Commission.

Comment date: February 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Wisconsin Public Service Corporation

[Docket No. ER95–425–000]

Take notice that on January 13, 1995, Wisconsin Public Service Corporation tendered for filing an executed service agreement with Citizens Lehman Power Sales, under its CS–1 Coordination Sales Tariff.

Comment date: February 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Iowa-Illinois Gas and Electric Company

[Docket No. ER95–426–000]

Take notice that on January 13, 1995, Iowa-Illinois Gas and Electric (Iowa-Illinois), 206 East Second Street, P.O. Box 4350, Davenport, Iowa 52808, tendered for filing pursuant to § 35.12 of the Regulations under the Federal Power Act four initial rate schedules each consisting of a Transmission Service Agreement dated as of December 16, 1994 between Iowa-Illinois and each of the following power marketers.

AES Power, Inc. (AES)
Citizens Lehman Power Sales (Citizens)
Heartland Energy Services, Inc. (Heartland)
Rainbow Energy Marketing Corporation (Rainbow)

Iowa-Illinois states that the terms and conditions of each of these Agreements are identical in all respects to its Transmission Service Agreement with Enron Power Marketing, Inc. (Enron) submitted for filing on December 23, 1994 in Docket No. ER95–334–000. Iowa-Illinois further states that under each of these Agreements it will provide non-firm transmission service to the power marketers on a monthly, weekly, daily or hourly basis to transmit power and associated energy from certain defined points to other defined points on Iowa-Illinois' interconnected electric system. Service will be provided upon request by the power marketer on an as available basis as determined by Iowa-Illinois.

Iowa-Illinois requests a waiver of the Commission's 60-day notice requirement in order to permit these Agreements to become effective on or before February 13, 1995.

Copies of the filing were served upon the Iowa Utilities Board, the Illinois Commerce Commission, AES, Citizens, Heartland and Rainbow.

Comment date: February 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Arizona Public Service Company

[Docket No. ER95–427–000]

Take notice that on January 13, 1995, Arizona Public Service Company (APS), tendered for filing proposed Power Service Agreement (Service Agreement) between APS and Citizens Utilities Company (Citizens). The Service Agreement, includes Service Schedule A, B and C which address wholesale power, supplemental capacity and energy, and supplemental peaking energy respectively.

This Service Agreement completely restructures existing arrangements with Citizens under other existing agreements and it is intended to supersede and cancel the existing: (a) Wholesale Power Agreement, (b) Supplement No. 1—Supplemental Peaking Energy Schedule to the Wholesale Power Agreement, (c) Supplemental Capacity Sales Agreement, and (d) Capacity Sale Agreement.

The Parties request an effective date of March 1, 1995 and therefore request a waiver of the Commission's Notice Requirements 18 CFR 35.3 in accordance with § 35.11.

A copy of this filing has been served on Citizens and the Arizona Corporation Commission.

Comment date: February 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Tenneco Energy Marketing

[Docket No. ER95–428–000]

Take notice that on January 13, 1995, Tenneco Energy Marketing Company (TEMC), petitioned the Commission for acceptance of TEMC's Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations. TEMC is a subsidiary of Tennessee Gas Pipeline Company.

Comment date: February 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Atlantic City Electric Company

[Docket No. ER95–429–000]

Take notice that on January 13, 1995, Atlantic City Electric Company (ACE), tendered for filing an Agreement for Short-Term Energy Transactions between ACE and Electric Clearinghouse, Inc. ACE requests that the Agreement be accepted to become effective January 16, 1995.

Copies of the filing were served on the New Jersey Board of Regulatory Commissioners.

Comment date: February 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Phibro Division of Salomon Inc.

[Docket No. ER95–430–000]

Take notice that on January 13, 1995, Phibro Division of Salomon Inc. (Phibro), tendered for filing pursuant to Rules 205 and 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.205, 207, its Rate Schedule No. 1, to be effective 60 days from and after January 13, 1995, and a petition for waivers of and blanket approvals under various regulations of the Commission, and clarification of jurisdiction under § 201 of the Federal Power Act.

Phibro intends to engage in electric power and energy transactions as a marketer. Phibro's marketing activities will include purchasing capacity, energy and/or transmission services from electric utilities, qualifying facilities and independent power producers, and reselling such power to other purchasers. Phibro proposes to charge market-based rates mutually agreed upon by the parties.

Comment date: February 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Illinois Power Company

[Docket No. ER95–431–000]

Take notice that on January 17, 1995, Illinois Power Company (Illinois), tendered for filing an Interchange Agreement between Illinois and Citizens Lehman Power Sales (CLPSales). Illinois states that the purpose of this agreement is to provide for the buying and selling of capacity and energy between Illinois and CLPSales.

Comment date: February 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Bangor Hydro-Electric Company

[Docket No. ER95–432–000]

Take notice that on January 17, 1995, Bangor Hydro-Electric Company (Bangor), tendered for filing Rate Schedule No. FERC No. 27 (Fifteenth Revision) for full requirements service to Swans Island Electric Cooperative, Inc.

Comment date: February 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Florida Power & Light Company

[Docket No. ER95–436–000]

Take notice that on January 17, 1995, Florida Power & Light Company (FPL), filed the Contract for Purchases and Sales of Power and Energy Between FPL and City of Lakeland. FPL requests an effective date of March 17, 1995.

Comment date: February 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Municipal Energy Agency of Nebraska v. Nebraska Public Power District and Tri-State Generation Transmission Association, Inc.

[Docket No. TX95–3–000]

Take notice that on January 19, 1995, the Municipal Energy Agency of Nebraska, (MEAN) 521 S. 14th Street, P.O. Box 95124, Lincoln, Nebraska 68509, filed with the Federal Energy Regulatory Commission an application requesting that the Commission order Nebraska Public Power District and Tri-State Generation & Transmission Association, Inc. to provide transmission services pursuant to Section 211 of the Federal Power Act.

MEAN seeks the provision by NPPD and Tri-State of joint (1) firm network service; (2) supplemental firm service; and (3) supplemental non-firm service. The services are to begin immediately upon the entrance of a Commission order directing their provision, and are to be available on a long-term basis (although no precise termination date was specified). MEAN has requested: (1) joint firm network service sufficient to meet the present and future loads of MEAN's Requirements Participants in NPPD's control area; (2) at least 20 MW of joint supplemental firm service and the opportunity to request additional service; and (3) joint supplemental non-firm service on an as-available basis. Ancillary services were also requested.

Comment date: February 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–2422 Filed 1–31–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ER94–1488–000, et al.]

Excel Energy Services, et al.; Electric Rate and Corporate Regulation Filings

January 25, 1995.

Take notice that the following filings have been made with the Commission:

1. Excel Energy Services

[Docket No. ER94–1488–000]

Excel Energy Services, Inc. of 37543 E. Greenwood, Northville, Michigan, 48167 on January 12, 1995, filed a notice of succession in which it states that on January 3, 1995 it ''adopts, ratifies and makes its own, in every respect all applicable rate schedules [1] and supplements thereto, listed below, heretofore filed with the Federal Energy Regulatory Commission by Continental Energy Services, Inc., effective January 13, 1995.''

2. Midwest Power Systems Inc.

[Docket No. ER95–226–000]

Take notice that on January 19, 1995, Midwest Power Systems Inc. (MPSI), tendered for filing Amendment No. 1 to ER95–226–000. Amendment No. 1 includes a Facilities Agreement (1988 Agreement) dated July 6, 1988, between Iowa Public Service company (n/k/a MPSI) and the City of Estherville, Iowa. The 1988 Agreement provides for the maintenance and ownership of transmission and substation facilities for the purpose of serving Estherville with full requirements wholesale service.

The 1988 Agreement is being superseded by a Facilities Agreement (1994 Agreement) dated September 1, 1994.

MPSI requests a waiver so that the Agreements may be effective June 1, 1988.

MPSI states that copies of this filing were served on Estherville, Corn Belt Power Cooperative and the Iowa Utilities Board.

Comment date: February 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. PacifiCorp

[Docket No. ER95–315–000]

Take notice that on January 19, 1995, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, an amendment to its filing in this docket.

Copies of this filing were supplied to Bonneville, the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: February 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. New England Power Company

[Docket No. ER95–411–000]

Take notice that on January 10, 1995, New England Power Company, tendered for filing a revised Service Agreement between New England Power Company and Commonwealth Electric Company for transmission service under NEP's FERC Electric Tariff, Original Volume No. 3.

Comment date: February 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. El Paso Electric Company

[Docket No. ER95–422–000]

Take notice that on January 12, 1995, El Paso Electric Company tendered for filing (a) an Interchange agreement between El Paso and Utah Associated Municipal Power Systems and (b) a Certificate of Concurrence by Utah Associated Municipal Power Systems. The interchange agreement includes service schedules A and B which provide for economy energy interchange and emergency assistance transactions between El Paso and Utah Associated.

Comment date: February 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Curtis/Palmer Hydroelectric Company, L.P.

[Docket No. ER95–433–000]

Take notice that on January 17, 1995, Curtis/Palmer Hydroelectric Company, L.P. (Curtis/Palmer), tendered for filing pursuant to § 35.13 of the Regulations of the Federal Energy Regulatory

[1] Rate Schedule No. 1

Commission, 18 CFR 35.13 (1994), an amendment to Rate Schedule FERC No. 1 pursuant to which Curtis/Palmer sells power and energy to Niagara Mohawk Power Corporation (Niagara Mohawk). The amendment has been mutually agreed upon by Curtis/Palmer and Niagara Mohawk. Curtis/Palmer requests continuation of the currently applicable waivers of the Commission's Regulations with respect to the filing of cost support information and of all or a portion of the Commission's accounting, reporting, securities, property transfer, interlocking director and annual charge regulations. Curtis/Palmer requests that the filing be allowed to become effective January 6, 1995.

Comment date: February 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Tucson Electric Power Company

[Docket No. ER95–434–000]

Take notice that on January 17, 1995, Tucson Electric Power Company (Tucson), tendered for filing a 1996 Firm Capacity and Energy Sale Agreement, dated December 20, 1994 (the Agreement) between Tucson and Texas-New Mexico Power Company (TNP). The Agreement provides for the sale by Tucson to TNP of 30 MW of firm capacity and energy for a one-year term beginning January 1, 1996. Tucson requests an effective date of January 1, 1996.

Copies of this filing have been served upon all parties affected by this proceeding.

Comment date: February 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Rochester Gas and Electric Corporation

[Docket No. ER95–435–000]

Take notice that on January 17, 1995, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Service Agreement for acceptance by the Federal Energy Regulatory Commission (Commission) between RG&E and Northeast Utilities Service Company. The terms and conditions of service under this Agreement are made pursuant to RG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER94–1279. RG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: February 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. PacifiCorp

[Docket No. ER95–439–000]

Take notice that on January 17, 1995, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, Revision No. 20 to Exhibit A and B, Contract No. 14–06–400–2437, Contract for Interconnection and Transmission Service, between PacifiCorp and Western Area Power Administration (Western), PacifiCorp Rate Schedule FERC No. 45.

Exhibit A specifies the projected maximum integrated demand in kilowatts which PacifiCorp desires to have transmitted to its respective points of delivery by Western. Exhibit B specifies the projected maximum integrated demand in kilowatts which Western desires to have transmitted to its respective points of delivery by PacifiCorp.

PacifiCorp requests an effective date of January 1, 1995, be assigned to Revision No. 20 to Exhibit A and B, this date being consistent with the effective date of the revisions.

Copies of this filing were supplied to Western and the Wyoming Public Service Commission.

Comment date: February 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Wisconsin Electric Power Company

[Docket No. ER95–440–000]

Take notice that on January 17, 1995, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an Electric Service Agreement between itself and Illinois Power Company (IP). The Electric Service Agreement provides for service under Wisconsin Electric's Coordination Sales Tariff.

Wisconsin Electric requests an effective date of sixty days from date of filing. Copies of the filing have been served on IP, the Public Service Commission of Wisconsin, and the Michigan Public Service Commission.

Comment date: February 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Oklahoma Gas and Electric Company

[Docket No. ER95–441–000]

Take notice that on January 17, 1995, Oklahoma Gas and Electric Company (OG&E), tendered for filing a proposed Letter of Agreement with AES Power, Inc. (AESPI) for the sale of capacity and energy.

Copies of this filing have been sent to AESPI, the Oklahoma Corporation Commission, and the Arkansas Public Service Commission.

Comment date: February 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Yale University

[Docket No. QF94–112–000]

On January 18, 1995, Yale University (Applicant), tendered for filing an amendment to its filing in this docket. No determination has been made that the submittal constitutes a complete filing.

The amendment provides additional information pertaining primarily to the technical data and the ownership structure of the cogeneration facility.

Comment date: February 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–2423 Filed 1–31–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP94–130–001, et al.]

Northern Natural Gas Company, et al., Natural Gas Certificate Filings

January 25, 1995.

Take notice that the following filings have been made with the Commission:

1. Northern Natural Gas Company

[Docket No. CP94–130–001]

Take notice that on January 18, 1995, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124, filed in Docket No. CP94–130–001, an amendment to its application filed in Docket No. CP94–130–000 on December 13, 1993, pursuant to Section 7(b) of the Natural Gas Act and Part 157 of the Commission's Regulations (18 CFR

157.7 and 157.18). Northern's amendment reflects a change in the parties involved in the purchase and sale of Northern's Montana facilities and requests abandonment of services rendered by Northern through the Montana facilities, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Northern originally proposed to abandon its Montana facilities by sale to NGC Energy Resources, Limited Partnership (NGC Energy); however, the Asset Purchase Agreement between Northern and NGC Energy has been terminated. On December 16, 1994, Northern states that it entered into an Asset Purchase Agreement with UMC Petroleum Corporation (UMC) providing for the sale and purchase of the Montana facilities by UMC or its designee. Northern states that the amendment includes the same facilities as the original application.

Comment date: February 16, 1995, in accordance with the first paragraph of Standard Paragraph F at the end of this notice.

2. Northwest Pipeline Corporation

[Docket No. CP95–165–000]

Take notice that on January 19, 1995, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket No. CP95–165–000 an application pursuant to sections 7(c) and 7(b) of the Natural Gas Act for authorization to construct and operate certain replacement natural gas facilities and for authorization to abandon and remove the facilities being replaced, all as more fully set forth in the application on file with the Commission and open to public inspection.

Northwest proposes to construct and operate approximately 0.2 mile of new 26-inch replacement pipeline, partially outside of Northwest's existing right-of-way, and abandon and remove approximately 0.2 mile of existing 26-inch deteriorated pipeline on Northwest's Ignacio to Sumas mainline in the Philadelphia Creek area of Rio Blanco County, Colorado.

Northwest states that the installation of replacement pipeline and the removal and abandonment of the existing line is necessary to insure the integrity of its mainline transmission system.

Northwest states that the proposed pipeline replacement will not result in an increase in the capacity of its mainline.

Northwest estimates the total costs to construct the proposed pipeline and remove and abandon the existing pipeline segment at approximately $311,700.

Comment date: February 25, 1995, in accordance with Standard Paragraph F at the end of this notice.

3. Sea Robin Pipeline Company

[Docket No CP95–168–000]

Take notice that on January 20, 1995, Sea Robin Pipeline Company (Sea Robin), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed a petition for a declaratory order in Docket No. CP95–168–000, requesting that the Commission declare that its facilities are gathering facilities not subject to the Commission jurisdiction under Section 1(b) of the Natural Gas Act, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Sea Robin states that it is an offshore pipeline company which gathers natural gas and condensate from numerous production fields, offshore Louisiana, including the East Cameron, West Cameron, Eugene Island, Ship Shoal, South Marsh Island and Vermilon Areas. Sea Robin states that its system consists of a 438 mile network of pipelines in the form of an inverted ''Y'' which range from 4 inches to 36 inches in diameter. Sea Robin states that its system extends from East Cameron Block 335 and Ship Shoal Block 222 at the end points of the ''Y'' and terminates onshore in Vermilion Parish, Louisiana, near Erath, Louisiana, where the gas is processed and delivered to four interstate and one intrastate transmission companies.

In the petition, Sea Robin requests that the Commission issue a declaratory order ruling that its facilities are exempt from all Commission jurisdiction under section 1(b) of the Natural Gas Act based on the primary function test set forth in *Farmland Industries, Inc.*, 23 FERC ¶ 61,063 (1983). Sea Robin states that the characteristics of its system and its business purpose in gathering unprocessed gas supplies offshore meet the requirements of the primary function test enumerated in applicable Commission precedent. Upon such ruling, Sea Robin also requests that the Commission rescind the certificate of public convenience and necessity issued to Sea Robin in Docket No. CP69–48 and all other certificate authorizations and rate schedules associated with its jurisdictional operations.

Comment date: February 16, 1995, in accordance with the first paragraph of Standard Paragraph F at the end of this notice.

4. Columbia Gas Transmission Corporation

[Docket No. CP95–170–000]

Take notice that on January 20, 1995, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314–1599, filed in Docket No. CP95–170–000 an abbreviated application pursuant to Sections 7(c) and 7(b) of the Natural Gas Act (NGA) for authorization to construct and operate certain natural gas facilities and for permission and approval to abandon the facilities being replaced, all as more fully set forth in the application on file with the Commission and open to public inspection.

Columbia requests NGA Section 7(c) authorization for the construction and operation of approximately 6.8 miles of 30-inch pipeline and Section 7(b) authorization for the replacement of two existing segments of 20-inch looped pipelines, designated as Lines X52–M1 and X52–M1–Loop, each of which is approximately 6.8 miles in length and located in Kanawha County, West Virginia.

Columbia does not request authorization for any new or additional service. Columbia states that the segments of pipeline to be replaced have become physically deteriorated to the extent that the replacement is deemed advisable. The estimated cost of the proposed construction is $9,156,000.

Comment date: February 16, 1995, in accordance with Standard Paragraph F at the end of this notice.

5. Columbia Gas Transmission Corporation

[Docket No. CP95–171–000]

Take notice that on January 20, 1995, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP95–171–000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate a new delivery point in Mason County, Kentucky under Columbia's blanket certificate issued in Docket No. CP83–76–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Columbia proposes to construct and operate a new delivery point in Mason County, Kentucky for firm transportation service to Columbia Gas of Kentucky, Inc. Columbia states that there will be no impact on Columbia's

existing peak day obligations to its other customers.

Comment date: March 13, 1995, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell

Secretary.

[FR Doc. 95–2424 Filed 1–31–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP95–162–000]

Havre Pipeline Company, LLC; Renotice of Petition For Declaratory Order

January 26, 1995.

Take notice that on January 25, 1995, Havre Pipeline Company, LLC (Havre), 410 17th Street, Suite 1400, Denver, Colorado 80802, refiled a petition for a declaratory order exempting facilities to be purchased from Northern Natural Gas Company (Northern) from Commission regulation under the Natural Gas Act, and for a determination that Havre will be an intrastate pipeline within the meaning of Section 2(16) of the Natural Gas Policy Act, to reflect corrections in the original petition, all as more fully set forth in the refiled petition which is on file with the Commission and open to public inspection.

Specifically, Havre states that it had committed to make a filing with the Commission no later than January 18, 1995, Havre did make its filing on this date. However, Havre was not formally organized until January 17, 1995 and, according to Havre, changes in its membership structure occurred immediately following the January 18, 1995 filing. In addition, Havre has identified ''certain inadvertent typographical and textual errors'' in the original filing due to the time constraints involved in finalizing the purchase arrangement, organizing Havre, and ''conducting necessary due diligence activities.'' Havre indicates that all of the exhibits are identical to the January 18, 1995 filing, with the exception of Exhibit C (which is a list of the Montana producers that are members of Havre).

Any person desiring to be heard or to make any protest with reference to said refiled petition should on or before February 16, 1995, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 95–2393 Filed 1–31–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–93–005]

K N Interstate Gas Transmission Co.; Compliance Filing

January 26, 1995.

Take notice that on January 23, 1995, K N Interstate Gas Transmission Co. (KNI), tendered for filing in compliance with the Commission's January 20, 1995, Letter Order approving the Stipulation and Agreement (Settlement) in the referenced proceeding. KNI states that the tariff sheets implement the Settlement rates and other tariff changes approved by the January 20 Letter Order.

KNI states that copies of the filing were served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington D.C. 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before February 2, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–2395 Filed 1–31–95; 8:45 am]

BILLING CODE 6717–01–M

Niagara Mohawk Power Corp.; Public Scoping Meeting and Site Visit

[Project No. 2474]

January 26, 1995.

The Federal Energy Regulatory Commission (Commission) has received an application for a new license (relicense) for the existing project operated by the Niagara Mohawk Power Corporation (Niagara Mohawk) on the

Oswego River in northern New York, in or near Oswego. The project includes three developments: Fulton, Minetto and Varick.

Upon review of the application, supplemental filings and intervenor submittals, the Commission staff has concluded that, given the location and interaction of the project, staff will prepare an Environmental Assessment (EA) that describes and evaluates the probable impacts of the applicant's proposals and alternatives for the project.

One element of the EA process is scoping. Scoping activities are initiated early to:

- identify reasonable alternative operational procedures and environmental enhancement measures that should be evaluated in the EA;
- identify significant environmental issues related to the operation of the existing projects;
- determine the depth of analysis for issues that will be discussed in the EA; and
- identify resource issues that are of lesser importance and, consequently, do not require detailed analysis in the EA.

Scoping Meeting and Site Visit

Commission staff will conduct two public meetings for the Oswego River Project. All interested individuals, organizations, and agencies are invited to attend either or both of the planned meetings and help staff identify the scope of environmental issues that should and should not be analyzed in the Oswego River EA.

The evening scoping meeting for the Oswego River Project, primarily for the public, will be conducted at 7:00 PM on Monday, March 6, 1995, at 103 Lanigan Hall on the SUNY-Oswego campus in Oswego, New York. A second meeting, primarily for agencies, will be held on March 7, 1995, at 213 Hewitt Union starting at 9:00 AM.

A site visit to the facilities of each development is tentatively scheduled for March 7 in the afternoon. The purpose of this visit is for interested persons to observe existing area resources and site conditions, learn the locations of proposed new facilities, and discuss project operational procedures with representative of Niagara Mohawk and the Commission. Details concerning the site visit will be available at the scoping meetings.

Procedures

The meeting, which will be recorded by a stenographer, will become part of the formal record of the Commission's proceeding on the Oswego River Project. Individuals presenting statements at the meeting will be asked to sign in before the meeting starts and to identify themselves for the record.

Concerned parties are encouraged to offer us verbal guidance during the public meeting. Speaking time allowed for individuals will be determined before the meeting, based on the number of persons wishing to speak and the approximate amount of time available for the session, but all speakers will be provided at least five minutes to present their views.

Scoping Meeting Objectives

At the scoping meeting, the staff will:

- summarize the environmental issues tentatively identified for analysis in the EA;
- identify resource issues that are of lesser importance and, therefore, do not require detailed analysis;
- solicit from the meeting participants all available information, especially quantifiable data, concerning significant local resources; and
- encourage statements from experts and the public on issues that should be analyzed in the EA.

Information Requested

Federal and state resource agencies, local government officials, interested groups, area residents, and concerned individuals are requested to provide any information they believe will assist the Commission staff to analyze the environmental impacts associated with relicensing the project. The types of information sought include the following:

- Data, reports, and resource plans that characterize the baseline physical, biological, or social environments in the vicinity of the projects.
- Information and data that helps staff identify or evaluate significant environmental issues.

Scoping information and associated comments should be submitted to the Commission no later than April 6, 1995. Written comments should be provided at the scoping meeting or mailed to the Commission, as follows: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426.

All filings sent to the Secretary of the Commission should contain an original and 8 copies. Failure to file an original and 8 copies may result in appropriate staff not receiving the benefit of your comments in a timely manner. See 18 CFR 4.34(h).

All correspondence should clearly show the following caption on the first page:

FERC No. 2474: Oswego River

Intervenors and interceders (as defined in 18 CFR 385.2010) who file documents with the Commission are reminded of the Commission's Rules of Practice and Procedure requiring them to serve a copy of all documents filed with the Commission on each person whose name is listed on the official service list for this proceeding. See 18 CFR 4.34(b).

For further information, please contact John McEachern at (202) 219–3056.

Lois D. Cashell,

Secretary.

[FR Doc. 95–2394 Filed 1–31–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–130–000]

Northern Natural Gas Company; Site Visit

January 26, 1995.

On January 31 and February 1 and 2, 1995, the OPR staff, accompanied by representatives of Northern Natural Gas Company (Northern), will inspect the proposed location of Northern's facilities in the Eastleg Expansion Project. The proposed facilities are in Hardin, Blackhawk, Delaware, and Dubuque Counties, Iowa; Jo Daviess County, Illinois; and Green, Walworth and Rock Counties, Wisconsin.

Parties to the proceeding may attend. Those planning to attend must provide their own transportation. For further information, call Jeff Gerber, (202) 208–1121.

Lois D. Cashell,

Secretary.

[FR Doc. 95–2392 Filed 1–31–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–6–003]

Northwest Pipeline Corporation; Proposed Change in FERC Gas Tariff

January 26, 1995.

Take notice that on January 23, 1995, Northwest Pipeline Corporation (Northwest), tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets with a proposed effective date of November 6, 1994:

Second Substitute Original Sheet No. 232–A
Second Substitute Original Sheet No. 232–B

Northwest states that the purpose of this filing is to comply with a Commission order issued on January 18, 1995 in Docket No. RP95–6–001. This order directs Northwest to make three revisions to Northwest's December 5,

1994, compliance filing in this proceeding.

On October 6, 1994, Northwest made a filing with the Commission that proposed tariff language to provide for operational flow orders (OFOs) on Northwest's system. On November 4, 1994, the Commission accepted and suspended these tariff sheets, subject to refund and conditions, to be effective November 6, 1994. The November 4, 1994 order directed Northwest to make revisions to its tariff and specified certain other issues to be discussed further at a technical conference with results being reported to the Commission within 120 days of the issuance of the November 4, 1994 Order. The technical conference was held on January 10, 1995 and a follow up technical conference is scheduled for February 16, 1995.

Northwest states that a copy of this filing has been served upon all intervenors in Docket No. RP95–6, upon Northwest's jurisdictional customers and upon relevant state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with § 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before February 2, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–2397 Filed 1–31–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–301–000]

Stingray Pipeline Company; Informal Settlement Conference

January 26, 1995.

Take notice that an informal settlement conference will be convened in this proceeding on February 3, 1995, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, N.E. Washington, D.C. for the purpose of exploring the possible settlement of issues in this proceeding.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations at 18 CFR 385.214 before participating.

For additional information, please contact Warren C. Wood at (202) 208–2091 or Marc G. Denkinger at (202) 208–2215.

Lois D. Cashell,

Secretary.

[FR Doc. 95–2396 Filed 1–31–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP77–620–003]

Tennessee Gas Pipeline Company; Notice of Filing

January 26, 1995.

Take notice that on January 18, 1995, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, First Revised Sheet No. 1799, to be effective November 14, 1994.

Tennessee states that the purpose of the referenced tariff sheet is to correct Tennessee's tariff filing dated November 14, 1994 to include Tariff Sheet No. 1799 which was inadvertently omitted. Specifically, the tariff sheet to reflect the abandonment of Rate Schedule T–166 should be First Revised Sheet No. 1799.

Tennessee states that copies of the filing have been mailed to affected parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before February 2, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–2391 Filed 1–31–95; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 95–02–NG]

Intalco Aluminum Corporation; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Intalco Aluminum Corporation blanket authorization to import up to 2 Bcf of natural gas from Canada for a period of two years through September 28, 1996. The gas will be consumed at the company's aluminum smelting plant near Ferndale, Washington.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., January 10, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–2480 Filed 1–31–95; 8:45 am]

BILLING CODE 6450–01–P

[Fe Docket No. 95–03–NG]

Koch Gas Services Company; Order Granting Blanket Authorization To Import and Export Natural Gas From and to Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Koch Gas Services Company authorization to import and export up to a combined total of 100 Bcf of natural gas from and to Mexico. The term of this authorization is for a period of two years beginning on the date of first import or export.

This order is available for inspection and copying in the Office of Fuels Programs docket room, 3F–056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., January 18, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–2479 Filed 1–31–95; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No. 94–101–NG]

Renaissance Energy (U.S.) Inc.; Order Granting Blanket Authorization To Import and Export Natural Gas From and to Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Renaissance Energy (U.S.) Inc. authorization to import from and to export to Canada a combined total of up to 200 Bcf of natural gas. The term of the authorization is for a period of two years, beginning on the date of first import or export after January 31, 1995.

Renaissance's order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., January 18, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas Office of Fuels Programs Office of Fossil Energy.

[FR Doc. 95–2478 Filed 1–31–95; 8:45 am]

BILLING CODE 6450–01–P

Office of Hearings and Appeals

Notice of Cases Filed During the Week of January 2 through January 6, 1995

During the Week of January 2 through January 6, 1995, the applications for relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: January 25, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

REFUND APPLICATIONS RECEIVED

[Week of January 2, 1995 Through January 6, 1995]

Date received	Name of refund proceeding/name of refund applicant	Case No.
1/3/95	Nixon Company	RF352–7
1/5/95	KSI Trucking	RA272–63
1/5/95	Defiance Landmark	RG272–11

[FR Doc. 95–2482 Filed 1–31–95; 8:45 am]

BILLING CODE 6450–01–P

Notice of Cases Filed During the Week of August 5 Through August 12, 1994

Office of Hearings and Appeals

During the Week of August 5 through August 12, 1994, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 C.F.R. part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: January 25, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of August 5 through August 12, 1994]

Date	Name and location of applicant	Case No.	Type of submission
8/8/94	Bender Oil Company, La Junta, CO.	LEE–0150	Exception to reporting requirements. If granted: Bender Oil Company would not be required to file Form EIA–782B ''Resellers'/Retailers' Monthly Petroleum Product Sales Report.''
8/8/94	Carsonville-Port Sanilac Schools, Carsonville, MI.	RR272–151	Request for modification/rescission in the crude refund proceeding. If granted: The July 7, 1994 dismissal letter (RF272–80389) issued to Carsonville-Port Sanilac Schools regarding its Application for Refund in the Crude Oil Refund proceeding would be modified.
8/8/94	Davidson Oil & Supply, Inc., Anderson, MO.	LEE–0149	Exception to reporting requirements. If granted: Davidson Oil & Supply, Inc. would not be required to file Form EIA–782B ''Resellers'/Retailers' Monthly Petroleum Product Sales Report''.
8/8/94	William D. Lawrence, Albuquerque, NM.	LFA–0409	Appeal of an information request denial. If granted: The July 19, 1994 Freedom of Information Request Denial issued by the Albuquerque Operations Office would be rescinded, and William D. Lawrence would receive information regarding an Equal Employment Opportunity (EEO) complaint.
8/10/94	Smith Oil Co., Inc., Ventura, CA	RR311–2	Request for modification/rescission in the EDG refund proceeding. If granted: The April 10, 1994 Decision and Order RF311–2 issued to Smith Oil Co. Inc. regarding the firm's Application for Refund in the EDG refund proceeding would be modified.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of August 5 through August 12, 1994]

Date	Name and location of applicant	Case No.	Type of submission
8/11/94	Tommy Carr's Tire & Automotive Service Center, Inc., Chalfont, PA.	LEE–0151	Exception to reporting requirements. If granted: Tommy Carr's Tire & Automotive Service Center, Inc. would be granted an extension of time in which to file Form EIA–782B, ''Resellers'/Retailers' Monthly Petroleum Product Sales Report.''
8/12/94	David W. Loveless, Idaho Falls, ID	LFA–0410	Freedom of information appeal. If granted: The July 5, 1994 Freedom of Information Request Denial issued by the Office of Demonstration, Testing, and Evaluation would be rescinded, and David W. Loveless would receive access to documents pertaining to all Westinghouse Electric, and its subsidiaries, requests for funding, correspondence, information, monthly reports, teleconference notes, any other written dialogue and Department of Energy funding documentation regarding all robotics/remote technology programs and the WINCO Remote Tank Inspection (RTI) robot funded by Department of Energy Programs, from October 1, 1989 through December 10, 1993.
8/12/94	Larkin Texaco, Bradenton, FL	RR321–164	Request for modification/rescission in the Texaco refund proceeding. If granted: The August 3, 1994 Dismissal (RF321–18480) issued to Larkin Texaco regarding its Application for Refund in the Texaco refund proceeding would be modified.

REFUND APPLICATIONS RECEIVED

[Week of 8/5/94–8/12/94]

Date received	Name of refund proceeding/name of refund applicant	Case No.
8/5/94 thru 8/12/94	Texaco Refund Applications	RF321–21020 thru RF321–21022.
8/9/94	Morris E. Diggercoal & Fuel	RF300–21795.
8/9/94	Pacific Corp. Electronic Operations	RF272–240.
8/11/94	Salt River Project	RF353–1.

NOTICE OF OBJECTION RECEIVED

[Week of 8/5/94–8/12/94]

Date received	Name of applicant	Case No.
8/9/94	Tex Par Energy, Inc.	LEE–0119

[FR Doc. 95–2483 Filed 1–31–95; 8:45 am]

BILLING CODE 6450–01–P

Office of Hearings and Appeals

Notice of Cases Filed During the Week of December 26 Through December 30, 1994

During the week of December 26 through December 30, 1994, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 C.F.R. part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

January 25, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Dec. 26 through Dec. 30, 1994]

Date	Name and location of applicant	Case No.	Type of submission
Dec. 29, 1994	Darcelle Jae Nichols Thrall, Benton City, Washington.	VFA–0017	Appeal of an information request denial. If granted: The December 9, 1994 Freedom of Information Request Denial issued by the Richland Operations Office would be rescinded, and Darcelle Jae Nichols Thrall would receive access to certain Department of Energy information concerning dietary studies in which she had participated.
Do	McKenna/Cuneo, San Diego, California	VFA–0016	Appeal of an information request denial. If granted: The December 7, 1994 Freedom of Information Request Denial issued by the SSC Project Office would be rescinded, and McKenna/Cuneo would receive access to eleven documents from the SSC Project Office.

REFUND APPLICATIONS RECEIVED

[Week of 12/26/94 through 12/30/94]

Date received	Name of refund proceeding/name of refund applicant	Case No.
12/28/94	Darke Landmark Inc.	RG272–8
12/28/94	Roggen Farmers Elevator Association	RG272–9
12/29/94	Briggs Transportation Co.	RF315–10286
12/29/94	Briggs Transportation Co.	RF321–21054

[FR Doc. 95–2484 Filed 1–31–95; 8:45 am]

BILLING CODE 6450–01–P

Notice of Cases Filed During the Week of November 21 through November 25, 1994

Office of Hearings and Appeals

During the Week of November 21 through November 25, 1994, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 C.F.R. part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: January 25, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Nov. 21 through Nov. 25, 1994]

Date	Name and location of applicant	Case No.	Type of Submission
Nov. 21, 1994	Kyle's Friendly Service, Inc., Greensboro, NC.	VEE–0003	Exception to the reporting requirements. If granted: Kyle's Friendly Service, Inc. would not be required to file Form EIA–782B, the ''Resellers'/Retailers' Monthly Petroleum Products Sales Report.''
Do	Ray Marchand Oil Co., Lowell, MA	VEE–0002	Exception to the reporting requirements. If granted: Ray Marchand Oil Co. would not be required to file Form EIA–782B, the ''Resellers'/Retailers' Monthly Petroleum Products Sales Report.''
Nov. 22, 1994	Albuquerque Operations Office, Albuquerque, NM.	VSO–0012	Request for hearing under 10 CFR Part 710. If granted: An individual employed at the Albuquerque Operations Office would receive a hearing under 10 C.F.R. Part 710.

REFUND APPLICATIONS RECEIVED

[Week of Nov. 21 to Nov. 25, 1994]

Date received	Name of refund proceeding/name of refund applicant	Case No.
11/23/94	M&M Gas Co.	RF352–6
11/22/94	Maxwell's Texaco	RF321–21047
11/22/94	Curran's Texaco	RF321–21048

[FR Doc. 95–2485 Filed 1–31–95; 8:45 am]
BILLING CODE 6450–01–M

Notice of Issuance of Decisions and Orders During the Office of Hearings and Appeals Week of October 10 Through October 14 1994

During the week of October 10 through October 14, 1994, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Implementation of Special Refunds

Mount Airy Refining Co., 10/14/94, LEF–0121

The Department of Energy issued a Decision and Order setting forth procedures for the disbursement of $2,226,782.70 received as a result of a consent order between the DOE and Mt. Airy Refining Company. The DOE determined that the funds should be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in crude oil overcharge cases.

Refund Application

Texaco Inc./New Baltimore Fuel & Supply, Inc., Gain Oil Company, Denver Oil Company, Sherwood Oil & Gas Company, 10/12/94 RF321–13808, RF321–13810, RF321–14378, RF321–19906

The DOE issued a Decision and Order denying four Applications for Refund filed in the Texaco refund proceeding. The applicants initially submitted purchase volume claims that they stated were based on sales records. However, they later made statements indicating that the gallonage claims were based primarily on personal recollection. Furthermore, the applicants were unable to provide documentation to support their purchase volume claims. Accordingly, the Applications for Refund were denied.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/Mapco, Inc	RR304–56	10/14/94
Toppers Oil Corp	RF326–329	.....
Farmers Co-Op Association of Saunders et al	RF272–90510	10/11/94
Frey Concrete Inc. et al	RF272–92003	10/11/94
Giles Industries, Inc. et al	RF272–84657	10/11/94
Gulf Oil Corporation/Hayward Research, Inc	RF300–20196	10/13/94
Columbia Nitrogen Corp. TRU, Inc.	RF300–20197	.....
	RF300–20420	
Howard County, Iowa et al	RF272–85091	10/11/94
M.A. Mortenson Company et al	RF272–93686	10/14/94
McCalman, Inc. et al	RF272–94739	10/13/94
Pro Services	RF272–93677	10/14/94
Warren Distribution	RF272–93693	.....
Mystic Fuel, Inc	RF272–93764	.....
Gary Refining Co., Inc	RF272–94921	.....
Shell Oil Company/PSI/NOF Shell	RF315–7284	10/13/94
Shell Oil Company/Truax Corporation	RF315–8200	10/13/94
Texaco Inc./C.D. Turner Texaco et al	RF321–2206	10/14/94
Texaco Inc./Dawson Road Texaco	RF321–20770	10/14/94
Rainey's Texaco	RF321–21037	.....
Texaco Inc./Rodgers T. Storey	RF321–20070	10/12/94
Norbert E. Mitchell Co	RF321–20327	
Raymond G. Brockett	RR321–160	
R.G. Brockett	RR321–161	
Union Pacific Railroad Co	RF272–93262	10/12/94
Union Pacific Railroad Co	RF272–93741	
Union Pacific Railroad Co	RF272–93742	
The Atchison, Topeka & Santa Fe Railway Co	RF272–93287	
Terminal Railroad Assoc	RF272–93438	.....

Dismissals

The following submissions were dismissed:

Name	Case No.
Archdiocese of Washington	RF272–97245
Blue Valley USD #384	RF272–97761
Brunson Texaco	RF321–19768
Budd Company, Inc.	RF272–98760
Carroll Transport, Inc.	RF272–97088
Cash & Sons L-P Gas Co., Inc.	Lee–0166
Contract Hauling, Inc.	RF272–98817
D.H. Blattner & Sons, Inc.	RF272–98940
Frontier Flying Service, Inc.	RF272–98834
Gasoline Merchants Texaco	RF321–18837
General Felt Ind.	RF272–98714
Glenn's Transmission, Inc.	RF321–16337
Hampton Falls School District	RF272–97233
Hampton School District	RF272–97232
Hanks Service Station	RF321–19767

Name	Case No.
Hilltop Texaco	RF321–19733
L.P. Gas Co., Inc.	Lee–0141
Low Land Construction Co., Inc.	RF272–98848
Martinez Gas Company	RF340–139
Maylon H. Fowler, Inc.	RF272–94855
North Hampton School District	RF272–97234
Seabrook School District	RF272–97235
Stanberry Oil Company	Lee–0157
Warrensville Heights, OH	RF272–97648
Webb's Oil Corporation	RF321–20447
Winnacunnet Coop. School District	RF272–97236

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: January 25, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95–2481 Filed 1–31–95; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5148–2]

Intended Transfer of Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intended transfer of confidential business information to contractors.

SUMMARY: The Environmental Protection Agency (EPA) intends to transfer confidential business information (CBI) collected from the organic chemicals, plastics and synthetic fibers (OCPSF) industries to Radian Corporation (Radian) and to Industrial Economics Incorporated (IEc). Radian and IEc adhere to EPA-approved security plans which describe procedures to protect confidential business information (CBI).

Transfer of this information will allow the contractors to assist EPA in evaluating the need for establishing regulations under the Resource Conservation Recovery Act (RCRA) for air emissions, leaks and sludges from treatment surface impoundments accepting wastes generated by the OCPSF industries that were, at point of generation, RCRA hazardous wastes, but which have been diluted so that the RCRA hazardous characteristic is removed prior to placement in the wastewater treatment surface impoundment. The CBI that EPA intends to transfer to Radian and IEc was collected under the authority of section 308 of the Clean Water Act (CWA). Interested persons may submit comments on this intended transfer of CBI to the address noted below.

DATES: Comments on the transfer of data are due February 6, 1995.

ADDRESSES: Comments may be sent to Linda Martin (5305), EPA, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Linda Martin at the above address, or call (202) 260–0062.

SUPPLEMENTARY INFORMATION: EPA has previously transferred information to various contractors, including CBI, concerning certain industries that was collected under the authority of section 308 of the CWA. EPA determined at that time that the transfer was necessary to enable the contractors to perform their work in assisting EPA in developing effluent guidelines and standards for certain industries. Notice to this effect was provide to the affected industries.

Today, EPA is giving notice that it has entered into an additional contract with IEc (Cambridge, Massachusetts), contract number 68–W3–0028, and with Radian (Herndon, Virginia), contract number 68–W3–0001. These contracts arrange contractor support to assist EPA in evaluating the need to establish regulations under RCRA (specifically, under the Land Disposal Restrictions (LDR) program) for air emissions, leaks and sludges from treatment surface impoundments accepting wastes that were, at point of generation, RCRA hazardous wastes, but which have been diluted so that the RCRA hazardous characteristic is removed prior to placement in the wastewater treatment surface impoundment. The information that EPA intends to transfer to Radian and IEc consists primarily of data previously collected by EPA to support the development of effluent limitations guidelines and standards under the CWA for OCPSF industries.

All EPA contractor personnel are bound by the requirements and sanctions contained in their contracts with EPA and in EPA's confidentiality regulations found at 40 CFR part 2, subpart B. Radian and IEc adhere to EPA-approved security plans which describe procedures to protect CBI. The security plans specify that contractor personnel are required to sign non-disclosure agreements and are briefed on appropriate security procedures before they are permitted access to CBI. No person is automatically granted access to CBI; a need to know must exist.

Dated: January 25, 1995.

Michael Shapiro,

Director, Office of Solid Waste.

[FR Doc. 95–2434 Filed 1–31–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5148–1]

Wyoming; Partial Program Adequacy Determination of the State's Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency (Region VIII).

ACTION: Notice of tentative determination on partial program application of Wyoming for partial program adequacy determination, public comment period, and public hearing.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive hazardous household waste or conditionally exempt small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). Section 4005(c)(1)(C) of RCRA requires the Environmental Protection Agency (EPA) to determine

whether States have adequate ''permit'' programs for MSWLFs, but does not mandate issuance of a rule for such determinations. EPA has drafted and is in the process of proposing the State/Tribal Implementation Rule (STIR) that will allow both States and Tribes to apply for and receive approval of a partial permit program. The Agency intends to approve adequate State/Tribal MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of the STIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribal permit programs provide interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in States/Tribes with approved permit programs can use the site-specific flexibility provided by part 258 to the extent the State/Tribal permit program allows such flexibility. EPA notes that regardless of the approval status of a State/Tribe and the permit status of any facility, the Federal Criteria will apply to all permitted and unpermitted MSWLFs.

The State of Wyoming applied for a partial determination of adequacy under section 4005 of RCRA. EPA reviewed Wyoming's MSWLF application and made a tentative determination for those portions of the State's MSWLF permit program that are adequate to assure compliance with the revised MSWLF Criteria. These portions are described later in this notice. The State plans a future revision for the remainder of its permit program to assure complete compliance with the revised Federal Criteria and gain full program approval. Wyoming's application for partial program adequacy is available for public review and comment.

Although RCRA does not require EPA to hold a public hearing on a determination to approve any State/Tribe's MSWLF program, the Region has tentatively scheduled a public hearing on this determination. If a sufficient number of people express interest in participating in a hearing by writing the Region or calling the contact given below within 30 days of the date of publication of this notice, the Region will hold a hearing on the date given below in the ''DATES'' section. The Region will notify all persons who submit comments on this notice if it decides to hold the hearing. In addition, anyone who wishes to learn whether the hearing will be held may call the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

DATES: All comments on Wyoming's application for a determination of adequacy must be received by the close of business on March 13, 1995. The public hearing is tentatively scheduled for 10:00 a.m. to 12:00 p.m., March 13, 1995, at the Wyoming Department of Environmental Quality, Herschler Building, 1st Floor Conference room #1299, 122 West 25th Street, Cheyenne, Wyoming 82002. Should a public hearing be held, EPA may limit oral testimony to five minutes per speaker, depending on the number of commenters. Commenters presenting oral testimony must also submit their comments in writing by close of business on March 13, 1995. The hearing may adjourn earlier than 12 noon if all of the speakers deliver their comments before that hour. Wyoming will participate in the public hearing held by EPA on this subject.

ADDRESSES: Copies of Wyoming's application for partial adequacy determination are available from 8 a.m. to 4:30 p.m. during normal working days at the following addresses for inspection and copying: Wyoming Department of Environmental Quality, Attn: Carl Anderson, Herschler Building, 4th floor, 122 West 25th Street, Cheyenne, Wyoming 82002; and USEPA Region VIII, Environmental Information Service Center, 999 18th Street, suite 144, Denver, Colorado 80202–2466, phone 1–800–227–8917 or 303–293–1603. All written comments should be sent to Gerald Allen (8HWM-WM), Waste Management Branch, USEPA Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202–2466.

FOR FURTHER INFORMATION CONTACT: Gerald Allen (8HWM-WM), Waste Management Branch, USEPA Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202–2466, Phone 303/293–1496.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Criteria for MSWLFs (40 CFR part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that MSWLFs comply with the Federal Criteria. Subtitle D also requires that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing the State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

EPA intends to propose in the STIR to allow partial approvals if: (1) The Regional Administrator determines that the State/Tribal permit program largely meets the requirements for ensuring compliance with part 258; (2) changes to a limited narrow part(s) of the State/Tribal permit program are needed to meet these requirements; and (3) provisions not included in the partially approved portions of the State/Tribal permit program are a clearly identifiable and separable subset of part 258.

EPA intends to approve portions of State/Tribal MSWLF permit programs prior to the promulgation of the STIR. EPA interprets the requirements for States or Tribes to develop ''adequate'' programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, EPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

EPA Regions will determine whether a State/Tribe has submitted an ''adequate'' program based on the interpretation outlined above. EPA plans to provide more specific criteria for this evaluation when it proposes the State/Tribal Implementation Rule. EPA expects States/Tribes to meet all of these requirements for all elements of a MSWLF program before it gives full approval to a MSWLF program.

B. State of Wyoming

On November 6, 1992, Wyoming submitted an application for partial program adequacy determination for the State's MSWLF permit program. On October 8, 1993, EPA published a final determination of partial adequacy for Wyoming's program. Further background on the final partial program

determination of adequacy appears at 58 FR 52491 (October 8, 1993).

EPA approved the following portions of the State's MSWLF permit program:

1. Location restrictions for airports, flood plains, wetlands, fault areas, seismic impact zones, and unstable areas (40 CFR 258.10 through 258.15).

2. Operating criteria for the exclusion of hazardous waste, cover materials, disease vector control, explosive gases, air criteria, access requirements, run-on/run-off control systems, surface water requirements, liquids restrictions, and record keeping requirements (40 CFR 258.20 through 258.29).

3. Design criteria requirements (40 CFR 258.40).

4. Closure and post-closure requirements (40 CFR 258.60 through 258.61).

EPA did not approve the following portions of the State's MSWLF permit program:

1. Wyoming will revise its regulations to incorporate the Federal ground-water monitoring and corrective action requirements in 40 CFR 258.50, 258.51, and 258.53 through 258.58.

2. Wyoming will develop new regulations to incorporate the financial assurance requirements in 40 CFR 258.70 through 258.72 and 258.74. Wyoming will revise its regulations to incorporate the financial assurance requirements in 40 CFR 258.73.

On September 30, 1994, the State of Wyoming submitted a revised application for partial program adequacy determination. EPA reviewed Wyoming's application and tentatively determined that the following portions of the State's subtitle D program will ensure compliance with the Federal Revised Criteria.

1. Ground-water monitoring and corrective action requirements (40 CFR 258.50, 258.51, and 258.53 through 258.58).

2. Financial assurance requirements (40 CFR 258.70 through 258.74)

The October 9, 1991, Final Rules for the MSWLF Criteria included an exemption for owners and operators of certain small MSWLF units from the design (subpart D) and ground-water monitoring and corrective action (subpart E) requirements of the Criteria. See 40 CFR 258.1(f). To qualify for the exemption, the small landfill had to accept less than 20 tons per day, on an average annual basis, exhibit no evidence of ground-water contamination, and serve either:

(i) A community that experiences an annual interruption of at least three consecutive months of surface transportation that prevents access to a regional waste management facility; or

(ii) A community that has no practicable waste management alternative and the landfill unit is located in an area that annually received less than or equal to 25 inches of precipitation.

In January 1992, the Sierra Club and the Natural Resources Defense Council (NRDC) filed a petition with the U.S. Court of Appeals, District of Columbia Circuit, for review of the subtitle D criteria. The Sierra Club and NRDC suit alleged, among other things, that EPA acted illegally when it exempted these small landfills from the ground-water monitoring requirement. On May 7, 1993, the United States Court of Appeals for the District of Columbia Circuit issued an opinion pertaining to the Sierra Club and NRDC challenge to the small landfill exemption. *Sierra Club* v. *United States Environmental Protection Agency*, 992 F.2d 337 (DC Cir. 1993).

In effect, the Court noted that while EPA could consider the practicable capabilities of facilities in determining the extent or kind of ground-water monitoring that a landfill owner/operator must conduct, EPA could not justify the complete exemption from ground-water monitoring requirements. Thus, the Court vacated the small landfill exemption as it pertains to ground-water monitoring, directing the Agency to ''... revise its rule to require ground-water monitoring at all landfills.''

EPA's final rule of October 1, 1993, as required by the Court, removed the October 9, 1991, small landfill exemption whereby owners and operators of MSWLF units that meet the qualifications outlined in 40 CFR 258.1(f) are no longer exempt from ground-water monitoring requirements in 40 CFR 258.50 through 258.55. The final rule does, however, provide for an extension for *all* of the MSWLF criteria requirements for a period up to two years for all MSWLF units that meet the small landfill exemption in § 258.1(f) for ground-water monitoring and corrective action as follows: October 9, 1995, for new units; and October 9, 1995 through October 9, 1996, for existing units and lateral expansions.

The U.S. Court of Appeals in its decision did not preclude the possibility that the Agency could establish separate ground-water monitoring standards for the small dry/remote landfills that take such factors as size, location, and climate into account.

The Agency will continue to maintain an open dialogue with all interested parties to discuss whether alternative ground-water monitoring requirements should be established and will continue to accept information on alternatives. At this time, the Agency is investigating this issue and cannot be certain that practicable alternatives for detecting ground-water contamination will exist for MSWLF units that would qualify for the exemption under § 258.1(f). The October 9, 1993 final rule does not link the effective date of ground-water monitoring for landfills that qualify for the small/arid and remote exemption to promulgation of alternative ground-water monitoring requirements.

Under Wyoming rules, the State's 71 active MSWLF's , by definition, consist of Type I and Type II landfills. Type II landfills, which make up the vast majority of landfills in Wyoming, fit the same definition as those defined as small/arid and remote landfills under § 258.1(f). The State's Type I landfills are those that are *not* Type II landfills. Type II landfills currently comply with State ground-water monitoring and corrective action rules.

Since the State's Type II landfills are not required to comply with ground-water monitoring and corrective action criteria as defined in § 258.1(f) until October 9, 1996, the State is not seeking approval for this portion of their program at this time. When EPA promulgates final revisions to the MSWLF § 258.1(f) criteria and provides enough latitude for states to tailor these requirements for small, arid landfills, then the State of Wyoming will need to update their rules. It is the State of Wyoming's position that when EPA promulgates final rule revisions to the MSWLF criteria in § 258.1(f), Wyoming will revise its application for full program approval to bring Type II landfills into compliance with part 258 criteria for ground-water monitoring and corrective action.

Although RCRA does not require EPA to hold a public hearing on a determination to approve a State/Tribe's MSWLF program, the Region has tentatively scheduled a public hearing on this determination. If a sufficient number of people express interest in participating in a hearing by writing the Region or calling the contact within 30 days of the date of publication of this notice, the Region will hold a hearing on March 13, 1995, at the Wyoming Department of Environmental Quality, Herschler Building, 1st Floor Conference room 1299, 122 West 25th Street, Cheyenne, Wyoming 82002 at 10 a.m.

In its application for adequacy determination, Wyoming has not assertedjurisdiction over Indian Country, as defined in 18 U.S.C. 1511.

Accordingly, this approval does not extend to lands within Indian Country in Wyoming, including lands within the exterior boundaries of the Wind River Reservation. Until EPA approves a State or Tribal MSWLF permitting program in Wyoming for any part of Indian Country, the requirements of 40 CFR part 258 will, after October 9, 1993, automatically apply to that area. Thereafter, the requirements of 40 CFR part 258 will apply to all owners/operators of MSWLFs located in any part of Indian Country that is not covered by an approved State or Tribal MSWLF permitting program.

EPA will consider all public comments on its tentative determination received during the public comment period and during any public hearing held. Issues raised by those comments may be the basis for a determination of inadequacy for Wyoming's program. EPA will make a final decision on whether or not to approve Wyoming's program and will give notice of it in the **Federal Register**. The notice will include a summary of the reasons for the final determination and a response to all major comments.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the Federal MSWLF Criteria in 40 CFR part 258 independent of any State/Tribal enforcement program. As EPA explained in the preamble to the final MSWLF Criteria, EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by EPA should be considered to be in compliance with the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

Compliance With Executive Order 12286

The Office of Management and Budget has exempted this notice from the requirements of section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this tentative approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This proposed notice, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of sections 2002, 4005, and 4010 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6912, 6945, and 6949(a).

Dated: January 11, 1995.

Jack McGraw,

Acting Regional Administrator.

[FR Doc. 95–2437 Filed 1–31–95; 8:45 am]

BILLING CODE 6560–50–F

[OPP–240106; FRL–4932–7]

Statement of Policy for Special Local Needs Registrations; Notice of Availability and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability and request for comments.

SUMMARY: EPA is soliciting comments on a proposed policy which streamlines the special local needs registration process for states and the Agency. That policy is described in a draft document entitled, ''Guidance on Section 24(c) Registrations.'' Interested parties may request this document as described in the ADDRESSES unit of this notice.

DATES: Written comments, identified by the docket number [OPP–240106], must be received on or before April 3, 1995.

ADDRESSES: The guidance document is available by mail: Bill Shiflet, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, In person: Rm. 241 Bay, 1921 Jefferson Davis Highway, Arlington, VA, Telephone: (703) 305–6250. Submit written comments by mail to: Public Docket and Freedom of Information Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted and any comment(s) concerning this notice may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed test and any written comments will be available for public inspection in Rm. 1128 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Tompkins, Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 239, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–6250.

SUPPLEMENTARY INFORMATION: As part of its streamlining and risk reduction efforts, the Agency has evaluated the 24(c) registration process and developed guidance and process improvements which will enable the states and EPA to process 24(c) registrations faster with fewer resources, and to promote the goals of risk reduction and pollution prevention. The proposed guidance document clarifies existing regulations (40 CFR part 162) and provides additional detailed guidance. The guidance document is intended to empower states to operate more independently to reduce EPA's use of resources on 24(c) registrations and to further the goals of the agency in the areas of reduced risk and pollution prevention. This **Federal Register** notice announces the availability of the draft Pesticide Regulation (PR) Notice and solicits comment on the proposed policy. After reviewing public comments received, EPA may make changes to the Policy and revise the draft PR Notice prior to release.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: January 17, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 95–2443 Filed 1–31–95; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30379; FRL–4931–3]

Certain Companies; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by March 3, 1995.

ADDRESSES: By mail, submit written comments identified by the document

control number [OPP–30379] and the registration/file number, to: Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Janet L. Andersen, Acting Director, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. CS51B6, Westfield Building North Tower, 2800 Crystal Drive, Arlington, VA 22202, (703–308–8712).

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 62719–EAI. Applicant: DowElanco, 9330 Zionville Road, Indianapolis, IN 46268. Product name: NAF–144. Insecticide. Active ingredients: (Spinosad (proposed common name) 2-[(6-deoxy-2,3,4-tri-*O*-methyl-alpha-L-mannopyranosyl)oxy]-13-[[5-(dimethylamino)tetrahydro-6-methyl-2*H*-pyran-2-yl]oxy]-9-ethyl-2,3,3a,5a,5b,6,9,10,11,12,13,14,16a,16b-tetradecahydro-14-methyl-1*H*-as-indaceno[3,2-d]oxacyclododecin-7,15-dione,[2*R* [2*R**,3a*S**,5a*R**,5b*S**,9*S**,13*S**(2*R**,5*S**,6*R**),14*R**,16a*S**,16b*R**]](9Cl) and 2-[(6-deoxy-2,3,4-tri-*O*-methyl-alpha-L-mannopyranosyl)oxy]-13-[[5-(dimethylamino)tetrahydro-6-methyl-2*H*-pyran-2-yl]oxy]-9-ethyl-2,3,3a,5a,5b,6,9,10,11,12,13,14,16a,16b-tetradecahydro-4,14-dimethyl-1*H*-as-indaceno[3,2-d]oxacyclododecin-7,15-dione, [2*S*[2*R**,3a*S**,5a*R**,5b*R**,9*R**,13*R**(2*S**,5*R**,6*S**),14*S**,16a*R**,16b*R**]](9Cl) at 2.6 percent. Proposed classification/Use: General. For insect management in apples, leafy vegetables, field corn, potatoes and tomatoes.

2. File Symbol: 64296–EU. Applicant: EcoScience Corporation, 377 Plantation St., Worcester, MA 01605. Product name: ESC 170 GH Biological Insecticide. Insecticide. Active ingredient: *Beauveria bassiana*, Strain ESC 170 at 50 percent. Proposed classification/Use: None. For the control of whiteflies, aphids, mites, thrips, fungus gnats, and mealybugs in greenhouses on cut flowers, poinsettia, foliage plants, tomatoes, eggplants, peppers, lettuce, and other flowers and vegetables.

3. File Symbol: 53219–RN. Applicant: Mycogen Corporation, 4930 Carroll Canyon Road, San Diego, CA 92121. Product name: Mattch Bioinsecticide. Insecticide. Active ingredient: A blend of CrylA(c) and CrylC derived delta endotoxins of *Bacillus thuringiensis* encapsulated in killed *Pseudomonas fluorescens* at 12 percent. Proposed classification/Use: General. For control of caterpillar pests on vegetables, field crops, fruits, nuts, grapes, turf, stored products and ornamental and nursery crops.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operation Division office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the FOD office (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: January 17, 1995.

Janet L. Andersen,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 95–2089 Filed 1–31–95; 8:45 am]

BILLING CODE 6560–50–F

[PF–618; FRL–4930–3]

Ciba-Geigy Corp.; Notice of Filings of Transgenic Plant Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received from Ciba-Geigy Corp. petitions to establish exemptions from the requirement of a tolerance for a transgenic plant pesticide and a transgenic plant pesticide inert ingredient.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Information submitted and any comment(s) concerning this notice may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed test and any written comments will be available for public inspection in Rm. 1132 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Janet L. Andersen, Acting Director, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. CS51B6, Westfield Building, North Tower, 2800 Crystal

Drive, Arlington, VA 22202, 703-308-8712.

SUPPLEMENTARY INFORMATION: This notice announces that EPA has received notices of filing under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) for the following petitions to amend 40 CFR part 180 to establish various exemptions from the requirement of a tolerance. The petitions are as follows:

Initial Filings

1. *PP 4E4410*. Ciba-Geigy Corp., P.O. Box 12257, Research Triangle Park, NC 27709-2257, has submitted the pesticide petition (PP) to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for the transgenic plant pesticide inert ingredient phosphinothricin acetyltransferase (PAT) as produced in corn by the bar gene and its controlling sequences as found on plasmid sector PCIB3064.

2. *PP 4F4395*. Ciba-Geigy Corp., P.O. Box 12257, Research Triangle Park, NC, 27709-2257, has submitted the pesticide petition (PP) to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for the plant pesticide *Bacillus thuringiensis* delta-endotoxin as produced in corn by a CryIA(b) gene and its controlling sequences as found on plasmid vector PCIB4431.

Authority: 21 U.S.C. 346a and 348.

Dated: January 20, 1995.

Flora Chow,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 95–2337 Filed 1–31–95; 8:45 am]

BILLING CODE 6560–50–F

[OPP–50804; FRL–4929–7]

Glufosinate-Ammonium; Receipt of an Application for an Experimental Use Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On November 29, 1994, EPA received from AgrEvo USA Company, an application for an Experimental Use Permit (EUP) for the use of Liberty Herbicide which is a formulation of the herbicide glufosinate-ammonium, in the culture of corn and soybean plants that have been genetically modified to be tolerant to this herbicide. Due to recent interest in the introduction of transgenic plants into commercial agriculture, the Agency has determined that this application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting public comments on this application.

DATES: Written comments must be received on or before March 3, 1995.

ADDRESSES: Comments, in triplicate, should bear the docket control number OPP–50804 and be submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Written comments will be available for public inspection in Rm. 1128 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Product Manager (PM) 23, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–7830.

SUPPLEMENTARY INFORMATION: On November 29, 1994, an application for an EUP was received from AgrEvo USA Company, 2711 Centerville Road, Wilmington, DE 19808 for the use of Liberty Herbicide which contains the herbicide glufosinate-ammonium, a formulated product containing the active ingredient glufosinate-ammonium and which was previously field tested under EPA Experimental Use Permit Number 8340–EUP–10, in the culture of transgenic corn and soybean plants modified to be tolerant to the herbicide. The transgenic corn and soybean plants have been genetically transformed by inserting a gene identified as the Bialophos Resistance Gene (BAR) containing the information to produce the enzyme, Phosphinotricin Acetyl Transferase (PAT), which detoxifies the herbicide during plant metabolism.

The following are the proposed objectives for the testing program:

1. Evaluate the efficacy of the PAT enzyme in conferring tolerance to Liberty Herbicide in transgenic corn and soybean plants. Data will be collected for stand, crop injury, flowering dates, yield, weight, moisture and stalk strength.

2. Collect seed of transgenic lines for use in seed production.

3. Evaluate the non-selective activity of Liberty Herbicide, tank mixes with residual herbicides and combinations of use of Liberty Herbicide with cultivation weed management methods.

4. Evaluate the acceptability of a weed control program without the use of traditional soil preemergence residual herbicides.

5. Evaluate the Liberty Herbicide formulation for use in spray equipment and to determine if the applicator understands how to use the product.

The applicant requested the use of 449.0 pounds of the active ingredient on a total of 562 acres of corn and soybeans for the time period from approval to October 1, 1995. Testing is proposed for the states of Arkansas, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Mississippi, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, Texas, Virginia, and Wisconsin. No petition for a temporary tolerance was submitted with the application because the treated crop will be destroyed or used for research purposes only.

Upon review of the EUP request, any comments received in response to this notice and any other relevant information, EPA will decide whether to issue or deny the EUP. If issued, EPA will set conditions under which the experiments are to be conducted. Any issuance of an EUP by the Agency will be announced in the **Federal Register**.

EPA's Office of Pesticide Programs has a Public Docket Room where a copy of the EUP application deleted of all ''Confidential Business Information'' will be available for public inspection. The Public Docket Room is located at Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA; the hours of operation are from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Dated: January 19, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 95–2444 Filed 1–31–95; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[DA 95–102]

Common Carrier Bureau Invites Public Comment on USTA Ex Parte Submission

January 24, 1995.

Comments: January 31, 1995.

On January 18, 1995, the United States Telephone Association (USTA), the national association that represents local exchange carriers (LECs), filed in CC Docket No. 94–1 a document entitled ''A USTA Proposal for the LEC Price Cap Plan.'' USTA's submission sets forth various substantive recommendations for modifying the Commission's current rules governing the price cap regulation of LECs. USTA states that this proposal modifies the position that it previously has taken in this proceeding.

The Commission initiated CC Docket No. 94–1 to review the performance of LECs under price cap regulation and to consider possible changes to the current plan. Because the USTA proposal was not included in its comments in the regular pleading cycle of this proceeding, other parties to this proceeding have not had an opportunity to address its revised recommendations. In the interest of compiling as a complete a record as possible in this docket, the Common Carrier Bureau hereby invites interested parties to review and comment upon the USTA ex parte submission. The Bureau encourages parties to submit their comments on an expedited basis; it would be most helpful if parties would submit their ex parte comments by January 31, 1995.

An original and four copies of all pleadings must be filed in accordance with § 1.51(c) of the Commission's Rules, 47 CFR 1.51(c). In addition, one copy of each pleading must be filed the International Transcription Services (ITS), the Commission's copy contractor, at its offices at 2100 M Street, N.W., Washington, D.C. 20554.

For further information, contact Dan Grosh or Anthony Bush, Tariff Division, Common Carrier Bureau.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–2421 Filed 1–31–95; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Crisis Counseling Assistance and Training

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: FEMA gives notice that the extension period for the California regular crisis counseling program for disaster survivors of the Northridge Earthquake is extended from 90 to 180 days. The severity of the emotional trauma resulting from the earthquake in California warrants an extension of 180 days.

EFFECTIVE DATE: February 18, 1995.

FOR FURTHER INFORMATION CONTACT: Diana Paschke, Human Services Division, Response and Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4026.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency is charged with coordinating Federal disaster assistance under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Act) when the President has declared a major disaster. FEMA provided funding for a regular crisis counseling program to help those suffering the trauma resulting from the Northridge Earthquake.

FEMA received a request from the State of California to extend the otherwise applicable time limitations authorized by section 416 of the Act, so that the State can provide additional mental health services that are critically needed for citizens during the recovery operation. The extent of the damages wrought by the earthquake were of such magnitude that the residents of California suffered significant emotional trauma that warrants continuation of disaster mental health counseling beyond the normal crisis counseling time periods.

The Director, Center for Mental Health Services (CMHS), as the delegate to FEMA for the Secretary, Department of Health and Human Services, helps FEMA implement crisis counseling training and assistance. The Director, CMHS, recommended that FEMA extend the regular crisis counseling program, and documented a need to continue the regular crisis counseling program beyond a 90-day extension. Based upon the CMHS recommendation, FEMA has approved a 180-day extension to the time period for the California regular crisis counseling program from February 18, 1995, to August 17, 1995.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dated: January 24, 1995.

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–2458 Filed 1–31–95; 8:45 am]

BILLING CODE 6718–02–P

The National Board Fiscal Year 1995 Plan for Carrying Out the Emergency Food and Shelter Program (EFSP)

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice sets out the plan by which the Emergency Food and Shelter Program National Board (National Board) is conducting a program during FY 1995 to distribute $130,000,000 to private voluntary organizations and local governments for delivering emergency food and shelter to needy individuals. The distribution formula for selecting organizations and localities, and the award amount for each, follow the Plan text.

DATES: The award to the National Board was made October 24, 1994.

FOR FURTHER INFORMATION CONTACT: Fran McCarthy, Preparedness, Training and Exercise Directorate, Federal Emergency Management Agency, (202) 646–3652, or Dennis H. Kwiatkowski, Chair, EFSP National Board, (202) 646–3487.

SUPPLEMENTARY INFORMATION: Title III of the Stewart B. McKinney Homeless Assistance Act, 42 U.S.C. 11301 et seq., authorizes use of funds appropriated by the Congress to supplement and expand ongoing efforts to provide shelter, food, and supportive services to homeless, needy individuals. As in past phases, grant awards from this program are provided to address emergency needs. This program is not intended to address or correct structural poverty or long-standing problems. Rather, this appropriation is intended for the purchase of food and shelter to supplement and expand current available resources and not to substitute or reimburse ongoing programs and services.

The National Board has once again adopted the following operating principles:

- Speedy administration and funding.
- Awards to areas of greatest need.
- Local decision-making.
- Public/private sector cooperation.
- Minimum, but accountable reporting.

The National Board expects Local Boards, Local Recipient Organizations (LROs), and State Set-Aside (SSA)

Committees to abide by the stated rules of this Plan and to focus on the following concerns and principles mandated by the National Board:

• Serve individuals in need without discrimination and avoid duplication of benefits by supplementing food and shelter services individuals might currently be receiving, as well as by aiding those who are receiving no assistance.

• Refuse to authorize the spending of funds on costs that differ from those allowed by the National Board, unless a written request is made in advance and approved by the National Board.

• Restrict shelter repairs to minimum work required to bring the facility into compliance with local building codes and for emergency repairs only to keep the facility open during the program year ($5,000 limit). Avoid decorative or non-essential repairs and purchases as this is outside the intent of this program. The benefit of rehabilitation to provide service should be carefully weighed against the response to needs that exist at the time. Emphasis should be placed on currently existing needs.

The National Board is mandated, as are Local Boards, LROs, SSA Committees, and FEMA, to carry out the intent of the law. We must all ensure that as decisions are made, we not only question if a specific expenditure falls within the guidelines for eligible costs, but also if making this expenditure would fulfill the intent of the program and the law.

This funding should be used to target special emergency needs. And when we discuss emergency needs we are referring to economic, not disaster-related, emergencies. The funding should supplement feeding and sheltering efforts in ways that make a difference. What that means is:

• EFSP is not intended to make up for budget shortfalls or to be considered just a line in an annual budget;

• it is not intended that the funds must go to the same agencies for the exact same purposes every year; and,

• the funding is open to all organizations helping hungry and homeless people and it is not intended that the funds should go only to Local Board member agencies or local government agencies.

Having stated what it is not, what does the National Board want this program to be? As we read the law, EFSP should:

• create inclusive local coalitions that meet regularly to determine the best use of funds and to monitor their use in their respective communities;

• treat every program year as a fresh opportunity to reassess what particular community needs (e.g., on-site feeding or utility assistance, mass shelter or homelessness prevention, etc.) should be addressed;

• encourage agencies to work together to emphasize their respective strengths, work out common problems, and prevent duplication of effort; and,

• examine whether the program is helping to meet the needs of special populations such as minorities, Native Americans, veterans, families with children, the elderly, and the handicapped.

It is our intention to re-emphasize that this program has a commitment to emergency services. We continue to view it as an opportunity for building a cohesive emergency structure which can, for example,

• coordinate the assistance provided, across agencies, to families and individuals applying for rental, mortgage, or utility assistance;

• enhance a food banking network that is economical in its cost and broad in its coverage;

• reinforce creative cooperation among feeding and sheltering sites to ensure help for street populations most in need; and,

• establish or maintain a system that complements rather than supplants existing private and governmental efforts to provide rent, mortgage, or utility assistance.

The National Board is aware that much is asked of our voluntary Local Boards and LROs, and very little administrative funding is provided. But the cooperative model that EFSP has helped to create can be a useful vehicle for many governmental and community-based programs. As a group, local providers can accomplish much:

• initiating a dialogue with local offices of Federal entities such as the U.S. Department of Agriculture to take full advantage of excess commodities and its other programs or with the U.S. Department of Labor's Job Training Partnership Act (JTPA);

• working with Federal programs that require the input of local providers such as the Department of Housing and Urban Development's Community Development Block Grant or Emergency Shelter Grant and the Department of Health and Human Services' Health Care for the Homeless;

• pooling agency efforts to gain Federal (for example, HUD's Transitional Housing Program) and private foundation grants;

• leveraging EFSP funds within the community by encouraging matches of local EFSP allocations from State and local governments and private resources; and,

• exchanging ideas on administrative and accounting methods that can improve delivery of services and focus on the collaborative rather than the competitive aspects of agency relations.

Eleven years ago this program began as a one-time effort to help address urgent needs. The survival of this public-private partnership is not only a testament to needs, but also to the effectiveness of EFSP as an example of local decisionmaking and community responsibility in attempting to meet those needs.

EFSP is a reminder of this nation's willingness to confront difficult problems within the society in new ways. But most importantly, EFSP has fed and sheltered homeless and hungry people, it has maintained homes and the families in those homes, and it has created useful public-private partnerships within communities.

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Section 1.0 Background and Introduction

The Emergency Food and Shelter Program was established on March 24, 1983, with the signing of the ''Jobs Stimulus Bill,'' Public Law 98–8. That legislation created a National Board, chaired by FEMA, which consisted of representatives of the American Red Cross; Catholic Charities, USA; the Salvation Army; Council of Jewish Federations, Inc.; United Way of America; and the National Council of Churches of Christ in the U.S.A.

Since that first piece of legislation in 1983, through its authorization under the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77—signed into law on July 24, 1987, subsequently reauthorized under Public Law 100–628, signed into law on November 7, 1988), the Emergency Food and Shelter Program has distributed almost $1.3 billion to over 10,800 social service agencies in more than 2,500 communities across the country.

From its inception, the unique features of this program have been the partnerships it has established. At the national level, the Federal government

and board member organizations have the legal responsibility to work together to set allocations criteria and establish program guidelines. Such coalitions, as set forth in the law, are even more vital on the local level. In each community Local Boards make the most significant decisions on their own make-up and operation, the types of services most in need of supplemental help, what organizations should be funded and for what purpose and amount. These portions of the law have remained unchanged and are the core of this unique public-private partnership.

Section 1.1 Purpose

This publication is developed by the National Board to outline the roles, responsibilities, and implementation procedures which shall be followed by the Local Boards, LROs, SSA Committees, National Board, and FEMA in the distribution and use of these funds. National in scope, EFSP will provide food and shelter assistance to individuals in need through local private voluntary organizations and local governments in areas designated by the National Board as being in highest need.

The intent of EFSP is to meet emergency needs by supplementing and expanding food and shelter assistance individuals might currently be receiving, as well as to help those who are receiving no assistance. Individuals who received assistance under previous programs may again be recipients, providing they meet local eligibility requirements.

Section 2.0 Concept of Operations

(a) *Secretariat of National Board.* United Way of America will act as the National Board's Secretariat and fiscal agent and perform the necessary administrative duties that the Board must accomplish.

(b) *Funds distribution.* Funds distributed by the National Board will be to areas of greatest need (refer to section 2.3(a) and Supplementary Information, above, for jurisdiction distribution formula and funding requirements).

(c) *Distribution to LROs.* National Board funds will be distributed to LROs and Fiscal Agents certified eligible by Local Boards. (Refer to section 2.2(e) for selection of LROs and section 2.2(f) for the Fiscal Agent/Fiscal Conduit Agency Relationship).

(d) *Administrative allowance limitation.* There is an administrative allowance limitation of two percent (2%) for local jurisdictions, one-half of one percent (0.5%) for SSA Committees (when in operation), and one percent (1%) for the National Board. Local administrative funds are intended for use by LROs and not for reimbursement of program or administrative costs which any recipient's parent organization (its State or regional offices) might incur as a result of this additional funding.

(e) *Notification of award eligibility.* The National Board will notify qualifying jurisdictions of award eligibility within 60 days following allocation by FEMA. Unused or recaptured funds will be reallocated by the National Board, except in the case of SSA counties whose funds may be reallocated by the respective SSA Committees.

(f) *Funds end-date.* All funds shall be paid out by LROs and spending shall cease by their jurisdiction's selected end date. Local Boards have until one month following their end date to submit final reports and complete documentation of expenses (for specified LROs only) to the National Board.

Those LROs not required to submit documentation to the National Board must satisfy the Local Board that all funds have been expended in accordance with National Board guidelines. Note: Local Boards and LROs are reminded that although documentation may not be required to be submitted with their final report, they are subject to random audits which may require the submission of documentation at a later date.

Section 2.1 Financial Terms and Conditions

(a) *Definitions.*

''Local Recipient Organization'' refers to the local private or public organizations that will receive any award of funds from the National Board.

''Award'' refers to the award of funds made by the National Board to a local private or public organization on the recommendation of a Local Board.

''End-of-program date'' refers to the date, as agreed upon by Local and National Board, by which all monies in a given jurisdiction must be spent or returned.

(b) *Amendments.*

An award may be amended at any time by a written modification. Amendments that reflect the rights and obligations of either party shall be executed by both the National Board and the LRO. Administrative amendments such as changes in accounting data may be issued unilaterally by the National Board.

(c) *Local Board Authority Related to LROs.*

(1) The Local Board is responsible for monitoring expenditures of LROs providing food, services, or both, authorizing the adjustment of funds between food and shelter programs, and reallocating funds from one LRO to another.

(2) Local Boards *may not* alter or change National Board cost eligibility or approve expenditures outside the National Board's criteria without National Board permission. (Refer to Section 5.0 on Variances and Waivers.)

(3) A Local Board can call back funds from an LRO and reallocate to another LRO in the case of gross negligence, inadequate use of funds, failure to use funds for purposes intended, or for any other violation of the National Board guidelines, or in cases of critical need in the community. The Local Board must advise, in writing, all LROs of any reduction or reallocation of their original award.

(4) If the Local Board discovers ineligible expenditures by an LRO, the Local Board must send to the organization a written request for reimbursement of the amount. The National Board must also be notified. If the LRO is unwilling or unable to reimburse the National Board for the ineligible expenditures, the Local Board must refer the matter to the National Board. The National Board may ask the Local Board to take further action to see that reimbursement of ineligible expenditures is made to the National Board, or the National Board may refer the matter to FEMA.

If the Local Board suspects that fraud has been committed by an LRO, the Local Board must contact the Office of the Inspector General, FEMA, in writing or by telephone at 1–800–323–8603 with details of suspected fraud or misuse of Federal funds.

(5) If an LRO received an award under previous phases, it must not include those funds in any reporting for the present awards. Reports should be confined to the amount granted by the National Board under the new appropriations legislation.

(d) *Cash Depositories.*

(1) Any money advanced to the LRO under the terms of this award must be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) or Federal Savings & Loan Insurance Corporation (FSLIC) insurance coverage (whose responsibility has been taken over by FDIC), and the balance exceeding the FDIC or FSLIC coverage must be collaterally secured. Interest income earned on these monies must be put back into program costs.

(2) LROs are encouraged to use minority banks (a bank which is owned at least 50 percent by minority group members). This is consistent with the

national goal of expanding the opportunities for minority business enterprises. A list of minority-owned banks can be obtained from the Office of Minority Business Enterprises, Department of Commerce, Washington, DC 20203.

(e) *Retention and Custodial Requirements for Records.*

(1) Financial records, supporting documentation, statistical records, and all other records pertinent to the award shall be retained for a period of three years, with the following exceptions:

(i) If any litigation, claim or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

(ii) Records for nonexpendable property, if any, acquired in part with Federal funds shall be retained for three years after submission of a final report. Nonexpendable property is defined as tangible property having a useful life of more than one year and an acquisition cost of more than $300 per unit.

(2) The retention period starts from the date of the submission by the LRO of the final expenditure report.

(3) The National Board may request transfer of certain records to its custody from the LRO when it determines that the records possess long-term retention value. The LRO shall make such transfers as requested.

(4) The Director of FEMA, the Comptroller General of the United States, and the National Board, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of the recipient organization, and its subgrantees to make audits, examinations, excerpts and transcripts.

(f) *Financial management systems.*

(1) The LRO/fiscal agent or fiscal conduit shall maintain a financial management system that provides for the following:

(i) Accurate, current and complete disclosures of the financial results of this program.

(ii) Records that identify adequately the source and application of funds for federally supported activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, and incomes.

(iii) Effective control over and accountability for all funds, property, and other assets.

(iv) Procedures for determining eligibility of costs in accordance with the provisions of the EFSP manual.

(v) Accounting records that are supported by source documentation. The LRO must maintain and retain a register of cash receipts and disbursements and original supporting documentation such as purchase orders, invoices, canceled checks, and whatever other documentation is necessary to support its costs under the program.

(vi) A systematic method to ensure timely and appropriate resolution of audit findings and recommendations.

(vii) In cases where more than one civil jurisdiction (e.g., a city and a balance of county, or several counties) recommends awards to the same LRO, the organization can combine these funds in a single account. However, separate program records for each civil jurisdiction award must be kept.

(g) *Audit requirements.*

(1) If receiving $25,000 or more from EFSP, the LRO will be eligible to receive funds if it arranges for an audit of funds to coincide with the next scheduled annual audit of its financial affairs. An original and two copies of this audit will be provided to the National Board on request. It is not necessary to have a separate, independent audit for this award so long as program funds are treated as a separate element in the agency's regular annual audit. If the LRO does not have a certified annual audit, its audit must be provided by a Local Board-designated fiscal agent for the recipient organization willing to account for the funds. No funds will be issued to an LRO receiving $25,000 or more from EFSP in the previous phase that has not completed an annual audit.

(2) If receiving less than $25,000 from EFSP, there are no independent audit requirements.

(3) All National Board-funded agencies (both governmental and not-for-profit) that receive $100,000 or more in Federal funds *must* comply with the OMB Circular A–133, Audits of Institutions of Higher Education and Other Non-Profit Institutions, which requires a single organization-wide audit. This $100,000 could be exclusively EFSP funds or a combination of EFSP funds and other Federal funds which an agency might be receiving. In addition to compliance with the OMB Circular A–133, the National Board requires all EFSP-funded agencies to meet the requirements stated in this plan regarding program compliance, reporting, documentation and submission of documentation.

(h) *Payment.*

A first payment shall be made to the LRO by the Secretariat upon recommendation of the Local Board and approval by the National Board. An interim report will be mailed with the second and third check requests to be completed by each agency, signed by the Local Board chair, and mailed to the National Board. Second/third installments will be held until the jurisdiction's final Local Board report and documentation for the previous year has been reviewed and found to be clear.

(i) *Financial reporting requirements.*

LROs shall submit a financial status report to the Local Board which will forward it to the National Board by one month after the jurisdiction's program ending date.

The National Board shall provide the LRO, through the Local Board, with the necessary report forms well in advance of report deadlines.

(j) *Closeout procedures.*

(1) The following definitions shall apply to closeout procedures:

''Close-out'' is the process by which the National Board determines that all applicable administrative actions and all required work pertaining to the award have been completed.

''Disallowed costs'' are those charges that the National Board determined to be unallowable in accordance with the legislation, National Board requirements, applicable Federal cost principles, or other conditions contained in the award. The applicable cost principles for Private Voluntary Organizations are contained in OMB Circular A–122, ''Cost Principles Applicable for Non-Profit Agencies,'' and OMB Circular A–110, ''Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.'' The applicable cost principles for Public Organizations are contained in OMB Circular A–87, ''Cost Principles for State Agencies and Units of Local Governments.'' If unsure of where to find these circulares, check with your local Congressional Representative.

(k) *Lobbying.*

(1) Public Law 101–121, Section 319, states that an LRO shall not use Federally appropriated grant funds for lobbying activities. This condition bars the use of Federal money for political activities, but does not in any way restrict lobbying or political activities paid for with non-Federal funds. This condition prohibits the use of Federal grant funds for the following activities:

(i) Federal, State or local electioneering and support of such entities as campaign organizations and political action committees;

(ii) Direct lobbying of the Congress and State legislatures to influence legislation;

(iii) Grassroots lobbying concerning either Federal or State legislation;

(iv) Lobbying of the Executive branch in connection with decisions to sign or veto enrolled legislation; and,

(v) Efforts to utilize State or local officials to lobby the Congressional or State Legislatures.

(2) Any LRO that will receive more than $100,000 in EFSP funds is required to submit the following prior to grant payment:

(i) a certification form that EFSP funds will not be used for lobbying activities; and,

(ii) a disclosure of lobbying activities (if applicable).

Section 2.2 Organization, Roles, and Responsibilities

(a) *Federal Emergency Management Agency (FEMA).*

FEMA will perform the following EFSP activities:

(1) Constitute a National Board consisting of individuals affiliated with United Way of America; the Salvation Army; the National Council of Churches of Christ in the USA; Catholic Charities, USA; the Council of Jewish Federations, Inc.; the American Red Cross; and FEMA.

(2) Chair the National Board, using parliamentary procedures and consensus by the National Board as the mode of operation.

(3) Provide policy guidance, management oversight, Federal coordination, and staff assistance to the National Board.

(4) Award the grant to the National Board.

(5) Assist the Secretariat in implementing the National Board Program.

(6) Report to Congress on the year's program activities through the Interagency Council on the Homeless Annual Report.

(7) Conduct audits of the program.

(8) Initiate Federal collection procedures to collect funds due when the efforts of the National Board have not been successful.

(b) *National Board.*

The National Board will:

(1) Select jurisdictions of highest need for food and shelter assistance and determine amount to be distributed to each.

(2) Notify national organizations interested in emergency food and shelter to publicize the availability of funds.

(3) Develop the operational manual for distributing funds and establish criteria for expenditure of funds.

(4) In jurisdictions that received previous awards, notify the former Local Board chair that new funds are available. In areas newly selected for funding, notify the local United Way, American Red Cross, Salvation Army, or local government official. The National Board will notify qualifying jurisdictions of award eligibility within 60 days following allocation by FEMA.

(5) Provide copies of award notification materials to National Board member affiliates and other interested parties.

(6) Secure board plan, certification forms and board rosters from Local Boards that funds will be used in accordance with established criteria.

(7) Distribute funds to selected LROs.

(8) Hear appeals and grant waivers.

(9) Establish an equitable system to accomplish the reallocation of unclaimed or unused funds.

(10) Ensure that funds are properly accounted for, and that funds due are collected.

(11) Provide consultation and technical assistance to local jurisdictions as necessary to monitor program compliance.

(12) Submit end-of-program report on jurisdictions' use of funds to FEMA.

(13) Conduct a compliance review of food and shelter expenditures made under this program for specified LROs. The National Board, FEMA, the independent accounting firm selected by the National Board, or the Inspector General's office may also conduct an audit of these funds.

(14) Monitor LRO compliance with OMB Circular A–133.

(c) *State Set-Aside (SSA).*

(1) The SSA process has been adopted to allow greater flexibility in selection of jurisdictions and is intended to target pockets of homelessness or poverty in non-qualifying jurisdictions (refer to Supplementary Information, above, on qualifying criteria), areas experiencing drastic economic changes such as plant closings, areas with high levels of unemployment or poverty which do not meet the minimum 400 unemployed, or jurisdictions that have documented measures of need which are not adequately reflected in unemployment and poverty data.

(2) The distribution of funds to SSA Committees will be based on a ratio calculated as follows: the State's average number of unemployed in non-funded jurisdictions divided by the average number of unemployed in non-funded jurisdictions nationwide equals the State's percentage of the total amount available for SSA awards.

(3) A SSA Committee in each State will recommend high need jurisdictions and award amounts to the National Board. Priority consideration is to be given to jurisdictions otherwise not meeting criteria for funding, although funded jurisdictions are not exempt from receiving additional funding. SSA Committees should also consider the special circumstances of jurisdictions that qualified in previous funding phases but are not eligible in the current phase. The State Committees may wish to provide these jurisdictions with an allocation so that the abrupt change in funding status is not disruptive to local providers. SSA Committees are encouraged to consider current and significant State or local data in their deliberations. Although the National Board staff provides national data to the SSA Committees, it does not mandate any particular formula. These committees are free to act independently in choosing eligible jurisdictions.

(4) In each State, the State United Way (or United Way in the capital city) will be notified of the award amount available to the SSA Committee. In a State where there are affiliates of the voluntary organizations represented on the National Board, they must be invited to serve on the State Committee. If no single State affiliate exists, an appropriate representative should be invited. The Governor or his/her representative will replace the FEMA member. State Committees are encouraged to expand participation by inviting or notifying other private non-profit organizations on the State level. The National Board encourages the inclusion of Native American representation on the State Committee.

(5) Members of the SSA Committee shall elect a person to chair the committee.

(6) The SSA Committees are responsible for the following:

(i) recommending high-need jurisdictions and award amounts within the State. When selecting jurisdictions with demonstrated need, the National Board encourages the consideration of counties incorporating or adjoining Indian reservations. The SSA Committee has 25 working days to notify the National Board in writing of its selections and the appropriate contact person for each area. Note: The minimum award amount for a single jurisdiction is $1,000 and only whole-dollar amounts can be allocated.

(ii) Notifying the National Board of selection criteria that were used to determine which jurisdictions within the State was selected to receive funds. The National Board will then notify these jurisdictions directly.

(iii) recommending that other jurisdictions receive the reallocated funds, in the event that funds are not claimed by SSA jurisdictions.

(d) *Local Board.*

(1) Each area designated by the National Board to receive funds shall constitute a Local Board. In a local community where there are affiliates of the United Way of America; The Salvation Army; the National Council of Churches of Christ in the U.S.A.; Catholic Charities, U.S.A; Council of Jewish Federations; and the American Red Cross; which are represented on the National Board, they must be invited to serve on the Local Board. The National Board mandates that if a jurisdiction is located within or encompasses a federally recognized Indian reservation, a Native American representative must be invited to serve on the Local Board. All Local Boards are required to include in their membership a homeless or formerly homeless person. Local Boards should seek recommendations from LROs for an appropriate representative. Local Boards that are unable to have homeless or formerly homeless representation must still consult with homeless or formerly homeless individuals, or former or current clients of food or housing services for their input. The County Executive/Mayor, appropriate head of local government or his or her designee will replace the FEMA member. An agency's own governing board is not an acceptable substitute for a Local Board. Local Boards are encouraged to expand participation and membership by inviting or notifying minority populations, other private non-profit organizations and government organizations; the jurisdiction should be geographically represented as well.

The members of each Local Board will elect a chair. Local Board membership is not honorary; there are specific duties the board must perform. If a member cannot regularly attend meetings, the member should be replaced by another representative of the member's designated agency. If a member must be absent from a meeting, the member's organization may designate an alternate.

(2) If a locality has not previously received funding and is now designated as being in high need, the National Board has designated the local United Way to constitute and convene a Local Board as described above. If there is no local United Way, or it does not convene the board, the local American Red Cross, the local Salvation Army, or a local government official will be responsible for convening the initial meeting of the Local Board.

If a locality has previously received National Board funding, the former chairman of the Local Board will be contacted regarding any new funding the locality is designated to receive.

Each award phase is new; therefore, the Local Board is a new entity in every phase. The convener of the Local Board must ask each agency to designate or redesignate a representative every program year.

(3) The Local Board must establish and follow regular procedures. The National Board encourages Local Boards to hold at least two meetings: a meeting to allocate the grant and a second to monitor LRO activities. A majority of members must be present for the meeting to be official. Attendance and decision-making minutes must be kept. Meeting minutes must be approved by the Local Board at the next meeting. They must also be available to the National Board, Federal authorities, and the public on request.

(4) The Local Board will have 25 working days after the notification of the award selection by the National Board in which to advertise and promote the program and consider all private voluntary and public organizations for participation, including those on Indian reservations. Consideration must be given to any agency providing or capable of providing emergency food and shelter services, not only those represented on the Local Board or affiliates of State or national organizations. Advertising must take place prior to the Local Board's allocation of funds. Failure to advertise properly will delay processing of the jurisdiction's board plan.

(5) The Local Board selects and recommends which local organizations should receive grants and the amounts of the grants. Since member agencies of the Local Board may also apply for funding, care must be taken that every applicant is judged by common, consistent criteria. Local Board members should strive to use sound judgement and fairness in their approach. The Local Board should be prepared to justify an allocation of one-third (1/3) or more of its total award to a single LRO. NOTE: The minimum grant per LRO is $300 and only whole-dollar amounts may be allocated.

(6) Local Boards are responsible for monitoring LROs that receive over $100,000 in Federal funds and ensuring that they comply with, OMB Circular A–133.

(7) Local Boards must complete and return all required forms to the National Board. (Local Board Plan, Local Board Certification Form, and Local Board Roster).

(8) Local Boards shall secure and retain signed forms from each LRO certifying that program guidelines have been read and understood, and that the LROs will comply with cost eligibility and reporting requirements.

(9) Local Boards must establish a system to ensure that no duplication of service occurs within the expenditure categories of rent, mortgage or utility assistance (RMU).

(10) Local Boards must notify the National Board of changes in the Local Board chair, staff contact, or LRO contacts, including complete addresses and phone numbers.

(11) Local Boards that determine they can better utilize their resources by merging with neighboring boards may do so. The head of government or his or her designee for each jurisdiction must sit on the merged board, along with agency representatives from each jurisdiction. The merged Local Board must ensure that the award amount designated for each civil jurisdiction is used to provide assistance to individuals within that jurisdiction.

(12) Local Boards are required to be familiar with current guidelines and to provide technical assistance to service providers. Advice and counsel can be provided by National Board staff.

(13) An appeals process must be established to address participation or funding including, where deemed appropriate, the involvement of individuals not a part of the dispute in the decision, to hear and resolve appeals made by funded or non-funded organizations, and to investigate complaints made by individuals or organizations. Appeals should be handled promptly. Cases that cannot be handled locally should be referred in writing to the National Board and include details on action that has been taken. Cases involving fraud or other misuse of Federal funds should be reported to the Office of the Inspector General, FEMA, in writing or by telephone at 1–800–323–8603.

(14) The chair of the Local Board or his or her designated staff will be the central coordination point of contact between the National Board and the LRO selected to receive assistance from EFSP. To facilitate program coordination, the chair of the Local Board will contact the State agencies through which surplus food and other Federal assistance are provided.

(15) If requested by the National Board, the Local Board should nominate an appropriate feeding organization to receive surplus food from Department of Defense commissaries.

(16) Local Boards will be responsible for monitoring programs carried out by the LROs they have selected to receive funds. Local Boards should work with LROs to ensure that funds are being used to meet immediate food and

shelter needs on an ongoing basis. Local Boards may not alter or change National Board cost eligibility or approve expenditures outside the National Board's criteria without National Board permission.

(17) The Local Board should reallocate funds whenever it determines that the original allocation plan does not reflect the actual need for services or if an LRO is unable to use its full award effectively. Funds must be recovered and may be reallocated if an LRO makes ineligible expenditures or uses funds for items that have clearly not been approved by the Local Board. Funds held in escrow for LROs which have unresolved compliance problems can be reallocated or may be reclaimed by the National Board.

The Local Board may approve reallocation of funds between LROs that are already participating in the program. However, the National Board must be notified in writing. The Local Board may also return funds to the National Board for reissuance to another LRO or request reallocation of remaining funds before they are released by the National Board (e.g., second/third payments).

If the Local Board wishes to reallocate funds to an agency that was not approved on the original board plan, a written request for approval must be made to the National Board. An LRO must be approved by the National Board prior to receipt of funds.

If a Local Board is unable to satisfy the National Board that it can utilize funds in accordance with this plan, the National Board may reallocate the funds to other jurisdictions.

(18) Should anyone have reason to suspect that EFSP funds are being used for purposes contrary to the law and guidelines governing the program, the National Board recommends taking action to assist in bringing such practices to a halt.

The National Board requires that the Office of the Inspector General, FEMA, be contacted immediately when fraud, theft, or other criminal activity is suspected in connection with the use of EFSP funds, or the operation of a facility receiving EFSP funds. This notification can be made by calling the Inspector General's Hotline at 1–800–323–8603, or in writing to: Office of the Inspector General, FEMA, 500 C Street SW., Washington, DC 20472. The complainant should include as much information as possible to support the allegation and preferably furnish his/her name and telephone number so that the special agents assigned to that office may make a follow-up contact. The confidentiality of any communication made with the Office of Inspector General is protected by Federal law.

A complainant desiring to remain totally anonymous should make a follow-up phone call to the Office of the Inspector General within 30 days from the date of the original complaint so that any follow-up questions may be asked. Follow-up calls should be made to 1–202–646–3894 during normal business hours, Eastern Standard Time (charges may be reversed). The caller should advise that he/she is making a follow-up call regarding a prior anonymous complaint. The Office of the Inspector General, FEMA, will appropriately notify both local law enforcement authorities and the National Board concerning the substance of the allegations and the results of the investigation.

(19) Reports to the National Board on LROs' expenditures shall be submitted as of the date each LROs second/third check is requested and a final report should be submitted one month after the jurisdiction's end-of-program date.

(20) After the close of the program, the accuracy of all LROs' reports and documentation shall be reviewed. Documentation for specified LROs should be forwarded to the National Board as requested. In the event of expenditures violating the eligible costs under this award, the Local Board must require reimbursement to the National Board.

Local Boards are required to remain in operation until all program and compliance requirements of the National Board have been satisfied. All records related to the program must be retained for three (3) years from the end-of-program date.

(21) Each jurisdiction will be granted the option to extend its spending period by 30, 60, or 90 days. This option will be offered during the summer of each phase. The extension applies to the entire jurisdiction. Should the jurisdiction receive a grant in the next phase, that phase's spending period will begin the day after the chosen end-date.

(e) *Local Recipient Organization.*

(1) In selecting LROs to receive funds, the Local Board must consider the demonstrated ability of an organization to provide food and shelter assistance. LROs should be selected to receive funds to supplement and extend eligible ongoing services, not to be funded in anticipation of a needed service (i.e., fire, flood, or tornado victims); neither should agencies be selected for funding due to budget shortfalls nor for cuts in other funding sources. Local participation in the program is not limited to organizations that are part of any State or national organization. Agencies on Indian reservations are eligible to receive EFSP funds if they meet LRO requirements as set forth in the program manual. Organizations that received awards from previous legislation may again be eligible provided that the organization still meets eligibility requirements.

(2) For a local organization to be eligible for funding it must:

(i) be nonprofit or an agency of government;

(ii) have an accounting system or an approved fiscal agent;

(iii) have a Federal employer identification number (FEIN), or be in the process of securing FEIN (Note: contact local IRS office for more information on securing FEIN and the necessary form [SS–4];

(iv) conduct an independent annual audit if receiving $25,000 or more from EFSP

(v) practice nondiscrimination. Those agencies with a religious affiliation wishing to participate in the program must agree not to refuse services to an applicant based on religion or require attendance at religious services as a condition of assistance, nor will such groups engage in any religious proselytizing in any program receiving EFSP funds; and,

(vi) for private voluntary organizations, have a voluntary board.

Each LRO will be responsible for certifying in writing to the Local Board that it has read and agrees to abide by the cost eligibility and reporting standards of this publication and any other requirements made by the Local Board.

An LRO may not operate as a vendor for itself or other LROs except for the shared maintenance fee for food banks.

(3) LROs selected for funding must:

(i) Maintain records according to the guidelines set forth in the manual. Consult the Local Board chair/staff on matters requiring interpretation or clarification prior to incurring an expense or entering into a contract. It is important to have a thorough understanding of these guidelines to avoid ineligible expenditures and consequent repayment of funds. LROs' questions can be answered by National Board staff at (703) 706–9660.

(ii) Provide services within the intent of the program. Funds are to be used to supplement and extend or initiate food and shelter services, not as a substitute for other program funds. LROs should take the most cost-effective approach in buying or leasing eligible items/services, and should limit purchases to essential items within the $300.00 limit for equipment, unless prior approval has been granted by the National Board.

(iii) Deposit funds for this program in a federally insured bank account. Proper documentation must be maintained for all expenditures under this program according to the guidelines. Agencies should ensure that selected banks will return canceled checks. LROs' expenditures and documentation will be subject to review for program compliance by the Local Board, National Board or Federal authorities. Records must be maintained for three years and any interest income must be put back into program expenditures.

(iv) LRO Documentation of EFSP expenditures requires copies of canceled checks (both sides) and itemized vendor invoices. An acceptable invoice has the following characteristics:

(A) It must be vendor originated;
(B) It must have name of vendor;
(C) It must have name of purchaser;
(D) It must have date of purchase;
(E) It must be itemized; and,
(F) It must have total cost of purchase.

All LROs will be required to periodically submit documentation to the National Board to ensure continued program compliance. Any LRO receiving over $100,000 in Federal funds must comply with OMB Circular A–133.

(v) In addition to the aforementioned documentation, reports to the Local Board must be submitted by their due date. Interim report/second and third check request forms will be enclosed in the LROs' first check package. When the LRO is ready to request its second/third check it must complete and sign the interim report and forward it to the Local Board for its review and approval. The reverse side (second/third check request) should be completed by the Local Board chair and mailed to the National Board. LROs must complete all portions of the final report form, return two copies to the Local Board, including one copy of documentation if requested, and retain a copy for their records.

(vi) The LRO must work with the Local Board to quickly clear up any problems related to compliance exception(s) at the end of the program.

(vii) The LRO shall contact the Local Board regarding technical assistance, interpretation of guidelines, and resources from other Federal programs, such as U.S. Department of Agriculture (USDA) surplus food.

(f) *Fiscal Agent/Fiscal Conduit Relationship.*

(1) For National Board purposes, a fiscal agent is an agency that maintains all EFSP financial records for another agency. A fiscal conduit is an EFSP-funded agency that maintains all EFSP financial records on behalf of one or more agencies under a single grant. If any one agency in a jurisdiction is making bulk purchases for other agencies not funded directly, it must serve as a fiscal conduit and follow all rules, thereof.

(2) The fiscal agent/fiscal conduit is the organization responsible for the receipt of funds, disbursement of funds to vendors, and documentation of funds received. The fiscal agent/fiscal conduit must meet all of the requirements of an LRO.

(3) Local Boards may wish to use a fiscal agent/fiscal conduit when they desire to fund an agency not having an adequate accounting system or not conducting an annual audit.

(4) Any agency benefitting from funds received by a fiscal agent/fiscal conduit must meet all of the criteria to be an LRO except the accounting system and annual audit requirements and sign the Fiscal Agent/Fiscal Conduit Relationship Certification Form. For tracking purposes, all agencies funded through fiscal agents or fiscal conduits must secure a Federal Employer's Identification Number.

(5) Fiscal agents/fiscal conduits may cut checks to vendors only. They may not cut checks to the agencies on whose behalf they are acting or to agencies/sites under their ''umbrella.'' The exception to this is when an agency is using the per diem allowance.

(6) Fiscal agents will be required to submit individual interim and final reports for each agency. Fiscal conduits will file a single interim report on their awards along with a breakdown of agencies and spending with the final report.

(7) Fiscal agents may not fund an LRO with an outstanding compliance exception. If a fiscal agent has an unresolved compliance exception, any other funds awarded to the fiscal agent will be held in escrow until all compliance exceptions are resolved.

Section 2.3 General Guidelines

(a) *Designation of Target Areas.*

Local jurisdictions will be selected to receive funds from the National Board based on average unemployment statistics from the U.S. Department of Labor for the most current 12-month period (August 1, 1993–July 31, 1994) available. Also used are poverty statistics from the 1990 Census. The Board adopted this combined approach in order to target funds for high-need areas more effectively. Funds designated for a particular jurisdiction must be used to provide services within that jurisdiction.

The National Board based its determination of high-need jurisdictions on four factors:

1. Most current twelve-month national unemployment rates;

2. Total number of unemployed within a civil jurisdiction;

3. Total number of individuals below the poverty level within a civil jurisdiction; and,

4. The total population of the civil jurisdiction.

In addition to unemployment, poverty was used to qualify a jurisdiction for receipt of an award.

Jurisdictions were selected under Phase XIII (PL 103–327) according to the following criteria:

- Jurisdictions, including balance of counties, with 18,000+ unemployed and a 5.5% rate of unemployment.
- Jurisdictions, including balance of counties, with 400 to 17,999 unemployed and a 7.8% rate of unemployment.
- Jurisdictions, including balance of counties, with 400 or more unemployed and an 11.7% rate of poverty.

Jurisdictions with a minimum of 400 unemployed may qualify for an award based upon their rate of unemployment or their rate of poverty. Once a jurisdiction's eligibility is established, the National Board will determine its fund distribution based on a ratio calculated as follows: the average number of unemployed within an eligible area divided by the average number of unemployed covered by the national program equals the area's portion of the award (less National Board administrative costs, and less that portion of program funds required to fulfill designated awards).

$$\frac{\text{Area's avg. no. unemployed}}{\text{Avg. no. unemployed in all eligible areas}} = \begin{array}{c}\text{Area's percent of the award}\\ \text{(less National Board's}\\ \text{administrative costs and}\\ \text{designated awards)}\end{array}$$

Puerto Rico and U.S. territories will receive a designated percentage of the total award based on the decision of the National Board.

(b) *Grant Award Process.*

(1) United Way of America has been designated as the fiscal agent for the National Board and as such will process all Local Board plans. Payments will be made to organizations recommended by Local Boards for funding. Local Boards have the right to reallocate funds throughout the program period, as they determine necessary. When a Local Board reallocation between two or more LROs occurs, the Local Board must promptly notify the National Board in writing so that the National Board's records can be updated accordingly.

(2) The National Board offers two methods of payment to LROs. The two methods are either direct deposit (electronic funds transfer) or checks. The National Board encourages LROs to take advantage of direct deposit where possible.

(3) To ensure greater accountability and reporting, awards totaling less than $100,000 are paid in two equal installments. Awards totaling $100,000 or more will be paid in three equal installments.

(4) The National Board will distribute second/third payments once the jurisdiction's compliance review is completed for the previous program period. Second/third payments will be held in escrow until all compliance exceptions are satisfied by the LRO.

All payments will be mailed directly to the LRO. Second and third payments will be mailed to the LRO only upon the written request of the Local Board Chair which encloses the LROs interim report. The Local Board will authorize second/third payments once it is assured that the organization is implementing the current program as intended and according to the guidelines in the Plan.

(c) *Client Eligibility.*

The National Board does not set client eligibility criteria. Local Boards may choose to set such criteria. If the Local Board does not set eligibility criteria, the LRO may use its existing criteria or set criteria for assistance under this award. However, the LROs criteria must provide for assistance to needy individuals without discrimination (age, race, sex, religion, national origin, or handicap). Note: Funds allocated to a jurisdiction are intended for use within that jurisdiction. Residents of or transients in a specific jurisdiction should seek service within that jurisdiction.

Citizenship is not an eligibility requirement to receive assistance from EFSP. The National Board does not mandate nor recommend the use of any particular existing criteria (i.e., food stamp guidelines, welfare guidelines, or income guidelines).

Section 2.4 Eligibility of Costs

The intent of this appropriation is for the purchase of food and shelter to supplement and extend current available resources and not to substitute or reimburse ongoing programs and services. Questions regarding interpretation of the program's guidelines should be cleared by the LRO with the Local Board prior to action. Local Boards unsure of the meaning of these guidelines should contact the National Board at (703) 706–9660 for clarification prior to advising the LRO.

If an expenditure requested by an LRO is not listed below as eligible, the Local Board has the option of requesting a waiver from the National Board for consideration.

No individual or family may be charged a fee for service with relation to assistance under EFSP.

(a) *Eligible Program Costs.*

Eligible program costs include, but are not limited to:

For food banks/pantries, eligible costs include:

(1) Groceries, food vouchers, vegetable seeds, gift certificates for food. Documentation required: receipts/invoices for food purchased and canceled checks.

(2) An allowance for maintenance fees charged by food banks can be granted by a Local Board at the prevailing rate. EFSP funds cannot be used to pay such a maintenance fee twice: by a food bank and by the food pantry/agency it is serving. Documentation required: receipts/invoices for food purchased and canceled checks.

(3) Transportation expenses related to the delivery of food purchases. Documentation required: (1) Mileage log, or (2) receipts/invoices from contracted services or public transportation, receipts for actual fuel costs, and canceled checks.

(4) Purchase of small equipment not exceeding $300 per item and essential to operation of food bank or pantry (e.g., shelving, storage containers). Documentation required: receipts/invoices for equipment purchased and canceled checks.

(5) Purchase of consumable supplies essential to distribution of food (e.g., bags, boxes). Documentation required: receipts/invoices for supplies purchased and canceled checks.

For mass shelters (five or more beds) or mass feeding sites, eligible expenditures include:

(6) Food (hot meals, groceries, food vouchers). Limited amounts of dessert items (i.e., cookies, ice cream, candy, etc.) used as a part of a daily diet plan may be purchased. Also allowable are vegetable seeds and vegetable plants cultivated in an agency's garden on-site and canning supplies. Documentation required: receipts/invoices for food purchased and canceled checks or served meals per diem schedule).

(7) Local transportation expenses for picking up/delivery of food; transporting clients to mass shelter or feeding site. Limited to actual fuel costs, a mileage log at the current Federal rate (29 cents per mile), contracted services or public transportation. Documentation required: (1) Mileage log, or (2) receipts/invoices from contracted services or public transportation, receipts for actual fuel costs, and canceled checks.

(8) Purchase of consumable supplies essential to mass feeding (i.e., plastic cups, utensils, detergent, etc.) or mass shelters of five or more beds (i.e., soap, toothbrushes, toothpaste, cleaning supplies, etc.) Documentation required: receipts/invoices for supplies purchased and canceled checks.

(9) Purchase of small equipment not exceeding $300 per item and essential to mass feeding (i.e., pots, pans, toasters, blenders, etc.) or mass shelters (i.e., cots, blankets, linens, etc.). Documentation required: receipts/invoices for equipment purchased and canceled checks.

(10) Leasing, only for the program period, of capital equipment associated with mass feeding or mass shelter (e.g., stoves, freezers, or vans with costs over $300 per item) only if approved in advance by the Local Board. Documentation required: written Local Board approval, copy of lease agreement, and canceled checks.

(11) Limited amounts of basic first-aid supplies (e.g., aspirin, band-aids, cough syrup) for mass shelter providers and mass feeding sites only. Documentation required: receipts/invoices for first-aid supplies and canceled checks.

(12) Emergency repairs/building code of a mass feeding facility or mass shelter, provided: (i) The facility is owned by a not-for-profit organization (profit-making facilities, leased facilities, government facilities, and individual residences are not eligible); and,

(ii) The emergency repair/building code plan and the contract detailing work to be done and material and equipment to be used or purchased is approved by the Local Board prior to the start of the emergency repair/building code project; and,

(iii) The emergency repair/building code is limited to:

(A) Bring facility into compliance with local building codes; or,

(B) An emergency repair that is required to keep the facility open for the current program phase.

(C) Maximum expenditure: $5,000.00.

(D) No award funds are used for decorative or non-essential purposes or routine maintenance/repairs.

(E) All emergency repair work is completed and paid for by the end of the jurisdiction's award phase. (Expenses which occur after that date will not be accepted as eligible costs.) Documentation required: letter from Local Board indicating approval and amount approved, copy of contract including cost or invoices for supplies and contract labor, document citing building code violation requiring the repair (for building code repairs) and canceled checks.

(13) Expenses incurred from accessibility improvements for the disabled are eligible for mass feeding or mass shelter facilities up to a limit of $5,000. These improvements may include those required by the Americans with Disabilities Act of 1990. A building code citation is not necessary for accessibility improvements. Note: All social service providers are mandated to comply with the Americans with Disabilities Act of 1990. Documentation required: copy of contract describing work to be done including cost, letter from Local Board indicating approval and amount approved, and canceled checks.

For mass shelter providers, there are two options for eligible costs. One option must be selected at the beginning of the program year and continued throughout the entire year. Note the documentation requirements for each option.

(14) Reimbursement of actual direct eligible costs; in which case canceled checks and vendor invoices for supplies/equipment essential to the operation of the mass shelter (e.g., cots, mattresses, soap, linens, blankets, cleaning supplies, etc.) must be maintained. Documentation required: receipts/invoices from vendor relating to operation of facility and canceled checks.

(15) Per diem allowance of exactly $5 per person or exactly $10 per person per night for mass shelter (five beds or more) providers, only if:

(i) Approved in advance by the Local Board; and,

(ii) LROs total mass shelter award is expended in this manner.

Note: It is the decision of the Local Board to choose between the $5/$10 rate. This rate may vary from agency to agency. The $5/$10 per diem, if elected, may be expended by the LRO for any related cost; it is not limited to otherwise eligible items. The per diem allowance does not include the additional costs associated with food. Documentation required: schedule showing daily rate of $5 or $10 and number of persons sheltered by date with totals. Supporting documentation must be retained on-site, e.g., checks/invoices and service records.

For mass feeding programs, there are two options for eligible costs. One option must be selected at the beginning of the program year and continued throughout the entire year. Note the documentation requirements for each option.

(16) Reimbursement of actual direct eligible costs; in which case canceled checks and vendor invoices for supplies/equipment essential to the operation of the mass feeding programs (e.g., food, paper products, cleaning products, pots and pans, etc.) must be maintained. Documentation required: receipts/invoices from vendor relating to operation of facility and canceled checks.

(17) Per meal allowance of $1.50 per meal served only if:

(i) Approved in advance by the Local Board; and,

(ii) LRO's total mass feeding award is expended in this manner.

The $1.50 per meal allowance, if elected, may be expended by the LRO for any related cost; it is not limited to otherwise eligible items. The per meal allowance does not include the additional costs associated with shelter. Documentation required: schedule showing meal rate of $1.50 and number of meals served by date with totals. Supporting documentation must be retained on-site, e.g., checks/invoices and service records.

For rent/mortgage assistance, eligible program costs include:

(18) Limited emergency rent or mortgage assistance for individuals or families, provided that:

(i) Payment is in arrears; and,

(ii) All other resources have been exhausted; and,

(iii) The client is primary resident of the home in which rent/mortgage is being paid; and,

(iv) Payment is limited to one month's cost for each individual or family; and,

(v) Payment must guarantee an additional 30 days service. Note: Late fees, but not deposits or legal fees, are eligible. Documentation required: letters from landlords (must include amount of one month's rent and statement that rent is past due), mortgage letters and/or copy of loan coupon showing mortgage amount and date due and canceled checks.

(19) First month's rent may be paid when an individual or family:

(i) Is transient and plans to stay in the area for an extended period of time; or,

(ii) Is moving from a temporary shelter to a more permanent living arrangement; or,

(iii) Is being evicted because one month payment will not forestall eviction.

The first month's rent cannot be provided in addition to emergency rent/mortgage payment under Item 18 above. It can be provided in addition to assistance provided for off-site and mass shelter. Documentation required: letters from landlords [must include amount of first month's rent] and canceled checks.

For utility assistance, eligible program costs include:

(20) Limited utility assistance (includes gas, coal, electricity, oil, water, firewood) for individuals or families, provided that:

(i) Payment is in arrears; and,

(ii) All other resources have been exhausted (e.g., State's Low Income Home Energy Assistance Program); and,

(iii) Payment is limited to one month's cost for each utility for each individual or family; and,

(iv) Month paid is part of the arrearage and from current phase or for continuous service; and,

(v) Each utility can be paid only once in each award phase for any individual or family.

(vi) Payment must guarantee an additional 30 days service.

Note: Reconnect and late fees, but not deposits are eligible, but again only a one month payment for each utility for each individual or family in each award phase. Documentation required: (1) Nonmetered utilities [e.g., propane, firewood], receipts/invoices for fuel including due date and canceled checks; (2) metered utilities [e.g., electricity, water], copy of past due utility bill showing one month's charges including due date and canceled checks. Note: utility disconnect and termination notices often do not show amount owed by month. This information must be written onto the notice if not included.

For other shelter assistance, eligible program costs include:

(21) Off-site emergency lodging in a hotel or motel, or other off-site shelter facility provided:

(i) No appropriate on-site shelter is available; and,

(ii) It is limited to 30-days' assistance per individual or family during the program period. Note: Assistance may be extended in extreme cases with prior Local Board written approval. A copy of this approval should accompany LRO's documentation.

Note: An LRO may not operate as a vendor for itself or other LROs, except for shared

maintenance fee for food banks. Documentation required: receipts/invoices from off-site shelter (hotel/motel) and canceled checks.

(b) *Ineligible Program Costs.*

Purposes for which funds CANNOT BE USED include, but are not limited to:

(1) Cash payments of any kind including checks made out to cash or reimbursements to staff, volunteers or clients for program purchases.

(2) Deposits of any kind.

(3) Payment of more than one month's rent.

(4) Payment of more than one month's mortgage, first month's mortgage, or down payment on mortgage.

(5) Transportation of people to another town or agency not related to the direct provision of food or shelter or to relative's home (e.g., non-local transportation, transportation to jobs, health care, etc.).

(6) Payment of more than one month's portion of an accumulated utility bill.

(7) Payments made directly to a client.

(8) Rental security; deposits; revolving loan accounts.

(9) Real property (land or buildings) costing more than $300.

(10) Property taxes of any kind.

(11) Equipment costing more than $300 per item (e.g., vehicles, freezers, washers).

(12) Emergency repairs/building code or rehabilitation to government-owned or profit-making facilities or leased facilities.

(13) Rehabilitation for expansion of service.

(14) Repairs of any kind to an individual's house or apartment.

(15) Purchase of supplies or equipment for an individual's home or private use.

(16) Lease-purchase agreements.

(17) Administrative cost reimbursement to State or regional offices of governmental or voluntary organizations.

(18) Lobbying efforts.

(19) Expenditures made prior to beginning of jurisdiction's program.

(20) Expenditures made after end of jurisdiction's program.

(21) Gas or repairs for client-owned transportation.

(22) Repairs to LRO-owned vehicles.

(23) Prescription medication or medical supplies.

(24) Clothing (except underwear/diapers for clients of mass shelters, if necessary).

(25) Payments for expenses not incurred (i.e., where no goods or services have been provided during new program period).

(26) Emergency assistance for natural disaster victims.

(i) Supplies bought for and in anticipation of a natural disaster.

(27) Telephone costs, except as administrative allowance and limited to the total allowance (2 percent).

(28) Salaries, except as administrative allowance and limited to the total allowance (2 percent).

(29) Office equipment, except as administrative allowance and limited to the total allowance (2 percent).

(30) LRO may not operate as a vendor for itself or other LROs, except for shared maintenance fee for food banks.

(31) Direct expenses associated with new or expanded services or to prevent closing.

(32) Increased utility costs due to expansion of service.

(33) Encumbrance of funds for shelter, emergency repairs, utilities, that is, payments for goods or services that are purchased and are to be delivered at a later date. Also, withholding assistance in anticipation of a future need (e.g., holiday events, special programs).

(34) Supplementing foster care costs, where an LRO has already received payment for basic boarding of a client. Comprehensive foster care costs beyond food and shelter are not allowed.

(35) No fee for service may be charged to individuals or families in order to receive service.

(c) *Administrative allowance.*

(1) There is an administrative allowance limitation of two percent (2%) of total funds received by the Local Board, excluding any interest earned. This allowance is a part of the total award, not in addition to the award. The local administrative allowance is intended for use by LROs or Local Boards and not for reimbursement of the program or administrative costs that a recipient's parent organization (its State or regional offices) might incur as a result of this additional funding.

(2) The Local Board may elect to use, for its own administrative costs, all or any portion of the 2 percent allowance. The decision on distribution of the allowance among LROs rests with the Local Board. No LRO may receive an allowance greater than 2 percent of that LROs award amount unless the LRO is providing the administrative support for the Local Board and it is approved by the National Board.

(3) The SSA Committee, when in operation, may utilize a maximum of one-half of one percent (0.5%) for its administrative costs in allocating the SSA grant. As with Local Board awards, this administrative allowance is part of the total award, not in addition to the award.

(4) Any of the administrative allowance not used must be put back into program funds for additional services. Note: The administrative allowance may only be allocated in whole-dollar amounts.

Section 3.0 Independent Annual Audit Requirements

(a) *LROs receiving $25,000 or less in EFSP funding.* No independent annual audit will be required for these LROs.

(b) *LROs receiving $25,000 or more in EFSP funding.* An independent annual audit in accordance with Government Auditing Standards will be required for these LROs.

The National Board will accept an LROs national/regional annual audit if the following conditions are met:

(1) The LRO is truly a subsidiary of the national organization (i.e., shares a single Federal tax exemption).

(2) The LRO is audited by the national/regional office internal auditors or other person designated by the national/regional office AND the national/regional office is audited by an independent certified public accountant or public accounting firm, which includes the parent organization's review of the LRO in a larger audit review.

(3) A copy of the local audit review by the parent organization along with a copy of the independent audit of the national/regional office will be made available to the National Board upon request.

In addition to the above requirements, any LRO receiving $100,000 or more in combined federal funds must have an audit made in accordance with OMB Circulares A–128 or A–133, as applicable.

Audits of units of government shall be made annually unless State or local government had, by January 1, 1987, a constitutional or statutory requirement for less frequent audits. For those governments' biennial audits, covering both years are permitted.

Section 4.0 Appeals Process for Participation/Funding

(a) *Fairness and openness.* An appeals process is a statement to eligible agencies and to the community at large that the Local Board is interested in fairness and openness.

A good appeals process begins with prevention. If the Local Board includes both representatives of affiliates of the National Board and representatives of other groups involved with assisting hungry and homeless people, it is less likely to experience an appeal. Similarly, if the Local Board's decision-making process is open, thorough, and even-handed, appeals are less likely.

It is the responsibility of the Local Board to establish a written appeals process. That process may be simple or elaborate, depending on the needs of the community.

(b) *Appeals guidelines.* The appeal process should meet the following guidelines:

(1) It should be available to agencies and to the public upon request;

(2) It should be timely, without undue delay;

(3) It should include the basis for appeal (e.g., Provision of information not previously available to the group making the appeal or to the Local Board; correction of erroneous information; violation of Federal or National Board guidelines; or allegation of bias, fraud, or misuse of Federal funds on the part of the Local Board may be cause for appeal);

(4) The decision should be communicated to the organization making the appeal in a timely manner. In the case of an appeal on the basis of fraud or other abuse of Federal funds, the agency making the appeal must be informed of the right of referral to the National Board;

(c) *Primary decision maker.* Except for cost and LRO eligibility, the Local Board is the primary decision maker. Only when there is significant question of misapplication of guidelines, fraud, or other abuse on the part of the Local Board will the National Board consider action.

(d) *Common appeals practices.* The National Board does not mandate any particular appeals process. However, some Local Boards have developed processes which work well for them and may offer some help to other communities. Common practices include the following:

(1) Set a time period of not more than 30 days for agencies or organizations to appeal a funding decision;

(2) Require written notice of appeal, signed by the Chief Volunteer Officer of the organization making the appeal;

(3) The first level of appeal is usually to the Local Board, or to an executive committee of the board;

(e) *Appeals boards; delegations.* Some boards appoint one or more members to act as a liaison with the organization making the appeal:

(1) In the case of an appeal for the purpose of providing previously unavailable information or correction of erroneous information, the process usually ends with prompt notification of decision (within ten working days of appeal).

(2) In the case of appeals for the purpose of contesting alleged prejudice, violation of law or National Board guidelines, fraud, or misuse of Federal funds, some boards have allowed appeals to a group other than the board itself. This practice is not mandated but is permitted by the National Board. Such groups vary. They may simply be composed of different individuals representing the same organizations that make up the Local Board. They may also include an entirely different group of persons who have knowledge of the program and are deemed by the board to be both responsible and unbiased, and to hold the trust of the community at large.

(3) If the board chooses to delegate authority to any third party in an appeals process, the power and authority of that body should be clear. Is it simply advisory to the Local Board? Will the board abide by the decisions of this body as long as they are consistent with the law and the National Board guidelines?

(4) The disposition of appeals is often communicated by telephone to the chief professional and volunteer officers of the organization appealing immediately after a decision is made. In such cases, a written communication is sent as soon as possible confirming the action taken. The written communication is, of course, the official notification.

(f) *National Board role.* It is important to reaffirm that no single appeals process is mandated or advised by the National Board.

Section 5.0 Variances and Waivers

(a) *Variances.* Local Boards may receive requests for variances in the budgets they have approved for LROs. Local Boards may allow such changes provided that the requested items are eligible under this program. If there is any doubt on the part of the Local Board as to eligibility, it should contact the National Board for clarification.

If an expenditure requested by an LRO falls outside the program guidelines, the Local Board, if in accord, should request in writing a waiver from the National Board in advance of the expenditure.

(b) *Waivers.* Waivers requested because of a compliance exception must be submitted to the Local and then National Board for review. National Board staff will evaluate waiver requests and use discretion to approve or deny requests. In general, the National Board considers waiver requests that are not within the guidelines, but address the program's intent.

The waiver request from the Local Board should clearly state the need for this exception, approximate costs, timelines or any other pertinent information it deems necessary for the National Board to make their decision.

Section 6.0 Reporting Requirements

Local Boards must monitor LROs' expenditures and eligible cost compliance throughout the program period. An interim report of expenditures is due to the National Board with each LRO's second/third check request. A final report (accompanied by financial documentation for specified LROs) is due one month after the end of each jurisdiction's program. The National Board will provide forms for all required reports. The National Board advises Local Boards to request at least one other report from their LROs at a time deemed appropriate by each Local Board.

LROs that successfully completed previous program compliance reviews and are receiving funds under this program may not be required to submit documentation with their final reports unless specifically asked to do so by the National Board; however, successful completion does not mean automatic exemption from submission. Documentation will be required for LROs not funded in the previous phase of the program.

Failure of an LRO to comply with the National Board's reporting requirements may result in its funds being held in escrow. Funds will be held until all reporting requirements have been satisfied. If an LRO does not comply in a timely manner, the Local Board or National Board may reclaim and reallocate the funds being held in escrow.

The National Board will compile the reports it receives from the Local Boards and submit a detailed accounting of use of all program monies in the form of a report to FEMA.

If the Local Board discovers lack of documentation, ineligible expenditures or any other problem in an LRO report, it should contact the LRO and attempt to correct the problem before submitting the report to the National Board. If the National Board discovers a problem, it will inform the Local Board and LRO and advise them of the action to be taken. It is the responsibility of the Local Board to continue working with LROs which have compliance problems until they have been cleared by the Secretariat.

To avoid compliance-related problems, the Local Board should ensure that LROs have a thorough understanding of the types of documentation (e.g., canceled checks [both sides], invoices, contracts, lease agreements, utility bills) they must

retain to meet cost eligibility guidelines. Items not listed as eligible or ineligible should not be assumed to be eligible. Local Boards are advised to contact National Board staff for clarification on items subject to interpretation.

LROs failing to clear the National Board compliance review after a reasonable amount of time will be referred to FEMA and will remain ineligible to receive funds until compliance problems are resolved with FEMA.

Section 7.0 Amendments to Plan

The National Board reserves the right to amend this Plan at any time.

Dated: January 23, 1995.

Kay Goss,

Associate Director, Preparedness, Training and Exercise Directorate.

The following is a list of Phase XIII (fiscal year 1995) allocations. These jurisdictions were notified in October, 1994, regarding this award. Those jurisdictions funded are:

Alabama:	
13–0030–00 Autauga County	$16,495
13–0032–00 Baldwin County	49,691
13–0034–00 Barbour County	15,114
13–0036–00 Bibb County	10,573
13–0038–00 Blount County	15,288
13–0040–00 Bullock County	9,065
13–0042–00 Butler County	13,891
13–0044–00 Calhoun County	65,869
13–0046–00 Chambers County	24,385
13–0048–00 Cherokee County	10,716
13–0050–00 Chilton County	20,607
13–0052–00 Choctaw County	14,034
13–0054–00 Clarke County	20,750
13–0056–00 Clay County	7,732
13–0060–00 Coffee County	20,480
13–0062–00 Colbert County	33,292
13–0064–00 Conecuh County	9,494
13–0068–00 Covington County	20,004
13–0070–00 Crenshaw County	6,557
13–0072–00 Cullman County	34,736
13–0074–00 Dale County	28,370
13–0076–00 Dallas County	42,404
13–0078–00 De Kalb County	32,561
13–0080–00 Elmore County	23,147
13–0082–00 Escambia County	22,528
13–0084–00 Etowah County	54,851
13–0086–00 Fayette County	10,383
13–0088–00 Franklin County	19,591
13–0090–00 Geneva County	12,605
13–0092–00 Greene County	8,414
13–0094–00 Hale County	11,192
13–0096–00 Henry County	9,113
13–0098–00 Houston County	44,357
13–0102–00 Jackson County	39,372
13–0104–00 Jefferson County	270,238
13–0108–00 Lamar County	9,144
13–0110–00 Lauderdale County	47,040
13–0112–00 Lawrence County	22,893
13–0114–00 Lee County	38,245
13–0116–00 Limestone County	27,275
13–0118–00 Lowndes County	10,637
13–0120–00 Macon County	12,796
13–0126–00 Marengo County	17,448
13–0128–00 Marion County	20,131
13–0130–00 Marshall County	45,818
13–0132–00 Mobile County	238,614
13–0136–00 Monroe County	19,035
13–0138–00 Montgomery County	90,603
13–0142–00 Morgan County	57,693
13–0144–00 Perry County	12,256
13–0146–00 Pickens County	12,891
13–0148–00 Pike County	14,590
13–0150–00 Randolph County	12,844
13–0152–00 Russell County	24,750
13–0154–00 St. Clair County	21,956
13–0158–00 Sumter County	11,827
13–0160–00 Talladega County	44,944
13–0162–00 Tallapoosa County	21,829
13–0164–00 Tuscaloosa County	63,106
13–0168–00 Walker County	44,294
13–0170–00 Washington County	14,955
13–0172–00 Wilcox County	9,827
13–0174–00 Winston County	13,526
13–0176–00 State Set-Aside Committee, AL	88,505
	2,117,371
Alaska:	
13–0196–00 Fairbanks North Star Boro	55,153
13–0202–00 Kenai Peninsula Borough	42,595
13–0204–00 Ketchikan Gateway Borough	10,573
13–0208–00 Kodiak Island Borough	13,542
13–0210–00 Matanuska-Susitna Census	42,134
13–0212–00 Nome Census Area	6,620
13–0218–00 Sitka Borough	7,906
13–0224–00 Valdez-Cordova Census Area	8,478
13–0232–00 State Set-Aside Committee, AK	108,338
	295,339
Arizona:	
13–0242–00 Apache County	44,151
13–0244–00 Cochise County	56,391
13–0246–00 Coconino County	67,758
13–0248–00 Gila County	21,432
13–0250–00 Graham County	13,574
13–0254–00 La Paz County	10,446
13–0256–00 Maricopa County	860,088
13–0268–00 Mohave County	67,377
13–0270–00 Navajo County	55,502
13–0272–00 Pima County	223,436
13–0276–00 Pinal County	43,071
13–0278–00 Santa Cruz County	35,832
13–0280–00 Yavapai County	45,770
13–0282–00 Yuma County	218,118
13–0284–00 State Set-Aside Committee, AZ	2,931
	1,765,877
Arkansas:	
13–0304–00 Arkansas County	10,145
13–0306–00 Ashley County	11,161
13–0308–00 Baxter County	9,605
13–0312–00 Boone County	11,177
13–0314–00 Bradley County	6,731
13–0318–00 Carroll County	9,192
13–0320–00 Chicot County	9,097
13–0322–00 Clark County	7,557
13–0324–00 Clay County	9,652
13–0326–00 Cleburne County	9,160
13–0330–00 Columbia County	13,939
13–0332–00 Conway County	8,478
13–0334–00 Craighead County	28,418
13–0336–00 Crawford County	20,464
13–0338–00 Crittenden County	22,623
13–0340–00 Cross County	11,843
13–0344–00 Desha County	10,145
13–0346–00 Drew County	9,716

13–0348–00 Faulkner County	28,259
13–0334–00 Garland County	35,673
13–0358–00 Greene County	15,479
13–0360–00 Hempstead County	13,113
13–0362–00 Hot Spring County	11,843
13–0366–00 Independence County	14,225
13–0370–00 Jackson County	13,336
13–0372–00 Jefferson County	50,469
13–0376–00 Johnson County	7,208
13–0380–00 Lawrence County	8,716
13–0382–00 Lee County	7,192
13–0386–00 Little River County	6,906
13–0388–00 Logan County	7,859
13–0390–00 Lonoke County	13,590
13–0396–00 Miller County	20,337
13–0398–00 Mississippi County	45,405
13–0408–00 Ouachita County	24,131
13–0412–00 Phillips County	17,622
13–0416–00 Poinsett County	13,272
13–0420–00 Pope County	18,908
13–0424–00 Pulaski County	133,547
13–0430–00 Randolph County	9,414
13–0432–00 St. Francis County	21,972
13–0440–00 Sebastian County	44,309
13–0446–00 Sharp County	6,588
13–0450–00 Union County	22,829
13–0452–00 Van Buren County	7,874
13–0454–00 Washington County	32,244
13–0456–00 White County	29,370
13–0462–00 State Set-Aside Committee, AR	90,849
	991,642

California:

13–0464–00 Fresno City/County	822,605
13–0634–00 Alameda County	415,375
13–0646–00 Oakland City	294,290
13–0652–00 Amador County	17,924
13–0654–00 Butte County	141,993
13–0656–00 Calaveras County	27,735
13–0658–00 Colusa County	25,449
13–0660–00 Contra Costa County	466,114
13–0668–00 Del Norte County	19,924
13–0670–00 El Dorado County	87,476
13–0676–00 Glenn County	30,005
13–0678–00 Humboldt County	89,730
13–0680–00 Imperial County	240,042
13–0682–00 Inyo County	12,510
13–0684–00 Kern County	627,460
13–0688–00 Kings County	93,588
13–0690–00 Lake County	45,675
13–0692–00 Lassen County	20,575
13–0695–00 Los Angeles City/County	6,744,444
13–0760–00 Madera County	118,307
13–0766–00 Mariposa County	11,478
13–0768–00 Mendocino County	67,472
13–0770–00 Merced County	216,181
13–0772–00 Modoc County	8,160
13–0774–00 Mono County	10,113
13–0776–00 Monterey County	345,712
13–0780–00 Napa County	68,742
13–0784–00 Nevada County	52,882
13–0786–00 Orange County	1,346,079
13–0816–00 Placer County	112,194
13–0818–00 Plumas County	22,909
13–0820–00 Riverside County	1,045,708
13–0824–00 Sacramento County	665,482
13–0828–00 San Benito County	49,533
13–0830–00 San Bernardino County	988,524
13–0840–00 San Diego County	1,486,659
13–0858–00 San Francisco City/County	456,430
13–0860–00 San Joaquin County	497,913
13–0864–00 San Luis Obispo County	127,308
13–0876–00 Santa Barbara County	238,328
13–0880–00 Santa Clara County	902,921
13–0892–00 Santa Cruz County	227,739
13–0896–00 Shasta County	139,215
13–0900–00 Siskiyou County	44,405
13–0902–00 Solano County	220,912
13–0912–00 Stanislaus County	486,356
13–0916–00 Sutter County	92,715
13–0918–00 Tehama County	44,929
13–0920–00 Trinity County	12,796
13–0922–00 Tulare County	429,679
13–0926–00 Tuolumne County	37,197
13–0928–00 Ventura County	504,629
13–0938–00 Yolo County	98,954
13–0940–00 Yuba County	57,343
13–0942–00 State Set-Aside Committee, CA	348,219
	21,807,037

Colorado:

13–0968–00 Adams County	130,086
13–0978–00 Alamosa County	7,827
13–0990–00 Boulder County	108,368
13–1010–00 Delta County	10,478
13–1012–00 Denver City/County	254,378
13–1026–00 Fremont County	17,622
13–1034–00 Gunnison County	7,541
13–1056–00 La Plata County	17,908
13–1058–00 Larimer County	90,222
13–1068–00 Mesa County	53,184
13–1074–00 Montezuma County	12,590
13–1076–00 Montrose County	13,145
13–1078–00 Morgan County	9,319
13–1080–00 Otero County	9,303
13–1092–00 Pueblo County	60,884
13–1098–00 Rio Grande County	6,858
13–1116–00 Weld County	64,599
13–1122–00 State Set-Aside Committee, CO	389,995
	1,264,307

Connecticut:

13–1422–01 Fairfield Census/Bridgeport	157,969
13–1422–02 Fairfield Census/Danbury	48,077
13–1422–03 Fairfield Census/Norwalk	58,380
13–1422–04 Fairfield Census/Stamford	78,984
13–1438–00 Hartford Census County	430,044
13–1458–00 New Haven Census County	393,863
13–1472–00 New London Census County	108,956
13–1478–00 State Set-Aside Committee, CT	173,709
	1,449,982

Delaware:

13–1480–00 Kent County	65,202
13–1482–00 New Castle County	199,591
13–1488–00 State Set-Aside Committee, DE	32,525
	297,318

District of Columbia:

13–1492–00 District of Columbia	415,962
	415,962

Florida:

13–1556–00 Alachua County	61,217
13–1560–00 Baker County	9,938
13–1562–00 Bay County	90,429
13–1564–00 Bradford County	8,208

13–1566–00 Brevard County	243,789
13–1570–00 Broward County	734,923
13–1586–00 Citrus County	43,913
13–1590–00 Collier County	102,018
13–1592–00 Columbia County	30,704
13–1594–00 Dade County	957,105
13–1598–00 Miami City	320,183
13–1604–00 De Soto County	12,875
13–1608–00 Duval County	303,514
13–1612–00 Escambia County	102,082
13–1620–00 Gadsden County	20,131
13–1626–00 Gulf County	6,366
13–1628–00 Hamilton County	6,684
13–1630–00 Hardee County	23,322
13–1632–00 Hendry County	35,895
13–1636–00 Highlands County	41,992
13–1638–00 Hillsborough County	443,459
13–1642–00 Holmes County	7,732
13–1644–00 Indian River County	66,456
13–1646–00 Jackson County	23,433
13–1654–00 Lee County	141,342
13–1656–00 Leon County	78,792
13–1660–00 Levy County	11,907
13–1664–00 Madison County	6,874
13–1666–00 Manatee County	81,125
13–1668–00 Marion County	109,353
13–1670–00 Martin County	64,948
13–1674–00 Nassau County	23,147
13–1678–00 Okeechobee County	24,147
13–1680–00 Orange County	394,784
13–1684–00 Osceola County	63,408
13–1686–00 Palm Beach County	602,281
13–1694–00 Pinellas County	376,463
13–1702–00 Polk County	274,429
13–1706–00 Putnam County	34,419
13–1710–00 St Lucie County	149,884
13–1712–00 Santa Rosa County	34,451
13–1714–00 Sarasota County	101,653
13–1718–00 Seminole County	161,203
13–1720–00 Sumter County	13,796
13–1722–00 Suwannee County	15,876
13–1724–00 Taylor County	15,781
13–1728–00 Volusia County	177,333
13–1732–00 Wakulla County	6,541
13–1734–00 Walton County	13,002
13–1736–00 Washington County	9,605
13–1738–00 State Set-Aside Committee, FL	284,334
	6,967,246

Georgia:

13–1741–00 Atlanta & College Park/Clayton, Dekalb, Fulton Counties	786,964
13–1742–00 Macon/Bibb, Jones Counties	86,571
13–1772–00 Appling County	12,955
13–1780–00 Baldwin County	13,082
13–1784–00 Barrow County	17,463
13–1788–00 Ben Hill County	8,192
13–1790–00 Berrien County	7,382
13–1798–00 Brantley County	7,351
13–1802–00 Bryan County	7,287
13–1804–00 Bulloch County	15,701
13–1806–00 Burke County	15,384
13–1808–00 Butts County	7,239
13–1816–00 Carroll County	33,085
13–1818–00 Catoosa County	17,035
13–1822–00 Chatham County	109,035
13–1828–00 Chattooga County	11,256
13–1832–00 Clarke County	31,799
13–1840–00 Cobb County	214,911
13–1842–00 Coffee County	15,288
13–1844–00 Colquitt County	17,940
13–1848–00 Cook County	7,239
13–1854–00 Crisp County	10,923
13–1860–00 Decatur County	17,590
13–1866–00 Dodge County	8,970
13–1870–00 Dougherty County	71,013
13–1876–00 Early County	7,176
13–1880–00 Effingham County	11,605
13–1882–00 Elbert County	11,669
13–1884–00 Emanuel County	13,193
13–1886–00 Evans County	7,874
13–1888–00 Fannin County	8,414
13–1892–00 Hoyd County	42,436
13–1896–00 Franklin County	8,509
13–1902–00 Gilmer County	7,335
13–1906–00 Glynn County	27,703
13–1910–00 Grady County	9,859
13–1912–00 Greene County	7,795
13–1922–00 Haralson County	10,923
13–1924–00 Harris County	6,350
13–1926–00 Hart County	9,605
13–1932–00 Houston County	37,705
13–1936–00 Jackson County	14,352
13–1940–00 Jeff Davis County	7,128
13–1942–00 Jefferson County	9,843
13–1956–00 Laurens County	18,225
13–1958–00 Lee County	8,144
13–1960–00 Liberty County	22,242
13–1966–00 Lowndes County	33,657
13–1970–00 Mc Duffie County	10,462
13–1974–00 Macon County	11,954
13–1976–00 Madison County	9,398
13–1980–00 Meriwether County	12,161
13–1984–00 Mitchell County	14,336
13–1986–00 Monroe County	7,525
13–1990–00 Morgan County	6,430
13–1994–00 Muskogee County	87,206
13–1998–00 Newton County	19,559
13–2006–00 Peach County	12,145
13–2008–00 Pickens County	7,874
13–2010–00 Pierce County	8,176
13–2014–00 Polk County	23,703
13–2026–00 Richmond County	103,574
13–2032–00 Screven County	7,430
13–2036–00 Spalding County	28,418
13–2038–00 Stephens County	12,558
13–2042–00 Sumter County	17,241
13–2048–00 Tatnall County	8,938
13–2052–00 Telfair County	8,001
13–2054–00 Terrell County	7,462
13–2056–00 Thomas County	15,892
13–2058–00 Tift County	19,511
13–2060–00 Toombs County	15,685
13–2066–00 Troup County	30,942
13–2074–00 Upson County	12,272
13–2076–00 Walker County	28,434
13–2078–00 Walton County	18,511
13–2080–00 Ware County	15,892
13–2084–00 Washington County	6,922
13–2086–00 Wayne County	17,416
13–2092–00 White County	6,493
13–2102–00 Worth County	10,780
13–2104–00 State Set-Aside Committee, GA	426,799
	2,943,497

Hawaii:

13–2108–00 Hawaii County	82,538
13–2112–00 Kauai County	49,088

13–2116–00 State Set-Aside Committee, HI	171,857
	303,483

Idaho:

13–2134–00 Bannock County	33,911
13–2140–00 Bingham County	19,781
13–2146–00 Bonner County	18,670
13–2156–00 Canyon County	47,008
13–2160–00 Cassia County	11,827
13–2164–00 Clearwater County	8,303
13–2168–00 Elmore County	7,874
13–2178–00 Idaho County	11,002
13–2180–00 Jefferson County	7,970
13–2182–00 Jerome County	6,477
13–2184–00 Kootenai County	48,374
13–2186–00 Latah County	7,763
13–2196–00 Minidoka County	13,558
13–2198–00 Nez Perce County	11,970
13–2204–00 Payette County	11,304
13–2208–00 Shoshone County	11,256
13–2212–00 Twin Falls County	23,258
13–2218–00 State Set-Aside Committee, ID	102,797
	403,103

Illinois:

13–2342–00 Adams County	30,180
13–2344–00 Alexander County	7,954
13–2346–00 Bond County	8,494
13–2348–00 Boone County	27,402
13–2356–00 Carroll County	10,002
13–2358–00 Cass County	7,573
13–2360–00 Champaign County	67,663
13–2364–00 Christian County	18,035
13–2366–00 Clark County	9,049
13–2368–00 Clay County	9,970
13–2372–00 Coles County	21,416
13–2374–00 Cook County	1,121,785
13–2378–00 Chicago City	1,663,563
13–2398–00 Crawford County	13,352
13–2402–00 DeKalb County	31,990
13–2414–00 Edgar County	10,938
13–2420–00 Fayette County	12,732
13–2424–00 Franklin County	33,022
13–2426–00 Fulton County	21,258
13–2428–00 Gallatin County	7,382
13–2430–00 Greene County	7,382
13–2432–00 Grundy County	24,973
13–2434–00 Hamilton County	6,954
13–2436–00 Hancock County	10,764
13–2446–00 Jackson County	28,481
13–2450–00 Jefferson County	25,068
13–2456–00 Johnson County	7,684
13–2458–00 Kane County	173,761
13–2464–00 Kankakee County	59,915
13–2468–00 Knox County	29,720
13–2470–00 Lake County	239,010
13–2474–00 La Salle County	78,776
13–2476–00 Lawrence County	10,256
13–2484–00 Mc Donough County	11,161
13–2488–00 McLean County	49,088
13–2490–00 Macon County	81,062
13–2494–00 Macoupin County	28,180
13–2496–00 Madison County	123,260
13–2498–00 Marion County	31,323
13–2502–00 Mason County	11,351
13–2504–00 Massac County	7,922
13–2512–00 Montgomery County	19,559
13–2520–00 Peoria County	88,095
13–2524–00 Perry County	17,844
13–2528–00 Pike County	9,652
13–2536–00 Randolph County	22,385
13–2538–00 Richland County	9,684
13–2540–00 Rock Island County	71,362
13–2542–00 St. Clair County	129,070
13–2546–00 Saline County	27,164
13–2548–00 Sangamon County	77,744
13–2560–00 Stephenson County	26,894
13–2562–00 Tazewell County	63,789
13–2564–00 Union County	15,685
13–2566–00 Vermilion County	62,138
13–2568–00 Wabash County	9,335
13–2570–00 Warren County	10,335
13–2574–00 Wayne County	11,732
13–2576–00 White County	12,272
13–2580–00 Will County	201,289
13–2586–00 Williamson County	47,659
13–2588–00 Winnebago County	157,520
13–2594–00 State Set-Aside Committee, IL	441,314
	5,712,372

Indiana

13–2630–00 Blackford County	7,827
13–2638–00 Cass County	24,655
13–2642–00 Clay County	10,764
13–2646–00 Crawford County	7,414
13–2648–00 Daviess County	10,367
13–2656–00 Delaware County	57,137
13–2662–00 Elkhart County	62,900
13–2666–00 Fayette County	17,416
13–2668–00 Floyd County	24,576
13–2678–00 Grant County	43,309
13–2680–00 Greene County	20,369
13–2690–00 Henry County	28,164
13–2692–00 Howard County	38,864
13–2704–00 Jennings County	8,541
13–2708–00 Knox County	15,844
13–2714–00 Lake County	143,660
13–2716–00 Gary City	101,669
13–2720–00 La Porte County	46,357
13–2724–00 Madison County	59,915
13–2728–00 Marion County	326,121
13–2738–00 Monroe County	39,245
13–2752–00 Orange County	12,621
13–2754–00 Owen County	9,176
13–2756–00 Parke County	7,859
13–2758–00 Perry County	11,970
13–2760–00 Pike County	6,811
13–2770–00 Randolph County	17,559
13–2776–00 St. Joseph County	96,906
13–2780–00 Scott County	9,113
13–2786–00 Starke County	11,383
13–2790–00 Sullivan County	13,002
13–2794–00 Tippecanoe County	40,356
13–2800–00 Vanderburgh County	73,521
13–2804–00 Vermillion County	10,399
13–2806–00 Vigo County	54,327
13–2816–00 Washington County	11,812
13–2818–00 Wayne County	41,023
13–2826–00 State Set-Aside Committee, IN	477,547
	2,000,499

Iowa

13–2858–00 Blackhawk County	54,089
13–2866–00 Buchanan County	8,398
13–2890–00 Clayton County	8,827
13–2892–00 Clinton County	20,162
13–2902–00 Delaware County	7,938
13–2904–00 Des Moines County	17,670
13–2914–00 Fayette County	7,732
13–2916–00 Floyd County	11,415

13–2946–00 Jackson County	8,573
13–2950–00 Jefferson County	7,430
13–2952–00 Johnson County	25,512
13–2962–00 Lee County	17,892
13–3006–00 Polk County	100,589
13–3010–00 Pottawattamie County	29,100
13–3020–00 Scott County	58,375
13–3028–00 Story County	19,940
13–3038–00 Wapello County	15,701
13–3046–00 Webster County	14,272
13–3050–00 Winneshiek County	9,621
13–3052–00 Woodbury County	26,163
13–3060–00 State Set-Aside Committee, IA	251,372
	720,771

Kansas

13–3061–00 Manhattan/Pottawatamie, Riley Counties	30,815
13–3080–00 Allen County	7,001
13–3084–00 Atchison County	10,351
13–3088–00 Barton Coun. ty	13,209
13–3090–00 Bourbon County	7,763
13–3100–00 Cherokee County	12,558
13–3116–00 Crawford County	18,003
13–3124–00 Douglas County	41,960
13–3132–00 Ellis County	11,383
13–3138–00 Ford County	10,208
13–3140–00 Franklin County	13,129
13–3142–00 Geary County	18,813
13–3166–00 Jackson County	6,604
13–3182–00 Labette County	13,796
13–3194–00 Lyon County	17,448
13–3208–00 Montgomery County	19,035
13–3216–00 Neosho County	8,176
13–3238–00 Reno County	26,005
13–3252–00 Saline County	21,210
13–3256–00 Sedgwick County	228,802
13–3260–00 Seward County	8,589
13–3262–00 Shawnee County	71,536
13–3296–00 Wyandotte County	110,083
13–3300–00 State Set-Aside Committee, KS	218,206
	944,683

Kentucky

13–3316–00 Adair County	9,573
13–3324–00 Barren County	12,542
13–3326–00 Bath County	7,176
13–3328–00 Bell County	12,542
13–3332–00 Bourbon County	6,874
13–3334–00 Boyd County	27,465
13–3336–00 Boyle County	10,669
13–3342–00 Breckinridge County	7,065
13–3350–00 Calloway County	12,367
13–3358–00 Carter County	22,210
13–3360–00 Casey County	8,525
13–3362–00 Christian County	16,797
13–3364–00 Clark County	12,605
13–3366–00 Clay County	7,954
13–3374–00 Daviess County	36,832
13–3382–00 Estill County	6,446
13–3384–00 Fayette County	69,711
13–3386–00 Fleming County	6,731
13–3388–00 Floyd County	16,082
13–3390–00 Franklin County	13,129
13–3396–00 Garrard County	6,366
13–3398–00 Grant County	7,716
13–3400–00 Graves County	20,591
13–3402–00 Grayson County	11,351
13–3406–00 Greenup County	19,114
13–3410–00 Hardin County	34,355
13–3412–00 Harlan County	14,304
13–3414–00 Harrison County	6,620
13–3418–00 Henderson County	17,305
13–3424–00 Hopkins County	19,734
13–3428–00 Jefferson County	258,998
13–3432–00 Jessamine County	9,033
13–3434–00 Johnson County	9,700
13–3436–00 Kenton County	48,278
13–3440–00 Knott County	7,081
13–3442–00 Knox County	11,859
13–3446–00 Laurel County	19,130
13–3448–00 Lawrence County	7,620
13–3454–00 Letcher County	12,669
13–3456–00 Lewis County	9,414
13–3458–00 Lincoln County	9,510
13–3462–00 Logan County	9,621
13–3466–00 McCracken County	23,179
13–3468–00 Mc Creary County	7,684
13–3472–00 Madison County	21,099
13–3474–00 Magoffin County	7,509
13–3476–00 Marion County	13,002
13–3478–00 Marshall County	14,923
13–3482–00 Mason County	7,398
13–3484–00 Meade County	7,636
13–3488–00 Mercer County	8,176
13–3494–00 Montgomery County	13,367
13–3496–00 Morgan County	6,493
13–3498–00 Muhlenberg County	15,733
13–3500–00 Nelson County	14,590
13–3504–00 Ohio County	10,811
13–3514–00 Perry County	12,812
13–3516–00 Pike County	34,308
13–3518–00 Powell County	7,557
13–3520–00 Pulaski County	23,925
13–3524–00 Rockcastle County	6,636
13–3526–00 Rowan County	9,525
13–3528–00 Russell County	9,970
13–3530–00 Scott County	7,986
13–3532–00 Shelby County	8,081
13–3534–00 Simpson County	8,716
13–3538–00 Taylor County	13,320
13–3548–00 Warren County	27,529
13–3552–00 Wayne County	7,541
13–3556–00 Whitley County	14,368
13–3562–00 State Set-Aside Committee, KY	145,385
	1,402,923

Louisiana:

13–3564–00 Shreveport/Bossier, Caddo Parishes	174,666
13–3574–00 Acadia Parish	29,370
13–3576–00 Allen Parish	14,590
13–3578–00 Ascension Parish	42,420
13–3580–00 Assumption Parish	15,320
13–3582–00 Avoyelles Parish	27,783
13–3584–00 Beauregard Parish	18,622
13–3586–00 Bienville Parish	7,906
13–3598–00 Calcasieu Parish	100,938
13–3602–00 Caldwell Parish	6,763
13–3606–00 Catahoula Parish	9,113
13–3608–00 Claiborne Parish	7,525
13–3610–00 Concordia Parish	17,352
13–3612–00 De Soto Parish	14,145
13–3614–00 East Baton Rouge Parish	195,590
13–3618–00 East Carroll Parish	9,827
13–3620–00 East Feliciana Parish	10,145
13–3622–00 Evangeline Parish	15,606
13–3624–00 Franklin Parish	17,448
13–3626–00 Grant Parish	11,796

13–3628–00 Iberia Parish	38,515
13–3630–00 Iberville Parish	24,401
13–3632–00 Jackson Parish	6,969
13–3634–00 Jefferson Parish	225,849
13–3638–00 Jefferson Davis Parish	16,685
13–3640–00 Lafayette Parish	73,680
13–3644–00 Lafourche Parish	39,785
13–3646–00 La Salle Parish	8,890
13–3648–00 Lincoln Parish	11,478
13–3650–00 Livingston Parish	59,487
13–3652–00 Madison Parish	9,970
13–3654–00 Morehouse Parish	24,735
13–3656–00 Natchitoches Parish	20,067
13–3658–00 New Orleans City/Orleans	246,329
13–3660–00 Ouachita Parish	74,219
13–3664–00 Plaquemines Parish	12,463
13–3666–00 Pointe Coupee Parish	17,241
13–3668–00 Rapides Parish	64,456
13–3674–00 Richland Parish	15,971
13–3676–00 Sabine Parish	9,573
13–3678–00 St Bernard Parish	36,578
13–3680–00 St Charles Parish	25,846
13–3684–00 St James Parish	19,019
13–3686–00 St John Baptist Parish	29,497
13–3688–00 St Landry Parish	49,914
13–3690–00 St Martin Parish	25,893
13–3692–00 St Mary Parish	37,134
13–3694–00 St Tammany Parish	75,410
13–3696–00 Tangipahoa Parish	69,155
13–3700–00 Terrebonne Parish	44,817
13–3702–00 Union Parish	11,446
13–3704–00 Vermilion Parish	25,782
13–3706–00 Vernon Parish	25,941
13–3708–00 Washington Parish	24,369
13–3710–00 Webster Parish	32,641
13–3712–00 West Baton Rouge Parish	14,415
13–3714–00 West Carroll Parish	16,654
13–3720–00 State it-Aside Committee, LA	16,663
	2,328,862

Maine:

13–3726–00 Androscoggin County	69,076
13–3728–00 Aroostook County	70,139
13–3730–00 Cumberland County	110,813
13–3734–00 Franklin County	19,019
13–3736–00 Hancock County	34,403
13–3738–00 Kennebec County	68,107
13–3740–00 Knox County	18,241
13–3744–00 Oxford County	38,912
13–3746–00 Penobscot County	87,206
13–3748–00 Piscataquis County	12,463
13–3752–00 Somerset County	42,341
13–3754–00 Waldo County	24,687
13–3756–00 Washington County	32,577
13–3758–00 York County	88,127
13–3760–00 State Set-Aside Committee, ME	15,985
	732,096

Maryland:

13–3774–00 Allegany County	53,105
13–3776–00 Anne Arundel County	183,191
13–3778–00 Baltimore County	377,114
13–3782–00 Caroline County	17,463
13–3786–00 Cecil County	52,533
13–3790–00 Dorchester County	25,449
13–3794–00 Garrett County	25,433
13–3812–00 Somerset County	23,083
13–3816–00 Washington County	79,808
13–3820–00 Worcester County	37,324
13–3822–00 Baltimore City	524,204
13–3824–00 State Set-Aside Committee, MD	585,022
	1,983,729

Massachusetts:

13–4476–00 Barnstable County	136,437
13–4478–00 Berkshire County	81,475
13–4482–00 Bristol County	381,035
13–4488–00 Dukes County	9,621
13–4490–00 Essex County	372,336
13–4500–00 Franklin County	34,149
13–4502–00 Hampden County	270,111
13–4508–00 Hampshire County	62,900
13–4510–00 Middlesex County	644,495
13–4540–00 Plymouth County	246,663
13–4550–00 Suffolk County	327,074
13–4554–00 Worcester County	352,046
13–4558–00 State Set-Aside Committee, MA	154,495
	3,072,837

Michigan:

13–4560–00 Lansing/Eaton, Ingham Counties	157,853
13–4561–00 Holland/Allegan, Ottawa Counties	115,893
13–4632–00 Alcona County	9,160
13–4638–00 Alpena County	28,592
13–4640–00 Antrim County	14,383
13–4642–00 Arenac County	11,431
13–4648–00 Bay County	66,488
13–4650–00 Benzie County	10,192
13–4652–00 Berrien County	90,667
13–4654–00 Branch County	20,559
13–4656–00 Calhoun County	65,869
13–4660–00 Cass County	21,750
13–4662–00 Charlevoix County	19,321
13–4664–00 Cheboygan County	37,245
13–4666–00 Chippewa County	28,703
13–4668–00 Clare County	17,384
13–4672–00 Crawford County	8,875
13–4674–00 Delta County	29,021
13–4676–00 Dickinson County	15,019
13–4682–00 Emmet County	26,862
13–4684–00 Genesee County	280,923
13–4688–00 Gladwin County	14,463
13–4690–00 Gogebic County	11,145
13–4694–00 Gratiot County	23,099
13–4696–00 Hillsdale County	21,829
13–4698–00 Houghton County	20,353
13–4700–00 Huron County	24,957
13–4708–00 Ionia County	34,641
13–4710–00 Iosco County	19,559
13–4712–00 Iron County	9,525
13–4714–00 Isabella County	23,290
13–4716–00 Jackson County	81,856
13–4718–00 Kalamazoo County	85,348
13–4722–00 Kalkaska County	11,923
13–4724–00 Kent County	224,722
13–4732–00 Lake County	6,525
13–4734–00 Lapeer County	48,326
13–4744–00 Mackinac County	23,544
13–4746–00 Macomb County	398,943
13–4758–00 Manistee County	18,432
13–4760–00 Marquette County	40,150
13–4762–00 Mason County	22,512

13–4764–00 Mecosta County	19,781
13–4766–00 Menominee County	14,510
13–4768–00 Midland County	41,626
13–4770–00 Missaukee County	7,620
13–4774–00 Montcalm County	36,943
13–4776–00 Montmorency County	8,795
13–4778–00 Muskegon County	99,446
13–4780–00 Newaygo County	31,688
13–4782–00 Oakland County	523,378
13–4796–00 Oceana County	25,449
13–4798–00 Ogemaw County	14,034
13–4802–00 Osceola County	14,876
13–4810–00 Presque Isle County	16,876
13–4812–00 Roscommon County	12,986
13–4814–00 Saginaw County	104,066
13–4818–00 St. Clair County	95,477
13–4822–00 Sanilac County	30,402
13–4824–00 Schoolcraft County	8,224
13–4828–00 Tuscola County	36,721
13–4830–00 Van Buren County	45,532
13–4832–00 Washtenaw County	98,589
13–4836–00 Wayne County	334,488
13–4844–00 Detroit City	743,480
13–4854–00 Wexford County	21,178
13–4856–00 State Set-Aside Committee, MI	200,390
	4,827,887

Minnesota:

13–4857–00 St. Cloud City/Benton, Sherburne, Stearns Counties	85,888
13–4898–00 Aitkin County	8,986
13–4902–00 Becket County	16,749
13–4904–00 Beltrami County	18,289
13–4910–00 Blue Earth County	15,368
13–4914–00 Carlton County	17,765
13–4918–00 Cass County	14,034
13–4924–00 Clay County	18,543
13–4926–00 Clearwater County	9,430
13–4932–00 Crow Wing County	25,592
13–4938–00 Douglas County	11,494
13–4940–00 Faribault County	6,858
13–4942–00 Fillmore County	8,859
13–4950–00 Hennepin County	354,332
13–4964–00 Hubbard County	9,398
13–4968–00 Itasca County	35,244
13–4972–00 Kanabec County	9,827
13–4974–00 Kandiyohi County	14,050
13–4978–00 Koochiching County	9,541
13–4990–00 Lyon County	8,208
13–4996–00 Marshall County	8,208
13–4998–00 Martin County	10,415
13–5002–00 Mille Lacs County	10,780
13–5004–00 Morrison County	18,400
13–5020–00 Otter Tail County	23,877
13–5022–00 Pennington County	7,478
13–5024–00 Pine County	15,034
13–5028–00 Polk County	16,177
13–5032–00 Ramsey County	152,852
13–5040–00 Renville County	8,763
13–5048–00 St. Louis County	101,050
13–5066–00 Todd County	11,986
13–5082–00 Winona County	18,289
13–5088–00 State Set-Aside Committee, MN	352,466
	1,454,230

Mississippi:

13–5089–00 Hattiesburg/Forrest, Lamar Counties	39,023
13–5090–00 Adams County	17,987
13–5092–00 Alcom County	19,194
13–5096–00 Attala County	11,748
13–5100–00 Bolivar County	27,672
13–5106–00 Chickasaw County	11,113
13–5110–00 Claiborne County	7,716
13–5112–00 Clarke County	8,525
13–5114–00 Clay County	14,923
13–5116–00 Coahoma County	23,131
13–5118–00 Copiah County	14,272
13–5120–00 Covington County	6,938
13–5128–00 George County	14,463
13–5130–00 Greene County	7,493
13–5132–00 Grenada County	12,558
13–5134–00 Hancock County	14,145
13–5136–00 Harrison County	62,741
13–5138–00 Hinds County	105,892
13–5142–00 Holmes County	15,241
13–5144–00 Humphreys County	16,463
13–5148–00 Itawamba County	7,541
13–5150–00 Jackson County	58,852
13–5152–00 Jasper County	9,700
13–5154–00 Jefferson County	6,731
13–5156–00 Jefferson Davis County	7,938
13–5158–00 Jones County	24,719
13–5162–00 Lafayette County	7,478
13–5166–00 Lauderdale County	30,974
13–5168–00 Lawrence County	6,715
13–5170–00 Leake County	10,129
13–5172–00 Lee County	28,068
13–5174–00 Leflore County	27,449
13–5176–00 Lincoln County	16,654
13–5178–00 Lowndes County	25,449
13–5180–00 Madison County	22,496
13–5182–00 Marion County	14,717
13–5184–00 Marshall County	19,845
13–5186–00 Monroe County	18,305
13–5190–00 Neshoba County	12,097
13–5192–00 Newton County	9,240
13–5196–00 Oktibbeha County	13,034
13–5198–00 Panola County	18,781
13–5200–00 Pearl River County	17,273
13–5204–00 Pike County	19,781
13–5206–00 Pontotoc County	8,303
13–5208–00 Prentiss County	12,367
13–5210–00 Quitman County	7,859
13–5214–00 Scott County	10,049
13–5216–00 Sharkey County	9,303
13–5218–00 Simpson County	8,494
13–5222–00 Stone County	6,715
13–5224–00 Sunflower County	24,528
13–5226–00 Tallahatchie County	12,256
13–5228–00 Tate County	10,399
13–5230–00 Tippah County	8,716
13–5232–00 Tishomingo County	13,098
13–5236–00 Union County	10,653
13–5238–00 Walthall County	7,033
13–5240–00 Warren County	28,291
13–5242–00 Washington County	48,040
13–5244–00 Wayne County	11,526
13–5250–00 Winston County	11,669
13–5254–00 Yazoo County	15,479
13–5256–00 State Set-Aside Committee, MS	73,573

	1,223,555
Missouri:	
13–5257–00 Joplin/Jasper, Newton Counties	60,868
13–5258–00 Kansas City/ Clay, Jackson, Platte Counties	430,012
13–5272–00 Adair County	8,049
13–5274–00 Andrew County	7,096
13–5278–00 Audrain County	8,922
13–5280–00 Barry County	12,717
13–5284–00 Bates County	7,843
13–5286–00 Benton County	7,493
13–5290–00 Boone County	32,704
13–5294–00 Buchanan County	54,184
13–5298–00 Butler County	20,654
13–5304–00 Camden County	17,654
13–5306–00 Cape Girardeau County	25,179
13–5326–00 Clinton County	6,842
13–5330–00 Cooper County	6,477
13–5332–00 Crawford County	12,415
13–5336–00 Dallas County	6,525
13–5342–00 Dent County	7,303
13–5346–00 Dunklin County	17,590
13–5354–00 Greene County	79,109
13–5362–00 Henry County	10,446
13–5370–00 Howell County	16,225
13–5372–00 Iron County	6,763
13–5384–00 Johnson County	13,494
13–5388–00 Laclede County	14,717
13–5390–00 Lafayette County	11,939
13–5392–00 Lawrence County	14,018
13–5396–00 Lincoln County	19,813
13–5398–00 Linn County	9,748
13–5404–00 Macon County	8,859
13–5406–00 Madison County	6,795
13–5410–00 Marion County	12,748
13–5414–00 Miller County	14,082
13–5416–00 Mississippi County	10,526
13–5424–00 Morgan County	8,414
13–5426–00 New Madrid County	9,922
13–5438–00 Pemiscot County	15,241
13–5442–00 Pettis County	20,639
13–5444–00 Phelps County	14,510
13–5446–00 Pike County	8,128
13–5452–00 Polk County	8,113
13–5454–00 Pulaski County	16,066
13–5460–00 Randolph County	11,034
13–5466–00 Ripley County	6,652
13–5472–00 Ste. Genevieve County	8,303
13–5474–00 St. Francois County	31,958
13–5476–00 St. Louis County	371,113
13–5480–00 Saline County	9,557
13–5486–00 Scott County	18,956
13–5492–00 Stoddard County	17,702
13–5494–00 Stone County	19,829
13–5498–00 Taney County	31,069
13–5500–00 Texas County	16,955
13–5502–00 Vernon County	6,398
13–5506–00 Washington County	14,907
13–5508–00 Wayne County	10,954
13–5510–00 Webster County	9,351
13–5514–00 Wright County	11,542
13–5516–00 St. Louis City	228,278
13–5518–00 State Set-Aside Committee, MO	255,100
	2,180,500
Montana:	
13–5530–00 Big Horn County	9,478
13–5540–00 Cascade County	30,116
13–5558–00 Flathead County	37,753
13–5560–00 Gallatin County	16,193
13–5564–00 Glacier County	9,875
13–5570–00 Hill County	7,954
13–5576–00 Lake County	12,209
13–5578–00 Lewis and Clark County	19,734
13–5582–00 Lincoln County	18,511
13–5592–00 Missoula County	37,673
13–5596–00 Park County	6,827
13–5610–00 Ravalli County	14,907
13–5618–00 Sanders County	6,795
13–5622–00 Silver Bow County	14,939
13–5640–00 Yellowstone County	45,564
13–5644–00 State Set-Aside Committee, MT	43,495
	332,023
Nebraska:	
13–5686–00 Buffalo County	10,303
13–5722–00 Douglas County	108,622
13–5782–O0 Lincoln County	9,494
13–5828–00 Scotts Bluff County	12,240
13–5858–00 State Set-Aside Committee, NE	127,783
	268,442
Nevada:	
13–5866–00 Churchill County	10,621
13–5868–00 Clark County	482,784
13–5886–00 Lyon County	14,828
13–5904–00 Carson City	27,211
13–5906–00 State Set-Aside Committee, NV	116,880
	652,324
New Hampshire:	
13–5922–00 Coos County	23,036
13–5936–00 Rockingham County	142,708
13–5940–00 Sullivan County	16,733
13–5942–00 State Set-Aside Committee, NH	193,445
	375,922
New Jersey:	
13–5948–00 Atlantic County	170,554
13–5950–00 Bergen County	428,726
13–5954–00 Camden County	271,143
13–5960–00 Cape May County	92,429
13–5962–00 Cumberland County	108,972
13–5966–00 Essex County	246,647
13–5974–00 Newark City	263,269
13–5978–00 Hudson County	421,185
13–5988–00 Mercer County	155,662
13–5994–00 Middlesex County	365,953
13–6004–00 Monmouth County	284,241
13–6012–00 Ocean County	216,562
13–6018–00 Passaic County	345,759
13–6034–00 Union County	304,705
13–6042–00 State Set-Aside Committee, NJ	441,730
	4,117,537
New Mexico:	
13–6044–00 Bernalillo County	229,406
13–6050–00 Chaves County	24,465
13–6052–00 Cibola County	14,177
13–6054–00 Colfax County	7,096
13–6056–00 Curry County	17,559
13–6060–00 Dona Ana County	76,569
13–6064–00 Eddy County	29,656
13–6066–00 Grant County	13,240
13–6074–00 Lea County	23,099
13–6080–00 Luna County	23,480
13–6082–00 McKinley County	29,243
13–6086–00 Otero County	22,353
13–6090–00 Rio Arriba County	25,862
13–6094–00 Sandoval County	28,021
13–6096–00 San Juan County	60,090
13–6098–00 San Miguel County	12,637

13–6100–00 Santa Fe County	38,785
13–6106–00 Socorro County	7,811
13–6108–00 Taos County	24,687
13–6114–00 Valenda County	19,670
13–6116–00 State Set-Aside Committee, NM	21,856
	749,762

New York:

13–6120–00 Albany County	103,510
13–6126–00 Allegany County	30,101
13–6130–00 Broome County	111,559
13–6136–00 Cattaraugus County	54,216
13–6138–00 Cayuga County	40,817
13–6140–00 Chautauqua County	74,188
13–6142–00 Chemung County	38,753
13–6144–00 Chenango County	34,085
13–6146–00 Clinton County	50,104
13–6150–00 Cortland County	29,529
13–6152–00 Delaware County	23,036
13–6154–00 Dutchess County	146,359
13–6156–00 Erie County	470,797
13–6168–00 Essex County	30,545
13–6170–00 Franklin County	31,577
13–6172–00 Fulton County	34,070
13–6176–00 Greene County	29,275
13–6180–00 Herkimer County	36,911
13–6182–00 Jefferson County	76,299
13–6186–00 Lewis County	20,734
13–6192–00 Monroe County	286,241
13–6200–00 Montgomery County	30,704
13–6202–00 Nassau County	581,039
13–6212–00 Niagara County	129,039
13–6216–00 Oneida County	106,241
13–6220–00 Onondaga County	199,480
13–6232–00 Oswego County	80,093
13–6234–00 Otsego County	30,005
13–6240–00 Rensselaer County	70,409
13–6254–00 St. Lawrence County	74,124
13–6258–00 Schenectady County	59,534
13–6268–00 Steuben County	53,660
13–6270–00 Suffolk County	743,258
13–6282–00 Sullivan County	42,150
13–6286–00 Tompkins County	27,338
13–6288–00 Ulster County	95,001
13–6290–00 Warren County	42,769
13–6296–00 Westchester County	368,986
13–6308–00 Wyoming County	29,323
13–6310–00 Yates County	12,018
13–6312–00 State Set-Aside Committee, NY	408,550
13–6314–00 New York City	4,955,112
	9,891,539

North Carolina:

13–6315–00 Kannapolis/Cabarrus, Rowan Counties	61,932
13–6316–00 High Point City/Davidson, Guilford Counties	191,558
13–6317–00 Rocky Mount/Edgecombe, Nash Counties	61,487
13–6326–00 Anson County	13,431
13–6328–00 Ashe County	9,224
13–6330–00 Avery County	6,620
13–6332–00 Beaufort County	18,416
13–6334–00 Bertie County	7,827
13–6336–00 Bladen County	16,733
13–6338–00 Brunswick County	38,308
13–6340–00 Buncombe County	57,058
13–6354–00 Caswell County	6,684
13–6360–00 Cherokee County	10,224
13–6368–00 Columbus County	25,846
13–6370–00 Craven County	28,259
13–6372–00 Cumberland County	83,824
13–6386–00 Duplin County	17,543
13–6388–00 Durham County	56,042
13–6394–00 Forsyth County	91,318
13–6398–00 Franklin County	12,923
13–6400–00 Gaston County	67,853
13–6406–00 Graham County	6,811
13–6408–00 Granville County	14,479
13–6418–00 Halifax County	25,608
13–6420–00 Harnett County	20,131
13–6422–00 Haywood County	20,718
13–6426–00 Hertford County	10,653
13–6428–00 Hoke County	10,224
13–6434–00 Jackson County	11,907
13–6436–00 Johnston County	26,751
13–6440–00 Lee County	16,225
13–6442–00 Lenoir County	27,608
13–6448–00 Macon County	8,954
13–6452–00 Martin County	12,288
13–6458–00 Mitchell County	7,096
13–6460–00 Montgomery County	10,764
13–6466–00 New Hanover County	63,233
13–6468–00 Northampton County	8,081
13–6470–00 Onslow County	29,259
13–6472–00 Orange County	19,622
13–6476–00 Pasquotank County	10,859
13–6478–00 Pender County	13,463
13–6482–00 Person County	13,907
13–6484–00 Pitt County	43,119
13–6490–00 Richmond County	26,640
13–6492–00 Robeson County	56,645
13–6494–00 Rockingham County	36,753
13–6498–00 Rutherford County	20,877
13–6500–00 Sampson County	19,400
13–6502–00 Scotland County	17,956
13–6510–00 Swain County	11,097
13–6512–00 Transylvania County	7,478
13–6518–00 Vance County	21,480
13–6520–00 Wake County	133,786
13–6524–00 Warren County	7,684
13–6526–00 Washington County	6,430
13–6528–00 Watauga County	8,525
13–6530–00 Wayne County	34,959
13–6532–00 Wilkes County	16,543
13–6534–00 Wilson County	43,008
13–6536–00 Yadkin County	8,065
13–6538–00 Yancey County	6,382
13–6540–00 State Set-Aside Committee, NC	338,901
	2,137,479

North Dakota:

13–6576–00 Cass County	25,941
13–6596–00 Grand Forks County	19,797
13–6620–00 Mercer County	6,858
13–6622–00 Morton County	10,161
13–6630–00 Pembina County	6,588
13–6642–00 Rolette County	10,351
13–6652–00 Stark County	9,383
13–6656–00 Stutsman County	6,858
13–6662–00 Walsh County	7,335
13–6664–00 Ward County	19,019

13–6668–00 Williams County	8,589
13–6670–00 State Set-Aside Committee, ND	119,120
	250,000

Ohio:

13–6672–00 Columbus/Fairfield, Franklin Counties	438,061
13–6678–00 Adams County	25,052
13–6680–00 Allen County	59,598
13–6684–00 Ashtabula County	60,185
13–6686–00 Athens County	24,385
13–6690–00 Belmont County	38,388
13–6692–00 Brown County	20,416
13–6694–00 Butler County	154,964
13–6698–00 Carroll County	13,383
13–6702–00 Clark County	59,249
13–6708–00 Clinton County	19,003
13–6710–00 Columbiana County	63,472
13–6712–00 Coshocton County	17,416
13–6716–00 Cuyahoga County	676,357
13–6734–00 Erie County	40,658
13–6740–00 Fayette County	13,447
13–6748–00 Gallia County	18,622
13–6752–00 Greene County	49,517
13–6754–00 Guernsey County	30,307
13–6756–00 Hamilton County	374,701
13–6762–00 Hardin County	15,177
13–6764–00 Harrison County	8,922
13–6768–00 Highland County	19,464
13–6770–00 Hocking County	18,845
13–6772–00 Holmes County	10,542
13–6774–00 Huron County	43,754
13–6776–00 Jackson County	19,384
13–6778–00 Jefferson County	42,420
13–6780–00 Knox County	23,845
13–6784–00 Lawrence County	31,275
13–6786–00 Licking County	55,184
13–6790–00 Lorain County	134,659
13–6796–00 Lucas County	233,025
13–6802–00 Mahoning County	154,091
13–6806–00 Marion County	33,784
13–6810–00 Meigs County	14,749
13–6812–00 Mercer County	27,640
13–6816–00 Monroe County	9,795
13–6818–00 Montgomery County	235,295
13–6824–00 Morgan County	10,653
13–6828–00 Muskingum County	57,264
13–6830–00 Noble County	7,763
13–6832–00 Ottawa County	28,513
13–6836–00 Perry County	24,433
13–6838–00 Pickaway County	20,527
13–6840–00 Pike County	22,036
13–6842–00 Portage County	70,870
13–6848–00 Richland County	80,395
13–6852–00 Ross County	38,372
13–6856–00 Scioto County	50,104
13–6862–00 Stark County	197,781
13–6866–00 Summit County	241,090
13–6870–00 Trumbull County	135,929
13–6880–00 Vinton County	7,970
13–6884–00 Washington County	35,133
13–6886–00 Wayne County	39,959
13–6894–00 State Set-Aside Committee, OH	529,657
	4,927,480

Oklahoma:

13–6896–00 Oklahoma City/Canadian, McLain, Oklahoma Counties	317,516
13–6902–00 Adair County	8,700
13–6910–00 Beckham County	8,478
13–6914–00 Bryan County	11,970
13–6916–00 Caddo County	13,225
13–6922–00 Carter County	23,163
13–6924–00 Cherokee County	17,654
13–6926–00 Choctaw County	10,875
13–6930–00 Cleveland County	56,550
13–6938–00 Comanche County	43,579
13–6946–00 Creek County	35,657
13–6948–00 Custer County	11,097
13–6950–00 Delaware County	11,685
13–6956–00 Garfield County	19,368
13–6960–00 Garvin County	12,955
13–6962–00 Grady County	19,146
13–6972–00 Haskell County	11,875
13–6974–00 Hughes County	12,431
13–6976–00 Jackson County	8,335
13–6982–00 Kay County	35,292
13–6988–00 Latimer County	10,351
13–6990–00 Le Flore County	24,290
13–6992–00 Lincoln County	13,082
13–6994–00 Logan County	9,192
13–7002–00 McCurtain County	20,623
13–7004–00 McIntosh County	10,748
13–7010–00 Mayes County	18,559
13–7012–00 Murray County	8,255
13–7014–00 Muskogee County	41,547
13–7020–00 Okfuskee County	6,493
13–7028–00 Okmulgee County	26,640
13–7030–00 Osage County	17,289
13–7034–00 Ottawa County	14,860
13–7036–00 Pawnee County	11,891
13–7038–00 Payne County	19,130
13–7040–00 Pittsburg County	32,926
13–7042–00 Pontotoc County	16,622
13–7044–00 Pottawatomie County	25,830
13–7048–00 Pushmataha County	6,811
13–7052–00 Rogers County	38,308
13–7054–00 Seminole County	16,336
13–7056–00 Sequoyah County	22,321
13–7058–00 Stephens County	22,353
13–7064–00 Tulsa County	270,397
13–7068–00 Wagoner County	22,718
13–7076–00 Woodward County	9,049
13–7078430 State Set-Aside Committee, OK	61,868
	1,488,040

Oregon:

13–7080–00 Portland/Clackamas, Multnomah, Washington Counties	608,361
13–7082–00 Salem/Marion, Polk Counties	159,377
13–7088–00 Baker County	10,383
13–7090–00 Benton County	21,162
13–7096–00 Clatsop County	21,480
13–7098–00 Columbia County	27,783
13–7100–00 Coos County	43,119
13–7102–00 Crook County	10,653
13–7104–00 Curry County	11,510
13–7106–00 Deschutes County	63,995
13–7108–00 Douglas County	71,140
13–7112–00 Grant County	7,017
13–7114–00 Harney County	6,636
13–7116–00 Hood River County	14,161
13–7118–00 Jackson County	98,398
13–7120–00 Jefferson County	9,144
13–7122–00 Josephine County	44,706
13–7124–00 Klamath County	43,817
13–7128–00 Lane County	160,330
13–7132–00 Lincoln County	23,687
13–7134–00 Linn County	61,582

13–7136–00 Malheur County	18,924
13–7154–00 Tillamook County	9,859
13–7156–00 Umatilla County	40,055
13–7158–00 Union County	14,304
13–7162–00 Wasco County	15,146
13–7170–00 Yamhill County	29,767
13–7172–00 State Set-Aside Committee, OR	10,946
	1,657,442

Pennsylvania:

13–7174–00 Bethlehem/Lehigh, Northampton Counties	258,442
13–7180–00 Allegheny County	599,026
13–7184–00 Armstrong County	52,454
13–7186–00 Beaver County	93,429
13–7188–00 Bedford County	33,561
13–7190–00 Berks County	150,852
13–7194–00 Blair County	69,187
13–7198–00 Bradford County	28,973
13–7208–00 Cambria County	110,877
13–7212–00 Carbon County	34,308
13–7214–00 Centre County	54,486
13–7218–00 Clarion County	26,925
13–7220–00 Clearfield County	54,756
13–7222–00 Clinton County	26,925
13–7226–00 Crawford County	48,850
13–7230–00 Dauphin County	104,638
13–7234–00 Delaware County	238,153
13–7242–00 Erie County	151,281
13–7246–00 Fayette County	85,666
13–7252–00 Fulton County	7,874
13–7254–00 Greene County	26,433
13–7256–00 Huntingdon County	34,054
13–7258–00 Indiana County	67,615
13–7260–00 Jefferson County	24,798
13–7262–00 Juniata County	13,891
13–7264–00 Lackawanna County	135,151
13–7268–00 Lancaster County	163,680
13–7272–00 Lawrence County	55,089
13–7274–00 Lebanon County	50,850
13–7282–00 Luzerne County	220,785
13–7284–00 Lycoming County	69,298
13–7286–00 McKean County	26,528
13–7288–00 Mercer County	67,409
13–7290–00 Mifflin County	26,735
13–7294–00 Montgomery County	294,401
13–7306–00 Northumberland County	64,361
13–7310–00 Philadelphia City/County	869,249
13–7314–00 Potter County	10,923
13–7316–00 Schuylkill County	92,508
13–7320–00 Somerset County	51,771
13–7324–00 Susquehanna County	24,782
13–7326–00 Tioga County	22,433
13–7330–00 Venango County	34,720
13–7334–00 Washington County	106,304
13–7336–00 Wayne County	27,687
13–7338–00 Westmoreland County	211,752
13–7340–00 Wyoming County	20,527
13–7342–00 York County	154,551
13–7344–00 State Set-Aside Committee, PA	467,892
	5,666,840

Rhode Island:

13–7354–00 Providence Census County	372,590
13–7368–00 State Set-Aside Committee, RI	213,154
	585,744

South Carolina:

13–7370–00 Abbeville County	18,781
13–7372–00 Aiken County	73,854
13–7374–00 Allendale County	8,843
13–7376–00 Anderson County	72,600
13–7378–00 Bamberg County	14,796
13–7380–00 Barnwell County	19,527
13–7382–00 Beaufort County	32,720
13–7384–00 Berkeley County	61,678
13–7388–00 Charleston County	150,693
13–7394–00 Cherokee County	19,543
13–7396–00 Chester County	27,957
13–7398–00 Chesterfield County	25,655
13–7400–00 Clarendon County	26,052
13–7402–00 Colleton County	26,401
13–7404–00 Darlington County	57,534
13–7406–00 Dillon County	25,227
13–7410–00 Edgefield County	9,049
13–7412–00 Fairfield County	18,987
13–7414–00 Florence County	80,205
13–7416–00 Georgetown County	42,738
13–7418–00 Greenville County	140,025
13–7422–00 Greenwood County	34,546
13–7424–00 Hampton County	13,367
13–7426–00 Horry County	107,273
13–7428–00 Jasper County	7,303
13–7430–00 Kershaw County	35,260
13–7432–00 Lancaster County	39,864
13–7434–00 Laurens County	30,069
13–7436–00 Lee County	15,542
13–7442–00 Marion County	34,339
13–7444–00 Marlboro County	28,307
13–7446–00 Newberry County,	18,003
13–7450–00 Orangeburg County	63,106
13–7452–00 Pickens County	46,707
13–7454–00 Richland County	128,229
13–7458–00 Saluda County	8,668
13–7460–00 Spartanburg County	96,144
13–7462–00 Sumter County	59,169
13–7464–00 Union County	22,941
13–7466–00 Williamsburg County	39,229
13–7468–00 York County	73,346
13–7470–00 State Set-Aside Committee, SC	82,482
	1,936,759

South Dakota:

13–7486–00 Brown County	7,446
13–7502–00 Codington County	6,985
13–7580–00 Pennington County	23,163
13–7614–00 State Set-Aside Committee, SD	212,406
	250,000

Tennessee:

13–7616–00 Anderson County	25,370
13–7618–00 Bedford County	15,590
13–7620–00 Benton County	9,208
13–7624–00 Blount County	40,483
13–7626–00 Bradley County	34,006
13–7628–00 Campbell County	20,702
13–7632–00 Carroll County	13,367
13–7634–00 Carter County	25,068
13–7640–00 Claiborne County	10,272
13–7644–00 Cocke County	25,258
13–7646–00 Coffee County	18,733

13–7648–00 Crockett County	7,827
13–7650–00 Cumberland County	21,067
13–7652–00 Davidson County	161,981
13–7658–00 De Kalb County	7,954
13–7660–00 Dickson County	12,209
13–7662–00 Dyer County	16,812
13–7664–00 Fayette County	10,542
13–7666–00 Fentress County	11,589
13–7668–00 Franklin County	14,606
13–7670–00 Gibson County	22,417
13–7672–00 Giles County	10,764
13–7674–00 Grainger County	9,589
13–7676–00 Greene County	38,467
13–7678–00 Grundy County	7,589
13–7680–00 Hamblen County	30,275
13–7682–00 Hamilton County	106,543
13–7688–00 Hardeman County	16,225
13–7690–00 Hardin County	16,749
13–7692–00 Hawkins County	19,543
13–7694–00 Haywood County	14,082
13–7696–00 Henderson County	12,510
13–7698–00 Henry County	14,304
13–7700–00 Hickman County	7,255
13–7704–00 Humphreys County	11,113
13–7708–00 Jefferson County	21,797
13–7710–00 Johnson County	7,938
13–7712–00 Knox County	105,352
13–7718–00 Lauderdale County	17,971
13–7720–00 Lawrence County	21,020
13–7724–00 Lincoln County	15,146
13–7726–00 Loudon County	11,669
13–7728–00 Mc Minn County	22,274
13–7730–00 Mc Nairy County	14,987
13–7732–00 Macon County	9,510
13–7734–00 Madison County	33,768
13–7738–00 Marion County	12,050
13–7740–00 Marshall County	8,795
13–7742–00 Maury County	26,814
13–7746–00 Monroe County	21,909
13–7748–00 Montgomery County	38,324
13–7754–00 Morgan County	7,954
13–7756–00 Obion County	15,050
13–7758–00 Overton County	11,192
13–7764–00 Polk County	6,398
13–7766–00 Putnam County	24,893
13–7768–00 Rhea County	15,114
13–7770–00 Roane County	21,099
13–7774–00 Rutherford County	44,389
13–7776–00 Scott County	13,891
13–7780–00 Sevier County	42,627
13–7782–00 Shelby County	320,342
13–7786–00 Smith County	7,144
13–7788–00 Stewart County	6,461
13–7790–00 Sullivan County	56,931
13–7794–00 Tipton County	16,924
13–7798–00 Unicoi County	12,923
13–7804–00 Warren County	18,400
13–7806–00 Washington County	38,546
13–7808–00 Wayne County	9,049
13–7810–00 Weakley County	10,065
13–7812–00 White County	11,431
13–7818–00 State Set. Aside Committee, TN	102,060
	2,042,276

Texas

13–7820–00 Abilene/Jones, Taylor Counties	61,392
13–7822–00 Amarillo/Potter, Randall Counties	75,934
13–7824–00 Austin/Travis, Williamson Counties	299,053
13–7826–00 Dallas/Collin, Dallas, Denton Counties	1,352,667
13–7828–00 Houston/Fort Bend, Harris Counties	2,005,020
13–7830–00 Longview/Gregg, Harrison Counties	127,499
13–7856–00 Anderson County	19,877
13–7858–00 Andrews County	6,763
13–7860–00 Angelina County	41,658
13–7862–00 Aransas County	8,748
13–7868–00 Atascosa County	13,336
13–7870–00 Austin County	7,747
13–7876–00 Bastrop County	12,367
13–7880–00 Bee County	15,415
13–7882–00 Bell County	79,236
13–7886–00 Bexar County	534,682
13–7896–00 Bowie County	62,328
13–7902–00 Brazos County	34,641
13–7912–00 Brown County	19,353
13–7916–00 Burnet County	8,128
13–7918–00 Caldwell County	8,748
13–7920–00 Calhoun County	18,559
13–7924–00 Cameron County	233,946
13–7930–00 Camp County	7,255
13–7934–00 Cass County	23,083
13–7938–00 Chambers County	11,367
13–7940–00 Cherokee County	19,210
13–7964–O0 Comal County	23,814
13–7970–00 Cooke County	13,860
13–8002–00 Dawson County	8,017
13–8004–00 Deaf Smith County	12,145
13–8016–00 De Witt County	7,573
13–8020–00 Dimmit County	9,907
13–8024–00 Duval County	9,335
13–8026–00 Eastland County	7,112
13–8028–O0 Ector County	86,110
13–8034–00 Ellis County	45,865
13–8036–00 El Paso County	470,575
13–8040–00 Erath County	9,827
13–8042–00 Falls County	6,477
13–8044–00 Fannin County	13,717
13–8060–00 Freestone County	8,763
13–8062–00 Frio County	12,081
13–8066–00 Galveston County	169,792
13–8080–00 Gray County	9,494
13–8084–00 Grayson County	49,961
13–8090–00 Grimes County	6,779
13–8092–00 Guadalupe County	21,607
13–8094–00 Hale County	15,527
13–8104–00 Hardin County	30,275
13–8122–00 Hays County	22,274
13–8126–00 Henderson County	27,529
13–8128–00 Hidalgo County	459,002
13–8132–00 Hill County	12,986
13–8134–00 Hockley County	9,859
13–8136–00 Hood County	19,178
13–8138–00 Hopkins County	18,543
13–8140–00 Houston County	6,747
13–8142–00 Howard County	11,700
13–8146–00 Hunt County	46,230
13–8148–00 Hutchinson County	13,780
13–8158–00 Jasper County	27,497
13–8162–00 Jefferson County	185,604
13–8170–00 Jim Wells County	23,512
13–8180–00 Kaufman County	23,925
13–8188–00 Kerr County	11,653
13–8196–00 Kleberg County	15,161
13–8200–00 Lamar County	29,084
13–8202–00 Lamb County	7,684
13–8212–00 Leon County	7,160
13–8214–00 Liberty County	40,610
13–8216–00 Limestone County	8,700

13–8226–00 Lubbock County	92,889
13–8234–00 Mc Lennan County	83,666
13–8242–00 Marion County	6,858
13–8248–00 Matagorda County	38,943
13–8250–00 Maverick County	56,200
13–8252–00 Medina County	10,065
13–8256–00 Midland County	56,010
13–8260–00 Milam County	11,907
13–8266–00 Montague County	8,128
13–8268–00 Montgomery County	92,064
13–8270–00 Moore County	6,541
13–8272–00 Morris County	9,097
13–8276–00 Nacogdoches County	21,496
13–8278–00 Navarro County	20,797
13–8280–00 Newton County	11,050
13–8282–00 Nolan County	10,272
13–8284–00 Nueces County	209,370
13–8292–00 Orange County	91,159
13–8294–00 Palo Pinto County	17,892
13–8296–00 Panola County	13,780
13–8302–00 Pecos County	7,938
13–8304–00 Polk County	18,352
13–8310–00 Presidio County	18,321
13–8322–00 Red River County	8,065
13–8324–00 Reeves County	14,304
13–8330–00 Robertson County	6,636
13–8336–00 Rusk County	26,751
13–8342–00 San Jacinto County	6,747
13–8344–00 San Patricio County	43,309
13–8350–00 Scurry County	8,700
13–8354–00 Shelby County	12,447
13–8358–00 Smith County	82,904
13–8364–00 Starr County	59,772
13–8376–00 Tarrant County	662,212
13–8398–00 Terry County	7,144
13–8402–00 Titus County	17,797
13–8404–00 Tom Green County	44,262
13–8414–00 Tyler County	11,319
13–8416–00 Upshur County	13,018
13–8420–00 Uvalde County	18,908
13–8422–00 Val Verde County	30,037
13–8424–00 Van Zandt County	16,336
13–8426–00 Victoria County	41,420
13–8430–00 Walker County	12,383
13–8432–00 Waller County	7,859
13–8436–00 Washington County	7,605
13–8438–00 Webb County	97,112
13–8442–00 Wharton County	21,702
13–8446–00 Wichita County	54,486
13–8452–00 Willacy County	24,798
13–8458–00 Wilson County	6,874
13–8462–00 Wise County	15,193
13–8464–00 Wood County	15,241
13–8468–00 Young County	11,669
13–8470–00 Zapata County	7,970
13–8472–00 Zavala County	16,035
13–8474–00 State Set-Aside Committee, TX	288,308
	9,817,161

Utah

13–8480–00 Cache County	19,178
13–8482–00 Carbon County	9,129
13–8488–00 Duchesne County	7,414
13–8496–00 Iron County	6,684
13–8510–00 Salt Lake County	210,466
13–8518–00 Sanpete County	6,747
13–8526–00 Uintah County	10,113
13–8528–00 Utah County	68,631
13–8536–00 Washington County	14,336
13–8540–00 Weber County	62,408
13–8544–00 State Set-Aside Committee, UT	65,671
	480,777

Vermont

13–8552–00 Caledonia County	15,384
13–8554–00 Chittenden County	43,246
13–8566–00 Orleans County	16,019
13–8568–00 Rutland County	26,925
13–8576–00 State Set-Aside Committee, VT	148,426
	250,000

Virginia

13–8584–00 Accomack County	20,480
13–8594–00 Appomattox County	6,715
13–8608–00 Brunswick County	9,097
13–8610–00 Buchanan County	24,639
13–8616–00 Caroline County	11,224
13–8618–00 Carroll County	13,685
13–8622–00 Charlotte County	6,747
13–8634–00 Dickenson County	15,654
13–8652–00 Giles County	8,811
13–8658–00 Grayson County	7,335
13–8664–00 Halifax County	17,479
13–8674–00 Isle of Wight County	13,399
13–8684–00 Lancaster County	10,621
13–8686–00 Lee County	15,130
13–8690–00 Louisa County	13,082
13–8692–00 Lunenburg County	6,890
13–8698–00 Mecklenburg County	15,542
13–8702–00 Montgomery County	22,798
13–8708–00 Northampton County	6,398
13–8710–00 Northumberland County	9,811
13–8712–00 Nottoway County	7,160
13–8716–00 Page County	16,416
13–8720–00 Pittsylvania County	29,974
13–8724–00 Prince Edward County	9,351
13–8730–00 Pulaski County	18,940
13–8738–00 Rockbridge County	9,160
13–8742–00 Russell County	24,481
13–8744–00 Scott County	13,018
13–8748–00 Smyth County	27,830
13–8750–00 Southampton County	6,620
13–8760–00 Tazewell County	39,166
13–8764–00 Washington County	24,163
13–8766–00 Westmoreland County	10,526
13–8768–00 Wise County	27,116
13–8770–00 Wythe County	16,670
13–8778–00 Bristol City	7,446
13–8782–00 Charlottesville City	13,288
13–8792–00 Danville City	36,705
13–8802–00 Fredericksburg City	8,621
13–8808–00 Harrisonburg City	8,255
13–8810–00 Hopewell City	13,653
13–8814–00 Lynchburg City	26,497
13–8820–00 Martinsville City	12,351
13–8822–00 Newport News City	83,888
13–8824–00 Norfolk City	98,906
13–8828–00 Petersburg City	27,957
13–8832–00 Portsmouth City	64,202
13–8836–00 Richmond City	102,478
13–8838–00 Roanoke City	44,516
13–8844–00 Staunton City	9,065
13–8846–00 Suffolk City	28,402
13–8852–00 Williamsburg City	9,970
13–8856–00 State Set-Aside Committee, VA	840,939
	1,973,267

Washington

13–8858–00 Adams County	15,606
13–8860–00 Asotin County	7,033
13–8862–00 Benton County	62,789
13–8864–00 Chelan County	46,786
13–8866–00 Clallam County	34,736
13–8868–00 Clark County	115,703
13–8872–00 Cowlitz County	54,295
13–8874–00 Douglas County	20,480
13–8878–00 Franklin County	31,339
13–8882–00 Grant County	46,199
13–8884–00 Grays Harbor County	54,994
13–8888–00 Jefferson County	12,081
13–8890–00 King County	826,114
13–8896–00 Kitsap County	87,508
13–8898–00 Kittitas County	32,704
13–8900–00 Klickitat County	14,733
13–8902–00 Lewis County	40,023
13–8906–00 Mason County	22,163
13–8908–00 Okanogan County	34,435
13–8910–00 Pacific County	12,701
13–8912–00 Pend Oreille County	6,684
13–8914–00 Pierce County	321,612
13–8920–00 Skagit County	67,663
13–8922–00 Skamania County	6,747
13–8924–00 Snohomish County	276,969
13–8928–00 Spokane County	159,790
13–8932–00 Stevens County	22,290
13–8934–00 Thurston County	90,953
13–8938–00 Walla Walla County	23,941
13–8940–00 Whatcom County	81,967
13–8942–00 Whitman County	6,668
13–8944–00 Yakima County	201,178
13–8948–00 State Set-Aside Committee, WA	21,742
	2,860,626

West Virginia

13–8950–00 Huntington/Cabell, Wayne Counties	81,427
13–8954–00 Barbour County	13,558
13–8956–00 Berkeley County	38,038
13–8958–00 Boone County	22,353
13–8960–00 Braxton County	12,732
13–8962–00 Brooke County	15,908
13–8968–00 Calhoun County	10,161
13–8970–00 Clay County	8,859
13–8974–00 Fayette County	38,594
13–8978–00 Grant County	8,763
13–8980–00 Greenbrier County	46,754
13–8982–00 Hampshire County	8,176
13–8984–00 Hancock County	19,496
13–8988–00 Harrison County	45,865
13–8990–00 Jackson County	20,686
13–8994–00 Kanawha County	120,545
13–8998–00 Lewis County	13,955
13–9000–00 Lincoln County	16,241
13–9002–00 Logan County	35,514
13–9004–00 McDowell County	18,638
13–9006–00 Marion County	51,200
13–9008–00 Marshall County	28,735
13–9010–00 Mason County	20,432
13–9012–00 Mercer County	36,197
13–9014–00 Mineral County	12,669
13–9016–00 Mingo County	22,877
13–9018–00 Monongalia County	40,039
13–9020–00 Monroe County	7,874
13–9024–00 Nicholas County	26,227
13–9026–00 Ohio County	33,673
13–9030–00 Pleasants County	7,017
13–9032–00 Pocahontas County	9,113
13–9034–00 Preston County	22,702
13–9036–00 Putnam County	27,433
13–9038–00 Raleigh County	54,883
13–9040–00 Randolph County	23,417
13–9042–00 Ritchie County	12,097
13–9044–00 Roane County	14,114
13–9046–00 Summers County	8,573
13–9048–00 Taylor County	12,256
13–9050–00 Tucker County	8,716
13–9054–00 Upshur County	17,559
13–9060–00 Webster County	9,748
13–9062–00 Wetzel County	14,526
13–9066–00 Wood County	56,772
13–9068–00 Wyoming County	20,258
13–9070–00 State Set-Aside Committee, WV	28,548
	1,223,918

Wisconsin:

13–9072–00 Eau Claire/Chippewa, Eau Claire Counties	61,074
13–9096–00 Adams County	6,350
13–9098–00 Ashland County	10,415
13–9102–00 Bayfield County	9,335
13–9104–00 Brown County	79,062
13–9110–00 Burnett County	6,350
13–9120–00 Clark County	19,638
13–9124–00 Crawford County	8,795
13–9126–00 Dane County	84,999
13–9132–00 Door County	20,273
13–9134–00 Douglas County	25,052
13–9136–00 Dunn County	14,653
13–9148–00 Grant County	22,496
13–9158–00 Jackson County	9,319
13–9162–00 Juneau County	12,859
13–9164–00 Kenosha County	55,137
13–9170–00 La Crosse County	38,245
13–9176–00 Langlade County	10,637
13–9182–00 Marathon County	57,312
13–9184–00 Marinette County	21,543
13–9190–00 Milwaukee County	374,907
13–9198–00 Monroe County	18,384
13–9200–00 Oconto County	16,035
13–9214–00 Polk County	15,876
13–9216–00 Portage County	31,132
13–9220–00 Racine County	84,094
13–9224–00 Richland County	6,652
13–9226–00 Rock County	67,218
13–9230–00 Rusk County	11,288
13–9236–00 Sawyer County	8,986
13–9242–00 Taylor County	12,383
13–9246–00 Vernon County	11,812
13–9248–00 Vilas County	9,113
13–9252–00 Washburn County	8,351
13–9264–00 Waushara County	11,446
13–9266–00 Winnebago County	56,772
13–9272–00 State Set-Aside Committee, WI	393,511
	1,711,504

Wyoming:

13–9276–00 Albany County	8,541
13–9288–00 Fremont County	21,686
13–9300–00 Lincoln County	7,874
13–9302–00 Natrona County	36,276
13–9320–00 Uinta County	14,939
13–9326–00 State Set-Aside Committee, WY	160,684
	250,000

Territories:

13–9328–00	American Samoa	135,135
13–9330–00	Guam	128,700
13–9332–00	No. Mariana Islands	83,655
13–9334–00	Puerto Rico	2,552,530
13–9338–00	Trust Territories	115,830
13–9340–00	Virgin Islands	180,180

[FR Doc. 95–2459 Filed 1–31–95; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Bancol Y Cia. en C., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 24, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Bancol y Cia. en C., (formerly Bancol S.A.) Santafe de Bogota, Colombia; to become a bank holding company by acquiring 99.2 percent of the voting shares of Eagle National Bank of Miami, N.A., Miami, Florida.

2. Independent Bancorp, Inc., Oxford, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of The Independent Bank of Oxford, Oxford, Alabama.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Boatmen's Bancshares, Inc., St. Louis, Missouri; to acquire 100 percent of the voting shares of West Side Bancshares, Inc., San Angelo, Texas, and thereby indirectly acquire Westside Delaware Financial Corporation, Wilmington, Delaware, and Bank of The West, San Antonio, Texas.

Board of Governors of the Federal Reserve System, January 26, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–2416 Filed 1–31–95; 8:45 am]

BILLING CODE 6210–01–F

Lawrence Russell Burleigh, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 15, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Lawrence Russell Burleigh, Kinder, Louisiana; to retain 15.4 percent of the voting shares of First National Bancshares of Eunice, Inc., Eunice, Louisiana, and thereby indirectly retain shares of First Bank of Eunice, Eunice, Louisiana.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Gerald Francis Fitzgerald, Jr., Inverness, Illinois; to acquire up to 100 percent of the voting shares of Waterford Bancshares, Inc. Waterford, Wisconsin, and thereby indirectly acquire Waterford Bank, Waterford, Wisconsin.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. James A. Redding and Mary G. Clark, both of Windom, Minnesota; to each to acquire 50 percent of the voting shares of Windom State Investment Company, Windom, Minnesota, and thereby indirectly acquire Southwest State Bank, Windom, Minnesota.

D. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. David Randall Martin Trust No.1, W. Scott Martin, Trustee,Tulsa, Oklahoma; to acquire and additional 7.8 percent, for a total of 20.3 percent; Timothy Christopher Martin Trust No. 1, W. Scott Martin, Trustee, Tulsa, Oklahoma, to acquire and additional 6.8 percent, for a total of 20.3 percent; and Julie Catherine Martin Trust No. 1, W. Scott Martin, Trustee, Tulsa, Oklahoma, to acquire 5.7 percent, for a total of 20.3 percent, of the voting shares of First Burkburnett Bancshares, Inc., Burkburnett, Texas, and thereby indirectly acquire First National Bank in Burkburnett, Burkburnett, Texas.

2. Frank Moore Carter, Miami, Texas; to acquire an additional 20.54 percent, for a total of 22.27 percent, of common stock and to acquire an additional 33.33 percent, for a total of 36.44 percent, of preferred stock; Phebe Carter Hethcock, Sewanee, Tennessee; to acquire 20.54 percent, for a total of 20.54 percent, of common stock and to acquire 33.33 percent, for a total of 33.33 percent, of preferred stock; and Patrick Casey Carter, Pampa, Texas; to acquire 20.54 percent, for a total of 20.54 percent, of common stock, and to acquire 33.33 percent, for a total of 33.33 percent, of preferred stock, of Miami Bancshares, Inc., Miami, Texas, and thereby indirectly acquire First State Bank Miami, Texas.

Board of Governors of the Federal Reserve System, January 26, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–2417 Filed 1–31–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. ACYF–HS 93600–951]

A Head Start on Science Demonstration Project; Grant Availability

AGENCY: Administration on Children, Youth and Families (ACYF),

Administration for Children and Families (ACF), DHHS.

ACTION: Announcement of availability of financial assistance to a two year or four year college or university for a Head Start on Science demonstration project.

SUMMARY: The Head Start Bureau of the Administration on Children, Youth and Families announces that applications from colleges or universities will be accepted to demonstrate and evaluate a summer institute prototype on their campus during the summers 1996 and 1997 on the topic of ''A Head Start on Science'', with follow-up assistance to graduates as they implement their new skills at their local Head Start programs. In year two of the grant period, the successful applicant also will recruit, fund and mentor another teacher education college or university to implement the ''A Head Start on Science'' approach.

DATES: The closing date for submission of applications is May 2, 1995.

ADDRESSES: Submit applications to: Applications may be mailed to the Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, S.W., Aerospace Building, 6th Floor, OFM/DDG, Washington, D.C. 20447.

Hand delivered applications are accepted during the normal working hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, on or prior to the established closing date at: Administration for Children and Families, Division of Discretionary Grants, 6th Floor OFM/DDG, 901 D Street, S.W., Washington D.C. 20447.

FOR FURTHER INFORMATION CONTACT: Any technical assistance calls may be forwarded to the ACYF Operations Center Telephone number: 1–800–351–2293.

SUPPLEMENTARY INFORMATION:

Part I General Information

A. Program Purpose

Head Start is a national program providing comprehensive developmental services primarily to low-income preschool children and their families. To help enrolled children achieve their full potential, Head Start programs provide comprehensive health, nutritional, educational, social, and other services. In addition Head Start programs are required to provide for the direct participation of the parents of enrolled children in the development, conduct, and direction of local programs. Head Start currently serves approximately 713,000 children through a network of approximately 1,395 grantees.

While Head Start is targeted primarily toward children whose families have incomes at or below the poverty line or who are eligible for public assistance, regulations permit up to 10 percent of the Head Start children in local programs to be from families which do not meet these low-income criteria. Head Start regulations also require that a minimum of 10 percent of enrollment opportunities in each program be made available to children with disabilities. Such children are expected to be enrolled in the full range of Head Start services and activities in a mainstream setting with their non-disabled peers, and to receive needed special education and related services.

B. Background on Demonstration Project ''A Head Start on Science''

The report from the Advisory Committee on Head Start Quality and Expansion emphasizes that quality services to Head Start families must be given priority attention by all Head Start programs. The report underscored the need for staff development and training and supports initiatives designed to increase staff understanding of concepts and principles which will help them become more effective in early childhood settings.

This project is designed to link colleges and universities to Head Start programs for the purpose of teaching science to Head Start staff. Highly intensive, hands-on instruction will provide teachers, assistants, and home visitors with exposure to the principles of science and increase their insights and skills regarding how to take their college campus experience and create classroom environments which invite child exploration and discovery. The staff will also increase their understanding of the natural learning environment presented by the out-of-doors, and the child's own home. We expect that '' A Head Start on Science'' model will be developed and documented in suitable printed and visual materials to be used to transmit the concept and approaches to other institutions of higher learning and Head Start communities. Project funds may also be used to present and distribute information at appropriate regional and national Head Start events, and to members of the Head Start training and technical assistance network. Also, it would be appropriate for the grantee to develop strategies and products which will assist other local Head Start programs to negotiate with their local college or university for similar staff training.

We believe that as a result of participating in ''A Head Start on Science'' demonstration project, Head Start teachers, teacher assistants, and home visitors will be instrumental in creating a lifelong interest in science both for themselves and for the children and families with whom they work. We believe that staff will be impacted by the knowledge that science is found not only in a laboratory under a microscope, but in the everyday world in which they live. As a result of this experience, teachers, assistants and home visitors' concepts of science and their own scientific abilities will increase and in turn have a powerful effect on their ability to engage in discovery and establish environments in which children and families may explore, discover and interpret scientific activities.

This announcement is soliciting applications from two or four-year colleges or universities, i.e., institutions of higher learning that grant degrees. Awards, on a competitive basis, will be for a one-year budget period, although projects periods may be for two years. Applications for continuation grants funded under these awards beyond the one-year budget period but within the two year project period will be entertained in subsequent years on a non-competitive basis, subject to availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the Government. The Department of Health and Human Services will award one grant under this announcement. Up to $550,000 will be available for a 24 month project period.

In the first year of the grant, the grantee institution will use these funds to create, demonstrate and evaluate a summer institute prototype on their campus during the summer of 1996 with follow-up assistance to Head Start staff graduates as they implement their new skills at their local programs. Also in year one the grantee will recruit another college or university in which to replicate the model in year two.

In the second year of this grant, the grantee institution will improve the prototype program based on year-one experiences, and will offer the hands-on science program to a new group of Head Start staff during the summer 1997. Also during the second year, the ''A Head Start on Science'' grantee will fund for one year, and mentor another college or university to: (1) Implement the prototype ''A Head Start on Science'' model in the summer of 1997 and; (2) provide follow-up assistance to the Head Start staff as they plan to

implement their new skills in their local programs. The addition of a second institution will provide the opportunity to evaluate the effectiveness and transferability of the concept.

Throughout the grant period, a third party evaluator must be secured by the grantee institution to assess the effectiveness of the approach, content and transferability of the ''A Head Start on Science'' project. The third party evaluator must not be involved in the conduct of the demonstration. The evaluation of the students in both institutes in the summer of 1997 will be completed by the end of the project period. It should focus on the students' plans for the implementation of the program and principles.

Statutory Authority

The Head Start Act, as amended, 42 U.S.C. 9801 et seq.

D. Project Period and Funding

A total of approximately $550,000 in ACF funds will be available to fund the demonstration project for a 24 month period. Applicants must propose how much will be needed for each 12 month period of the project.

The grantee must provide at least 20 percent of the total cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $550,000 in Federal funds (based on an award of approximately $275,000 per budget period) must provide $137,500 in cash or in-kind contributions (20% of total project costs of $687,500).

E. Eligible Applicants

Applicants must be either two year or four year institutions of higher learning which are colleges or universities, private or public, having the capability to create, demonstrate and evaluate a summer institute prototype.

Part II Special Requirements

A. Colleges and universities are eligible to apply for these funds. The college or university must also be able to award college credit to Head Start staff that successfully complete the summer program.

B. The project should be directed toward Head Start teachers, teachers' assistants and/or home visitors.

C. Funds may be used for university operating expenses and related costs. Related costs include such activities as planning and development costs, administration, supplies, insurance, university staff salaries, training provided at Head Start events and the third party evaluation.

D. The university or college institute teaching team will be comprised of individuals with knowledge of science, adult learning, and early childhood education.

Part III Specific Responsibilities of the Applicant

When submitting an application under this announcement, applicants should include a maximum of 50 typed, doubled-spaced pages. Applicants interested in submitting an application for the training prototype must:

A. Describe the design of the project. Include a description of how the summer institutes will address the unique needs of teachers, teacher assistants and/or home visitors.

B. Provide a sample curriculum for the summer institute participants based on content and approach which will help increase participants' knowledge of science, increase their understanding and skills regarding how to create classroom environments, and capitalize on the out-of-doors and family settings as areas of scientific exploration and learning.

C. List projected field experiences appropriate to the location of the college and Head Start programs. These may include trips to the ocean, visiting a quarry, aquarium, desert, nature trail, or wild life reserve. Information submitted should include the total number of hours of the institute program including a breakout of instruction vs. field trip experiences.

D. Describe a plan for how many participants will be included in each summer program and how these participants will be recruited.

E. Describe what provisions will be made for residential, intensive summer institutes for Head Start teachers, teacher assistants, and/or home visitors.

F. Describe provision of materials, lunch and snacks, stipend or reimbursement, transportation to field activities, and entry fees.

G. Describe the college credit to be awarded for work completed during the summer institute and for implementing new knowledge and practice back at local programs.

H. Describe the plan for the extension of the summer institute into Head Start settings and the provision of on-site feedback and ongoing support for adults applying their new skills.

I. Explain the criteria and the approach to be used to recruit, fund, and mentor another college for the second year of the project.

J. Develop an evaluation of the project to determine the effectiveness of the project. Describe the research questions to be addressed. Describe the evaluation that would be implemented, including the outcomes that would be measured, the evaluation design to be employed, and how the data will be analyzed. The evaluation should also include an analysis of the second summer institutes. The project and the evaluation will be completed by the end of the project period.

K. Provide a description of the qualifications of each key staff member including the third-party evaluator (the evaluator cannot be a member of the demonstration project staff). Include copies of their curriculum vitae.

L. Describe a plan to establish a self sustaining project, since this will be a prototype other colleges and universities may want to adapt. It is expected that the applicant may pay for more activities and services during the first year; however, attempts should be made to run a more self supporting program by year two. Outside resources or Head Start grantees that see these services as a priority can support some of the cost of the training.

Part IV Evaluation Criteria

In consideration of how applicants will meet the requirements and responsibilities addressed under Parts II and III of this announcement, competing applications from colleges and universities will be reviewed and evaluated against the following criteria.

A. Objectives and Need for Assistance (15 points).

The extent to which the applicant identifies any relevant economic, social, financial institutional or other problems requiring a solution: demonstrates the need for the assistance: and states the principal and subordinate objectives of the project. Supporting documentation or other testimonies from concerned interests other than the applicant on the need for assistance may be used.

Identify the precise location of the project and the area to be served by the proposed project. Maps and other geographic aids may be attached.

Information provided in response to the following items under ''Specific Responsibilities of the Applicant'' will be used to review and evaluate applicants on this criterion: Letters A,C,D.

B. Results or Benefits Expected (15 points).

The extent to which the applicant identifies the results and benefits to be derived which are consistent with the

objectives of the proposal and indicates the anticipated contributions to policy, practice, theory and/or research.

Information provided in response to the following items under ''Specific Responsibilities of the Applicant'' will be used to review and evaluate applicants on this criterion: Letters A,G,H,J

C. Approach (40 points).

The extent to which the applicant outlines an acceptable plan of action pertaining to the scope of the project; details how the proposed work will be accomplished and lists each organization, consultant, and other key individuals who will work on the project, along with resumes and a short description of their responsibilities or contribution to the applicant's work plan. Describe the evaluation methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved.

Information provided in response to the following items under ''Specific Responsibilities of the Applicant'' will be used to review and evaluate applicants on this criterion: Letters A,B,C,E,F,G,H,I.

D. Staff Background and Organization's Experience (20 Points).

Identifies the background of the project director/principal investigator and key project staff (including name, address, training, most relevant educational background and other qualifying experiences) and the experience of the college or university to demonstrate the applicant's ability to effectively and efficiently administer this project.

Information provided in response to the following items under ''Specific Responsibilities of the Applicant'' will be used to review and evaluate applicants on this criterion: Letter K.

E. Budget Appropriateness and Reasonableness (10 Points).

The extent to which the project's costs are reasonable in view of the activities to be carried out and the anticipated outcomes. The extent to which assurances are provided that the applicant can and will contribute the non-Federal share of the total project.

The extent to which the amount budgeted for the evaluation is sufficient to conduct the evaluation.

Information provided in response to the following items under ''Application Requirements'' will be used to review and evaluate applicants on this criterion: Letters C,E,F,J,L.

Part V Application Process

A. Availability of Forms

Eligible applicants interested in applying for funds must submit all of the required forms included at the end of this Announcement.

In order to be considered for a grant under this Announcement, an application must be submitted on the Standard Form 424 which has been approved by the Office of Management and Budget (OMB) under Control Number 0348–0043. A copy has been provided (see Appendix B). Each application must be signed by an individual authorized to act for the applicant and to assume responsibility for the obligations imposed by the terms and conditions of the grant award.

Applicants requesting financial assistance for a nonconstruction project must file the standard Form 424B, ''Assurances: Non-Construction Programs.'' Applicants must sign and return the Standard Form 424B with their applications.

Applications must provide a certification concerning Lobbying. Prior to receiving an award in excess of $100,000, applicants shall furnish an executed copy of the lobbying certification. Applications must sign and return the certification with the applications.

Applications must make the appropriate certification of their compliance with the Drug-Free Workplace Act of 1988. By signing and submitting the applications, applicants are providing the certification and need not mail back the certification with the applications.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for award. By signing and submitting the applications, applicants are providing the certification and need not mail back the certification with the applications.

Copies of the certifications and assurance are located at the end of this announcement.

B. Application Submission

One signed original and two copies of the grant application, including all attachments, are required. The program announcement number [ACYF-HS 93600–951] must be clearly identified on the application. Each application must be limited to no more than 50 double-spaced pages of program narrative (not including the forms which make up the SF–424 and resumes) including the one-page project summary. If the application is more than 50 double-spaced pages, the other pages will be removed from the application and not considered by the reviewers.

The application must be paginated beginning with the Form 424 and also contain a table of contents listing each section of the application with the respective pages identified. Only one application per applicant will be accepted.

C. Application Consideration

Applicants will be scored against the evaluation criteria described above. The review will be conducted in Washington, D.C.

The results of the competitive review will be taken into consideration by the Associate Commissioner, Head Start Bureau, in recommending the project to be funded. The Commissioner of ACYF will make the final selection of the applicants to be funded. An application may be funded in whole or in part, depending on the relative need for services, applicant ranking, geographic location and funds available.

The Commissioner may also elect not to provide funding to applicants experiencing problems in providing quality services.

Successful applicants will be notified through the issuance of a Financial Assistance Award which sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which support is given, and the total project period for which support is provided.

D. Checklist for a Complete Application

The checklist below is for your use to ensure that your application package has been properly prepared.

—One original, signed and dated application plus two copies.
—Application length does not exceed 50 double-spaced pages
—A complete application consists of the following items in this order:
—Application for Federal Assistance (SF 424, REV.4–88); Narrative;
—Staff Resumes;
—A completed SPOC certification with the date of SPOC contact entered in line 16, page 1 of the (SF 424, REV.4–88);
—Budget information-Non-Construction Programs (SF 424A REV.88);
—Budget justification for Section B-Budget Categories; including subcontract/delegate agency budgets
—Table of Contents;
—Letter from the Internal Revenue Services to prove non-profit status
—Project Summary (not to exceed one page);
—Organization/eligibility information;

—Assurances Non-Construction Programs;
—Certification Regarding Lobbying.

E. Deadlines

Applications shall be considered as meeting an announced deadline if they are either:

1. Received on or before the deadline date at a place specified in the program announcement, or

2. Sent on or before the deadline date and received by the granting agency in time for the independent review under DHHS GAM Chapter 1–62. (Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private Metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications: Applications which do not meet the criteria in paragraph E of this section are considered late applications. The granting agency shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: The granting agency may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is a widespread disruption of the mails. However, if the granting agency does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

F. Paperwork Reduction Act of 1980

Under the Paperwork Reduction Act of 1980, Public Law 96–511, the Department is required to submit to OMB for review and approval any reporting and record keeping requirements in regulations, including program announcements. This program announcement does not contain information collection requirements beyond those approved for ACF grant applications under OMB Control Number 0348–0043.

G. Executive Order 12372—Notification Process

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under Executive Order 12372, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and territories except Alabama, Alaska, Connecticut, Colorado, Hawaii, Idaho, Kansas, Louisiana, Minnesota, Montana, Nebraska, Oklahoma, Oregon, Pennsylvania, South Dakota, Virginia, Washington, American Samoa, and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these nineteen jurisdiction areas need not take action regarding Executive Order 12372. Applications for projects to be administered by Federally-recognized Indian Tribes are exempt from the requirements of Executive Order 12372. Otherwise, applicants should contact their SPOC as soon as possible to alert them to the prospective application and to receive any necessary instructions. Applicants must submit any required material to the SPOC as early as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or date of contact if no submittal is required) on the SF 424, item 16a.

Under 45 CFR 100.8(a) (2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which they intend to trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, S.W., 6th floor, Aerospace Building, Washington, D.C. 20447.

A list of SPOCs for each State and territory is included at Appendix A of this announcement.

H. Effective Date

It is anticipated that successful applications shall be funded no later than September 30,1995.

(Catalog of Federal Domestic Assistance Program Number 93.600, Project Head Start.)

Dated: January 23, 1995.

Olivia A. Golden,

Commissioner, Administration on Children, Youth and Families.

Appendix A—Executive Order 12372—State Single Points of Contact

Arizona

Mrs. Janice Dunn, Attn: Arizona State Clearinghouse, 3800 N. Central Avenue, 14th Floor, Phoenix, Arizona 85012, Telephone (602) 280–1315

Arkansas

Tracie L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Telephone (501) 682–1074

California

Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Telephone (916) 323–7480

Delaware

Ms. Fancine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone (302) 736–3326

District of Columbia

Rodney T. Hallman, State Single Point of Contact, Office of Grants Management and Development, 717 14th Street NW., Suite 500, Washington, DC 20005, Telephone (202) 727–6551

Florida

Florida State Clearinghouse, Intergovernmental Affairs Policy Unit, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32399–0001, Telephone (904) 488–8441

Georgia

Mr. Charles H. Badger, Administrator, Georgia State Clearinghouse, 254 Washington Street SW., Atlanta, Georgia 30334, Telephone (404) 656–3855

Illinois

Steve Klokkenga, State Single Point of Contact, Office of the Governor, 107 Stratton Building, Springfield, Illinois 62706, Telephone (217) 782–1671

Indiana

Jean S. Blackwell, Budget Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone (317) 232–5610

Iowa

Mr. Steven R. McCann, Division of Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone (515) 281–3725

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfort, Kentucky 40601, Telephone (502) 564–2382

Maine

Ms. Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 289–3261

Maryland

Ms. Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201–2365, Telephone (301) 225–4490

Massachusetts

Karen Arone, State Clearinghouse, Executive Office of Communities and Development, 100 Cambridge Street, Room 1803, Boston, Massachusetts 02202, Telephone (617) 727–7001

Michigan

Richard S. Pastula, Director, Michigan Department of Commerce, Lansing, Michigan 48909, Telephone (517) 373–7356

Mississippi

Ms. Cathy Mallette, Clearinghouse Office, Office of Federal Grant Management and Reporting, 301 West Pearl Street, Jackson, Mississippi 39203, Telephone (601) 960–2174

Missouri

Ms. Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Room 430, Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751–4834

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone (702) 687–4065, Attention: Ron Sparks, Clearinghouse Coordinator

New Hampshire

Mr. Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review, Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271–2155

New Jersey

Gregory W. Adkins, Acting Director, Division of Community Resources, N.J. Department of Community Affairs, Trenton, New Jersey 08625–0803, Telephone (609) 292–6613

Please direct correspondence and questions to: Andrew J. Jaskolka, State Review Process, Division of Community Resources, CN 814, Room 609, Trenton, New Jersey 08625–0803, Telephone (609) 292–9025

New Mexico

George Elliott, Deputy Director, State Budget Division, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone (505) 827–3640, FAX (505) 827–3006

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474–1605

North Carolina

Mrs. Chrys Baggett, Director, Office of the Secretary of Admin., N.C. State Clearinghouse, 116 W. Jones Street, Raleigh, North Carolina 27603–8003, telephone (919) 733–7232

North Dakota

N.D. Single Point of Contract, Office of Intergovernmental Assistance, Office of Management and Budget, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone (701) 224–2094

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411, Telephone (614) 466–0698

Rhode Island

Mr. Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Telephone (401) 277–2656,

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning

South Carolina

Omeagia Burgess, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, South Carolina 29201, Telephone (803) 734–0494

Tennessee

Mr. Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Telephone (615) 741–1676

Texas

Mr. Thomas Adams, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, Telephone (512) 463–1778

Utah

Utah State Clearinghouse, Office of Planning and Budget, ATTN: Carolyn Wright, Room 116 State Capitol, Salt Lake City, Utah 84114, Telephone (801) 538–1535

Vermont

Mr. Bernard D. Johnson, Assistant Director, Office of Policy Research & Coordination, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Telephone (802) 828–3326

West Virginia

Mr. Fred Cutlip, Director, Community Development Division, West Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone (304) 348–4010

Wisconsin

Mr. William C. Carey, Federal/State Relations, Wisconsin Department of Administration, 101 South Webster Street, P.O. Box 7864, Madison, Wisconsin 53707, Telephone (608) 266–0267

Wyoming

Sheryl Jeffries, State Single Point of Contact, Herschler Building, 4th Floor, East Wing, Cheyenne, Wyoming 82002, Telephone (307) 777–7574

Guam

Mr. Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone (671) 472–2285

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950

Puerto Rico

Norma Burgos/Jose H. Caro, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–9985, Telephone (809) 727–4444

Virgin Islands

Jose L. George, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802, Please direct correspondence to: Linda Clarke, Telephone (809) 774–0750.

BILLING CODE 4184–01–P

APPENDIX B

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, state, and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ . ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: a. Applicant	b. Project

15. ESTIMATED FUNDING:	
a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

Prescribed by OMB Circular A-102

BILLING CODE 4184–01–C

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   —''New'' means a new assistance award.
   —''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.
   —''Revision'' means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184–01–P

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:

23. Remarks

SF 424A (4-88) Page 2
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Instructions for the SF–424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary

Lines 1–4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1–4, Columns (c) through (g) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (b)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a), the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or

supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

OMB Approval No. 0348–0040

Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents, related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

_____

Signature of Authorized Certifying Official

_____

Title

_____

Applicant Organization

_____

Date Submitted

BILLING CODE 4184–01–P

APPENDIX C

U.S. Department of Health and Human Services
Certification Regarding Drug-Free Workplace Requirements
Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may taken action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"**Controlled substance**" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"**Conviction**" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"**Criminal drug statute**" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"**Employee**" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code)_____

Check ___ *if there are workplaces on file that are not identified here.*

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

BILLING CODE 4184–01–C

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) are not presenting indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled ''Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction.'' provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled ''certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions. ''without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, or to any person for influencing or attempting to fluence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form–LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of act upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form–LLL ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the require statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____
Signature

_____
Title

_____
Organization

_____
Date

BILLING CODE 4184–01–P

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
☐ a. initial filing
b. material change
For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee
Tier _____, *if known*:

Congressional District, *if known*:

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:

Congressional District, *if known*:

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, *if applicable*: _____

8. Federal Action Number, *if known*:

9. Award Amount, *if known*:
$

10. a. Name and Address of Lobbying Entity
(if individual, last name, first name, MI):

b. Individuals Performing Services *(including address if different from No. 10a)*
(last name, first name, MI):

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned

12. Form of Payment *(check all that apply)*:
☐ a. cash
☐ b. in-kind; specify: nature _____
value _____

13. Type of Payment *(check all that apply)*:
☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e. deferred
☐ f. other; specify: _____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ **Date:** _____

Federal Use Only:

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[FR Doc. 95–2381 Filed 1–31–95; 8:45 am]
BILLING CODE 4184–01–C

Centers for Disease Control and Prevention

Injury Research Grant Review Committee: Conference Call 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 conference call committee meeting.

Name: Injury Research Grant Review Committee (IRGRC).

Time and Date: 3 p.m.–5 p.m., February 17, 1995.

Place: National Center for Injury Prevention and Control (NCIPC), CDC, Koger Center, Davidson Building, 2nd Floor, Conference Rooms 2060A and 2060B, 2858 Woodcock Boulevard, Chamblee, Georgia 30341. (Exit Chamblee-Tucker Road off I–85.)

Status: Open 3 p.m.–3:15 p.m., February 17, 1995. Closed: 3:15 p.m.–5 p.m., February 17, 1995.

Purpose: This committee is charged with advising the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director of CDC, regarding the scientific merit and technical feasibility of grant applications relating to the support of injury control research and demonstration projects and injury prevention research centers.

Matters To Be Discussed: Agenda items for the meeting will include announcements, discussion of review procedures, future meeting dates, and review of grant applications.

Beginning at 3:15 p.m., through 5 p.m., February 17, the committee will meet to conduct a review of grant applications. This portion of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), title 5 U.S.C., and the Determination of the Acting Associate Director for Policy Coordination, CDC, pursuant to Pub. L. 92–463.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Richard W. Sattin, M.D., Executive Secretary, IRGRC, NCIPC, CDC, 4770 Buford Highway, NE., Mailstop K58, Atlanta, Georgia 30341–3724, telephone 404/488–4580.

Dated: January 26, 1995.

William H. Gimson,

Acting Associate Director for Policy Coordination Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–2401 Filed 1–31–95; 8:45 am]

BILLING CODE 4163–18–M

Health Resources and Services Administration

Final Special Consideration for Grants for Residency Training and Advanced Education in the General Practice of Dentistry for Fiscal Year 1995

The Health Resources and Services Administration (HRSA) announces the final special consideration for fiscal year (FY) 1995 Grants for Residency Training and Advanced Education in the General Practice of Dentistry funded under the authority of section 749, title VII of the Public Health Service Act (the Act), as amended by the Health Professions Education Extension Amendments of 1992, Pub. L. 102–408, dated October 13, 1992.

Purpose

Section 749 of the PHS Act authorizes the Secretary to make grants to any public or nonprofit private school of dentistry or accredited postgraduate dental training institution (e.g., hospitals and medical centers) to plan, develop, and operate an approved residency or an approved advanced educational program in the general practice of dentistry; to provide financial assistance to participants in such a program who are in need of financial assistance and who plan to specialize in the practice of general dentistry; and to fund innovative, nontraditional models for the provision of postdoctoral General Dentistry training.

A special consideration for this program was proposed for public comment in the **Federal Register** on November 1, 1994 at 59 FR 54614. No comments were received during the 30-day comment period. Therefore, the proposed special consideration will be retained as follows:

Final Special Consideration

Special consideration will be given to approved applications based on the extent to which they address innovative means of providing advanced general dentistry education that can help meet the current and future demand of such training. This might include new sponsor/co-sponsor arrangements; different organizational and administrative structures; expanded private/public sector affiliations and setting linkages; and creative applications for current instructional telecommunications and computer technologies.

If additional programmatic information is needed, please contact:

Dr. Rosemary E. Duffy, Division of Associated, Dental, and Public Health Professions, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8C–09, Rockville, Maryland 20857, Telephone: (301) 443–6837.

Grants for Residency Training and Advanced Education in the General Practice of Dentistry is listed at 93.897 in the *Catalog of Federal Domestic Assistance.* Applications submitted in response to this announcement are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). This program is not subject to the Public Health System Reporting Requirements.

Dated: January 26, 1995.

Ciro V. Sumaya,

Administrator.

[FR Doc. 95–2430 Filed 1–31–95; 8:45 am]

BILLING CODE 4160–15–P

Federal Financial Assistance for Telemedicine Demonstration Project in Rural Western Nebraska

AGENCY: Health Resources and Services Administration (HRSA), Public Health Service (PHS), Health and Human Services (HHS).

ACTION: Notice of availability of funds.

SUMMARY: The Office of Rural Health Policy, HRSA, announces the availability of funds in FY 1995 for a grant to support a telemedicine demonstration project in rural western Nebraska. The purpose of the grant is to (1) develop a base of information that will contribute to a systematic evaluation of telemedicine systems serving rural areas; and (2) facilitate development of a rural health care network through the use of telemedicine.

Authority

The award will be made from funds appropriated under Public Law 103–333 (HHS Appropriation Act for FY 1995). The Senate Committee on Appropriations Report 103–318 included a set-aside to support a multipurpose telecommunication system in rural western Nebraska. In introducing the set-aside for this project, the Senate Report stated: ''Communication systems that link physicians offices to hospitals are necessary for establishing functioning networks in rural areas.'' The Department agrees that the objectives of this set-aside are consistent with the general provisions of the Office of Rural Health Policy's telemedicine grant programs, which are authorized under Section 301 of the Public Health Service Act.

Justification for Other Than Full and Open Competition

In the Senate Committee on Appropriations Report 103–318, the Senate directed this demonstration to be awarded only to applicants in rural western Nebraska. The Senate Report does not specify the areas to be included in the definition of ''rural western

Nebraska.'' In the absence of such a definition, the Department considers all applicants in counties that are geographically located in the western third of the state to be eligible for this competition.

National Health Objectives for the Year 2000

The PHS is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. This grant is related to the priority areas for health promotion, health protection, and preventive services. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–C) or Healthy People 2000 (Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone (202) 783–3238).

Funds Available

Depending on the availability of funds, which are subject to reductions in the appropriated amounts, an estimated total award of up to $500,000 will be made to support a single grant project for a one year period. The budget period for the project will begin September 1, 1995.

Funding Limits

The award is limited to a maximum total amount of $500,000 (direct and indirect costs), depending on the availability of funds, which are subject to reductions in the appropriated amounts.

Equipment costs up to 40 percent of the total grant award are allowable. However, the costs of purchasing and installing transmission equipment, such as laying cable or telephone lines, microwave towers, digital switching equipment, amplifiers, etc., are not allowable. Transmission costs are allowable. Indirect costs are allowable up to 20 percent of the total grant award.

Grant funds may not be used for construction, except for minor renovations related to the installation of equipment. Grant funds may not be used to acquire or build real property.

Cost Participation

Cost participation serves as an indicator of community and institutional support for the project and of the likelihood that the project will continue after Federal grant support has ended. The successful applicant will be required to share in the costs of the project by providing equipment, personnel, building space, indirect costs, other in-kind contributions, or cash.

DATES: Applications for the grant must be received by the close of business on May 2, 1995.

Applications shall be considered as meeting the deadline if they are either (1) received on or before the deadline date; or (2) postmarked on or before the deadline date and received in time for orderly processing. Applicants must obtain a legible dated receipt from a commercial carrier or the U.S. Postal Service in lieu of a postmark. Private metered postmarks will not be acceptable as proof of timely mailing. Late applications will be returned to the sender.

ADDRESSES AND FURTHER INFORMATION: Requests for grant application kits and for technical or programmatic information on this announcement should be directed to Carole Mintzer, Office of Rural Health Policy, 5600 Fishers Lane, Room 9–05, Rockville, MD 20857, 301–443–0835, cmintzer@hrsa.ssw.dhhs.gov. Requests for information regarding business or fiscal issues and completed applications should be directed to Opal McCarthy, Grants Management Office, Bureau of Primary Health Care, West Tower, 11th Floor, 4350 East West Highway, Rockville, MD 20857, 301–594–4260. The standard application form and general instructions for completing applications (Form PHS–5161–1, OMB 0937–0189) have been approved by the Office of Management and Budget (OMB).

SUPPLEMENTARY INFORMATION:

Program Objectives

The purpose of the grant is to demonstrate and collect information on the feasibility, costs, appropriateness, and acceptability (to practitioners and patients) of telemedicine for improving access to health services for rural residents and reducing the isolation of rural practitioners. The grant will be awarded for implementing and operating a telemedicine system that links a multi-specialty entity with rural health care facilities for the purposes of delivering health care services to the rural sites and exchanging information between the sites.

A central goal of the grant is to demonstrate how telemedicine can be used as an effective tool in the development of integrated systems of health care. Integrated systems of care provide comprehensive, coordinated health care services to the rural residents served by the system through referrals, consultations, and support systems that ensure patient access to a comprehensive set of services and reduce practitioner isolation. In particular, the grant is to promote systems of health care in rural areas that link rural primary care practitioners with specialty and referral services.

For the purposes of this grant, telemedicine is defined as the use of telecommunications for medical diagnosis and patient care. A clinical consultation is defined as a person-to-person interaction relating to the clinical condition or treatment of the patient. The consultation could be between two practitioners, with or without the patient present, or between a specialty practitioner and a patient. The consultation may be interactive or asynchronous (e.g. store and forward technology).

In order to compete for this grant, applicants must participate in a telemedicine network that includes at least three sites: a multispecialty entity (tertiary care hospital, multi-specialty clinic, or a collection of facilities that, combined, could provide 24-hour a day specialty consultations), a small rural hospital (fewer than 100 staffed beds), a rural primary care clinic or practitioner office. Networks that include a long-term care facility are especially encouraged. The network may include additional rural sites, such as mental health clinics, school-based clinics, emergency service providers, home health providers, community and migrant health centers, rural health clinics, Federally qualified health centers, health professions schools, etc. The telemedicine network must be used to provide clinical consultations between the multispecialty entity (hub) and the rural sites (spokes). Projects that use low cost technologies are particularly encouraged.

For purposes of this grant, a telemedicine network is characterized by a full partnership among all the members that includes the following elements: (1) Resource participation; (2) a specific role for each member; (3) a contractual relationship or formal written agreement; (4) a long-term commitment to the project by each member; (5) documentation of the network's activities; and (6) active participation by each member so that the network is not solely dependent on any particular member organization.

Applicants must monitor their own performance and be willing and able to participate in an evaluation of telemedicine services. This may include, but is not limited to, collecting data, completing surveys, and participating in on-site observations by independent evaluators.

The project, at a minimum, must be able to provide teleconsultations in the following specialty services:

Teleradiology, cardiology, dermatology, mental health and/or substance abuse, obstetrics and gynecology, orthopedics, subspecialties of pediatrics, and stabilization of trauma patients. Applicants may propose to provide teleconsultations for additional services, such as physical therapy, speech therapy, diabetic counseling, dentistry, or otolaryngology.

This grant is intended to support telemedicine for medical diagnosis and treatment of patients, including patient counseling. It is not for didactic distance learning programs, such as lectures or other programs designed solely for the purposes of instructing health care personnel or patients.

Applicants must develop projects that address specific, well-documented needs of the rural communities. In doing so, applicants are advised to consider both the health care needs of the rural communities served by the project, and the extent to which the project can build upon existing telecommunications capacity in the communities to facilitate efficient use of that capacity by multiple users. Needs can be established through a formal needs assessment or by population specific demographic data.

All the grant funding must be used for services provided to or in rural communities. A majority of grant dollars must actually be spent for equipment placed in rural communities and for costs incurred in rural communities, including salaries, maintenance of equipment, and transmission costs.

Eligible Applicants

The demonstration grant award will be made only to an entity located in the western third of the State of Nebraska. The entity can be either (1) a health care provider that is a member of a telemedicine network serving rural western Nebraska, or (2) a consortium of providers that are members of a telemedicine network serving rural western Nebraska. The applicant must be a legal entity capable of receiving Federal grant funds. The grant recipient can be a public (non-Federal) or private nonprofit or for-profit entity, located in either a rural or urban area. Rural spoke sites may be public or private entities, either nonprofit or for-profit. All spoke facilities supported by this grant must be located in the western third of Nebraska, all of which is defined by OMB as a non-metropolitan statistical area.

Review Consideration

Grant applications will be evaluated on the basis of the following criteria:

(1) Extent to which the project facilitates development of an integrated system of care for the rural areas served by the project by providing referral linkages, facilitating consultations among health care professionals, and reducing the isolation of health care practitioners, as evidenced by the strength of the contractual arrangements among the members of the telemedicine network.

(2) Demonstrated ability to monitor the performance of the project, collect data, and participate in an evaluation of telemedicine.

(3) Demonstrated capability, experience, and knowledge by the applicant and other network members to carry out the project.

(4) Reasonableness of the budget proposed for the project.

(5) Level of local commitment and involvement with the project, as evidenced by the extent of cost participation by the applicant and/or other organizations, letters of support, and the feasibility of plans to sustain the project after Federal grant support has ended.

(6) Extent to which the applicant has justified and documented the need(s) for the project, developed measurable goals and objectives for meeting the need(s), and designed a project that could be replicated in rural areas with similar needs and characteristics.

Other Information

Applicants are advised that the narrative description of their program and the budget justification may not exceed 30 pages in length. All applications must be typewritten and clearly legible, using print no smaller than 12 characters per inch and having margins no less than one inch on all sides. Any applications that are judged nonresponsive because they are inadequately developed, in an improper format, exceed the specified page length, or otherwise are unsuitable for peer review and funding consideration, will be returned without further consideration. All responsive applications will undergo objective peer review.

Public Health System Impact Statement

This grant is subject to the Public Health System Reporting Requirements. Reporting requirements have been approved by the OMB—0937–0195. Under these requirements, the community-based nongovernmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprised of proposed health services grant applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental applicants are required to submit the following information to the head of the appropriate State and Local health agencies in the area(s) to be impacted no later than the Federal application receipt due date:

a. A copy of the face page of the application (SF 424)

b. A summary of the project PHSIS, not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State of local health agencies.

Executive Order 12372

This grant program is subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs by appropriate health planning agencies as implemented by 45 CFR part 100. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. Applicants (other than Federally-recognized Indian tribal governments) should contact their State Single Point of Contact (SPOCs), a list of which will be included in the application kit, as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more then one State, the applicant is advised to contact the SPOC of each affected State. All SPOC recommendations should be submitted to Opal McCarthy, Office of Grants Management, Bureau of Primary Health Care, West Tower, 11th Floor, 4350 East West Highway, Rockville, Maryland 20857, (301) 594–4260. The due date for State process recommendations is 60 days after the application deadline for new and competing awards. The granting agency does not guarantee to ''accommodate or explain'' for State process recommendations it receives after that date. (See Part 148, Intergovernmental Review of PHS Programs under Executive Order 12372 and 45 CFR part 100 for a description of the review process and requirements.

This is intended to be a one-time program. Therefore, a Catalog of Federal Domestic Assistance number has not been requested.

Dated: January 26, 1995.

Ciro V. Sumaya,

Administrator.

[FR Doc. 95–2432 Filed 1–31–95; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

National Institute on Drug Abuse; Notice of 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 National Institute on Drug Abuse (NIDA) advisory committee meetings.

These meetings will be open to the public as indicated below with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the contact person in advance of the meeting.

Ms. Camilla L. Holland, NIDA Committee Management Officer, National Institutes of Health, Parklawn Building, Room 10–42, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2755, will provide summaries of the meetings and rosters of committee members upon request. Substantive program information may be obtained from the contacts listed below.

Committee Name: National Advisory Council on Drug Abuse
Meeting Date: February 7–8, 1995
Place:
February 7, National Institutes of Health, Building 31, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892
February 8, Parklawn Building, Conference, Room G, 5600 Fishers Lane, Rockville, MD 20857
Open: February 7, 1995, 9 a.m.–5 p.m.
Agenda: Administrative, legislative, and program development reports
Closed: February 8, 1995, 9 a.m. to adjournment
Agenda: Review and evaluation of grant applications
Contact: Eleanor C. Friedenberg, Executive Secretary, Parklawn Building, Room 10–42, 5600 Fishers Lane, Rockville, MD 20857, Telephone (301) 443–2755

Committee Name: Drug Abuse Biomedical Research Review Committee
Meeting Date: February 13, 1995
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814
Open: February 13, 8:30 a.m. to 9:30 a.m.
Agenda: Presentation by the Director, NIDA
Contact: Gamil Debbas, Ph.D., Scientific Review Administrator, Parklawn Building, Room 10–42, 5600 Fishers Lane, Rockville, MD 20857, Telephone (301) 443–2620

Committee Name: Biochemistry Research Subcommittee, Drug Abuse Biomedical Research Review Committee
Meeting Date: February 13–15, 1995
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814
Closed: 12 Noon
Agenda: Review and evaluation of grant applications
Contact: Rita Liu, Ph.D., Scientific Review Administrator, Parklawn Building, Room 10–42, 5600 Fishers Lane, Rockville, MD 20857, Telephone (301) 443–2620

Committee Name: Pharmacology I Research Subcommittee, Drug Abuse Biomedical Research Review Committee
Meeting Date: February 13–15, 1995
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814
Closed: 9:30 a.m.
Agenda: Review and evaluation of grant applications
Contact: Syed Husain, Ph.D., Scientific Review Administrator, Parklawn Building, Room 10–42, 5600 Fishers Lane, Rockville, MD 20857, Telephone (301) 443–2620

Committee name: Pharmacology II Research Subcommittee, Drug Abuse Biomedical Research Review Committee
Meeting Date: February 13–15, 1995
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814
Closed: 9:30 a.m.
Agenda: Review and evaluation of grant applications
Contact: Gamil Debbas, Ph.D., Scientific Review Administrator, Parklawn Building, Room 10–42, 5600 Fishers Lane, Rockville, MD 20857, Telephone (301) 443–2620.

Committee name: Drug Abuse Epidemiology and Prevention Research Review Committee
Meeting Date: February 14–15, 1995
Place: Ramada Inn, Rockville, 1775 Rockville Pike, Rockville, MD 20852
Open: February 14, 8:30 a.m. to 9:30 a.m.
Agenda: Presentation by the Director, NIDA
Closed: 9:30 a.m.
Agenda: Review and evaluation of grant applications
Contact: Raquel Crider, Ph.D., Scientific Review Administrator, Parklawn Building, Room 10–22, 5600 Fishers Lane, Rockville, MD 20857, Telephone (301) 443–9042.

These meetings will be closed in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. 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, 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 grant review cycle.

(Catalog of Federal Domestic Assistance Program Numbers: 93.277, Drug Abuse Research Scientist Development and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs)

Dated: January 25, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–2374 Filed 1–31–95; 8:45 am]

BILLING CODE 4140–01–M

Social Security Administration

Commission on Childhood Disability

AGENCY: Social Security Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: This notice announces the initial organizational meeting of the Commission on Childhood Disability (the Commission).

DATES: Friday, February 3, 1995, 1 p.m. to 4 p.m.

ADDRESSES: Sheraton City Center, 1143 New Hampshire Ave. NW., Washington, DC, Potomac Room.

FOR FURTHER INFORMATION CONTACT: Elaine Fultz, Commission Staff Director, (202) 690–7409.

SUPPLEMENTARY INFORMATION:

I. Purpose

Title II, Section 202 of the Social Security Independence and Program Improvements Act of 1994 (P.L. 103–296) requires the Secretary of Health and Human Services to appoint a Commission on the Evaluation of Disability in Children for the purpose of evaluating the effects of the current definition of disability under title XVI of the Social Security Act (42 U.S. Code 1381 et seq) as such definition applies to eligibility of children to receive SSI benefits, the appropriateness of such definition, and advantages and disadvantages of any alternative definitions. The study will also consider

the feasibility and appropriateness of alternative service delivery provisions to assure that children with various disabilities residing in different types of environments obtain the assistance they need.

In addition, P.L. 103–296 requires the Commission to address the following:

- Whether the need by families for assistance in meeting high costs of medical care for children with serious physical or mental impairments, whether or not they are eligible for disability benefits under title XVI of the Social Security Act, might appropriately be met through expansion of Federal health assistance programs;
- The feasibility of providing benefits to children through noncash means, including but not limited to vouchers, debit cards, and electronic benefit transfer systems;
- The extent to which the Social Security Administration can involve private organizations in an effort to increase the provision of social services, education, and vocational instruction with the aim of promoting independence and the ability to engage in substantial gainful activity;
- Alternative ways of providing retroactive supplemental security income benefits to disabled children, including the desirability and feasibility of conserving some portion of such benefits to promote the long-term well-being of such children;
- The desirability and methods of increasing the extent to which benefits are used in the effort to assist disabled children in achieving independence and engaging in substantial gainful activity; and
- The effects of the supplemental security income program on disabled children and their families.

The Secretary has asked that the Commission conduct its analysis mindful of the broader context of programs affecting children with disabilities and their families.

The Commission will be chaired by the former Representative Jim Slattery. The Commission is composed of 14 members in addition to the chairman:

Polly Arango, Adrianne Asch, Ph.D., Dolores Berkovsky, Anne Ford, Wade F. Horn, Ph.D., Jennifer Howse, Ph.D., Sharman Davis Jamison, Dan Johnson, Paul Marchand, James M. Perrin, M.D., M. Carmen S. Ramirez, Carol Rank, Rud Turnbull III, and Barbara Wolfe, Ph.D.

II. Agenda

The Commission will hear presentations by the Social Security Administration, the General Accounting Office, and the Office of the HHS Inspector General describing the results of their recent analyses of the SSI program for children with disabilities. The Commission will also consider an agenda for future action. Agenda items are subject to change as priorities dictate.

The meeting is open to the public to the extent that space is available. Public officials, representatives of professional and advocacy organizations, concerned citizens, and Social Security and SSI recipients may submit written comments on the issues considered by the Commission. The Commission will not take public testimony at this meeting but will provide ample opportunity for interested individuals and organizations to address it orally at future meetings. Interpreter services for persons with hearing impairments will be provided.

A transcript of the meeting will be available at an at-cost basis. Transcripts may be ordered from the information contact shown above. The transcript and all written submissions will become part of the record of these meetings.

Dated: January 30, 1995.

Ron Sribnik,

Social Security Administration Regulations Officer.

[FR Doc. 95–2556 Filed 1–31–95; 8:45 am]

BILLING CODE 4190–29–P

Privacy Act of 1974, as amended; Computer Matching Program (SSA/Railroad Retirement Board)

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Computer Matching Program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a computer matching program that SSA plans to conduct.

DATES: SSA will file a report of the subject matching program with the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget. The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefax to (410) 966–5138, or writing to the Associate Commissioner for Program and Integrity Reviews, 860 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Program and Integrity Reviews as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503) amended the Privacy Act (5 U.S.C. 552a) by adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the Data Integrity Boards' approval of the match agreements.

(3) Furnish detailed reports about matching programs to Congress and the Office of Management and Budget;

(4) Notify applicants and beneficiaries that their records are subject to matching; and

(5) Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: January 19, 1995.

Shirley S. Chater,

Commissioner of Social Security.

Notice of Computer Matching Program, Railroad Retirement Board (RRB) With Social Security Administration (SSA)

A. Participating agencies.

SSA and RRB.

B. Purpose of the Matching Program.

To identify railroad industry workers with less than 10 years railroad service or with 10 or more years of railroad service but no current connection with the railroad industry at the time of the worker's death, or their survivors, who may be entitled to benefits payable by SSA.

C. Authority for conducting the matching programs.

Section 18 of the Railroad Retirement Act (45 U.S.C. 231(q)).

D. Categories of records and individuals covered by the matching program.

The RRB will provide SSA with the necessary identification and earnings information from its system of records entitled Service and Compensation Record (SCORE) and from the Initial Claims Replies (ICREP) files. SSA will then match the RRB data with information maintained in the Master Beneficiary Record, HHS/SSA/OSR, 09–60–0090 and the Master Earnings File, HHS/SSA/OSR, 09–60–0059 systems of records.

E. Inclusive dates of the match.

The matching program shall become effective 40 days after a copy of the agreement, as approved by the Data Integrity Boards of both agencies, is sent to Congress and the Office of Management and Budget (OMB) (or later if OMB objects to some or all of the agreement), or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 95–2419 Filed 1–31–95; 8:45am]

BILLING CODE 4190–29–P

Privacy Act of 1974, As Amended; Computer Matching Program (SSA/OPM)

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Computer Matching Program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a computer matching program that SSA plans to conduct.

DATES: SSA will file a report of the subject matching program with the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget. The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefax to (410) 966–5138, or writing to the Associate Commissioner for Program and Integrity Reviews, 860 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Program and Integrity Reviews as shown above.

SUPPLEMENTARY INFORMATION:

A. General

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(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;
(2) Obtain the Data Integrity Boards' approval of the match agreements.
(3) Furnish detailed reports about matching programs to Congress and the Office of Management and Budget;
(4) Notify applicants and beneficiaries that their records are subject to matching; and
(5) Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: January 19, 1995.

Shirley S. Chater,

Commissioner of Social Security.

Notice of Computer Matching Program, Social Security Administration (SSA) with the Office of Personnel Management (OPM)

A. *Participating agencies.*

SSA and OPM.

B. *Purpose of the matching program.*

The purpose of this matching program is to establish the conditions under which OPM agrees to the disclosure of civil service and payment data to SSA. SSA will use the match results to determine certain Social Security benefit reductions required by the Social Security Act (the Act) for individuals receiving pension or other benefits, including civil service benefits, apart from OASDI and SSI benefits provided under the Act in programs administered by SSA.

C. *Authority for conducting the matching program.*

Sections 202, 215(a)(7), 215(d)(3), 224 and 1631(e)(1)(B) of the Act.

D. *Categories of records and individuals covered by the match.*

OPM will provide SSA with a magnetic tape file extracted from the annuity and survivor masterfile. The extracted file will contain information about each new annuitant and annuitants whose pension amount has changed. Each record on the OPM file will be matched to SSA's Master Beneficiary Record (MBR), or Supplemental Security Income Record (SSR) to identify individuals potentially subject to benefit reductions under the statutory provisions listed above.

E. *Inclusive dates of the match.*

The matching program shall become effective 40 days after a copy of the agreement, as approved by the Data Integrity Boards (DIB) of both agencies, is sent to Congress and OMB (or later if OMB objects to some or all of the agreement), or 30 days after publication of this notice in the **Federal Register**, whichever is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met. OPM will provide a tape on a monthly basis to SSA. The actual match will take place within the first week of each month.

[FR Doc. 95–2418 Filed 1–31–95; 8:45am]

BILLING CODE 4190–29P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Policy Development and Research

[Docket No. N–95–3872]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for expedited review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within seven (7) working days from the date of this notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410, telephone no. (202) 708–0050. This is not a toll free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB, for expedited processing and information collection package for pre-testing of a Survey of Homeless Persons Who Use Services. HUD is requesting an review of this information collection pretest before or by February 10, 1995.

The pre-test of the Survey of Homeless Who Use Services will involve pilot testing three instruments: (1) a Government Contacts for Provider Questionnaire; (2) a Local Facility Contacts Questionnaire; and (3) a Service Users (Respondent) Questionnaire. The pre-tests will take place in just three areas: Atlanta, GA; Pittsburgh, PA, (includes Allegheny Fayette, Washington, and Westmoreland Counties); and the Armstrong County Community Action Agency Catchment area (a rural Community Action Agency service area outside Pittsburgh).

In each of the three areas, the Census Bureau will select a sample of three shelters, soup kitchens and/or homeless outreach programs to test the Local Facility Survey and at each facility they will conduct five Service Users Surveys, twice during a month, for a total of 90 homeless respondent interviews.

The Census Bureau sought substantial expert input over a two year period to develop the pre-test instruments. Following the pre-test, the Census Bureau will make necessary revisions to the three surveys. Before the conduct of a national survey, the public will be given an opportunity to review of the proposed final survey instruments.

The national survey is planned to be conducted starting in February 1996 pending finalization of the Federal funding. An estimated 76 localities would be contacted to produce national figures on the characteristics of homeless persons and facilities assisting the homeless.

Use will also be made of the pre-test results to produce for local governments a guide on conducting local homeless surveys for planning local continuums of care to address homeless needs. As part of the pre-test, the Census Bureau will advise HUD on the development of a local homeless survey guide. Local governments will shortly have an immediate need for such a homeless survey guide under HUD's proposed consolidation of McKinney homeless programs. A key aspect of granting local governments more flexibility to use Federal homeless resources under McKinney consolidation is a requirement that local governments develop continuum of care plans for meeting the diverse needs of the homeless. The pre-test will produce a proven: (1) methodology to prepare a comprehensive list of all local homeless shelter and service providers, (2) survey of homeless providers, and (3) survey of homeless service users (no such standard instruments now exist). A guide on conducting local homeless surveys would be provided as a technical assistance document.

The Department has submitted the proposal for the collection of information, as described below to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35):

(1) The title of the information collection proposal;

(2) The office of the agency to collect the information;

(3) The description of the need for the information and its proposed use;

(4) The agency form number, if applicable;

(5) What members of the public will be affected by the proposal;

(6) How frequently information submission will be required;

(7) An estimate of the total number of hours needed to prepare the information submission including numbers of respondents, frequency of response, and hours of response;

(8) Whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and

(9) The names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7 (d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 23, 1995.

Michael A. Stegman,

Assistant Secretary, Office of Policy Development and Research.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Pretest of Survey of Homeless Persons Who Use Services (HPWUS).

Office: Policy Development and Research.

Description of the Need for the Information and its Proposed Use: This is a pretest of a national survey that would provide up-to-date information about the characteristics of today's homeless population who use services and data on how this population has changed since 1987 in urban areas. Included in the survey would be the first national examination of the characteristics of homelessness in rural America, fulfilling a Congressional mandate for a report on this subject. The data will assist in developing public policy responses and leveraging appropriate resources to break the cycle of homelessness. The pretest of the HPWUS is needed to ensure that the methodology and field materials meet the operational requirements of the national survey.

Form Number: None.

Respondents: Individuals, Service Providers, and Local Government Employees.

Frequency of Submission: One-Time.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
See Attachment							

Total Estimated Burden Hours: 184.

Status: New Survey.

Contact: James Hoben, HUD, (202) 708–0574, Ext. 132; Joseph F. Lackey, Jr., OMB, (202) 395–7316; Marsha A. Martin, HUD/ICH, (202) 708–1480.

Date: January 23, 1995.

Estimate of Respondent Burden

The projected number of government contacts, service providers and respondents to be contacted and the estimated burden for the survey are indicated below:

Forms	Estimated number of contracts/ service providers/respondents	Time (minutes)	Total burden (hours)
Government Contracts for Providers Questionnaire HPWUS–100A	35	5 minutes	3 hours.
Review of Combined FEMA list and completion of Local Facility Contacts Questionnaire HPWUS–100B(X) hours.	125	60 minutes	125.
Respondent Questionnaire HPWUS–200	72	45 minutes	54 hours.
Nonrespondents	18	7 minutes	2 hours.
Total	250	117 minutes	184 hours.

We estimate the average time to complete the Government Contacts for Providers Questionnaire (refer to Attachment A) to be 5 minutes; the review of the Combined FEMA list and completion of the Local Facility Contacts Questionnaire (refer to Attachment B) to be 60 minutes and the Service Provider Questionnaire (refer to Attachment C) to be 30 minutes. These estimates are based on in-house testing of the questionnaires by the Census Bureau.

We estimated the information burden for these forms to be 184 hours. This includes:

- 3 hours for the completion of Government Contacts for Providers Questionnaire; 125 hours for review of the combined FEMA list and completion of the Local Facility Contacts Questionnaire;
- 56 hours for the Service User Questionnaire.

BILLING CODE 4210–62–M

Supporting Statement

A. Justification

1. Necessity of Information Collection

The 1995 pretest of the Survey of Homeless Persons Who Use Services (HPWUS) includes two phases.

Phase 1: Collect basic information on providers by mail with telephone follow-up. Develop a comprehensive list of service providers in the survey sample areas. Collect basic information on providers by mail, with telephone followup. The Census Bureau will select a sample of providers for inclusion in phase 2.

Phase 2: Select sample persons and conduct personal visit interviews at selected service provider sites.

This request is for the following questionnaires:

- HPWUS-100A, Government Contacts for Provider Questionnaire
- HPWUS-100B(X), Local Facility Contacts Questionnaire
- HPWUS-200(X), Service Users (Respondent) Questionnaire

Note: In the pretest, Phase 2 will begin before the end of Phase 1. These phases can be tested independently of each other.

The national HPWUS survey will provide detailed characteristics of persons using services. It will also provide estimates of the number and characteristics of service providers. The pretest is being sponsored by the following Federal agencies:

- Department of Health and Human Services (HHS)
- Department of Housing and Urban Development (HUD)
- Department of Agriculture (USDA)

Data will be collected under HUD's data collection authority.

As part of the 1990 Census, the Census Bureau enumerated persons residing in homeless shelters and pre-identified street locations. However, this operation was not designed to provide the full range of information needed for guiding policy decisions related to homelessness. With this understanding, in September of 1993 the Bureau of the Census convened a conference of researchers, representatives of public interest groups, and government representatives to discuss ways of improving data collection on the homeless population. The consensus among this group was that the decennial census is not the appropriate vehicle for gathering information on the homeless population. They suggested that a new national survey using updated methodologies to obtain an accurate and useful picture of those homeless people who use services in the United States is needed.

The information this new survey would provide is critical for developing the kinds of effective public policy responses needed to break the cycle of homelessness, both through targeted

programs and the leveraging of mainstream resources. This survey would provide up-to-date information about the characteristics of today's homeless population who use services and would tell us how this population has changed since 1987 in urban areas. Included in the survey would be the first national examination of the characteristics of homelessness in rural America, fulfilling a Congressional mandate for a report on this subject.

The national HPWUS survey would:

1. Provide national information on the types of services available to homeless persons in both urban and rural communities.

2. Provide information not addressed by the last national study in 1987 such as: What are the triggering events that precipitate homelessness? Where were homeless people living before they became homeless? How prevalent is AIDS among homeless persons? What impact does rural homelessness have on urban homelessness? What differences are there among homeless persons found in cities, suburbs, and rural areas?

3. Tell us what characteristics of the homeless population have changed since the 1987 study.

4. Collect additional information related to drug use, mental illness, AIDS, tuberculosis, and previous episodes of homelessness.

5. Include smaller cities, nonmetropolitan and rural areas in order to more accurately and fully reflect homelessness in the United States. The survey would interview a sufficient number of people using services in 76 geographic areas to ensure reliability of the national estimates. Twenty-four of these geographic areas would include small cities, nonmetropolitan and rural areas.

The survey would be conducted in two phases. The first stage of the survey would be conducted among service providers in the 76 sample communities. Service providers interviewed would include those with programs specifically targeted at the homeless (e.g. homeless shelters, soup kitchens, homeless outreach programs) as well as other community service providers with programs from which homeless individuals are eligible. The purpose of this survey of service providers would be to assess the types of services available to homeless persons in these metropolitan, suburban, and rural areas.

The second phase of the survey would interview a sample of persons at homeless shelters, soup kitchens, and other service locations where homeless people are found. Interviewers will make repeat visits if necessary in order to obtain a representative sample. In addition to providing data on characteristics of the portion of the homeless population who use services, this phase of the survey would identify homeless subgroups and help determine their use of various types of assistance programs. It would also collect limited comparative data on housed persons with very low incomes who also rely on soup kitchens and other emergency assistance.

The survey will produce data on characteristics at the national level only. The sample design is not large enough to produce estimates of client characteristics at the regional or local levels.

In 1987, the Urban Institute completed a survey of homeless persons. Data from the 1987 Urban Institute study represent the only national level data specific to homeless persons. Since the 1987

study, no significant national studies have been conducted to provide national information about the characteristics of homeless persons using services for homeless people.

HPWUS data will be used to plan future services funded via the McKinney Homeless Assistance Act and other homeless programs to prevent homelessness as well as ameliorate it. Understanding the causes of homelessness can help guide the development of preventive strategies. Data from the HPWUS will be used by the participating agencies to prepare reports in accordance with the requirements of the McKinney Homeless Assistance Act and other homeless assistance programs.

The following targeted programs will benefit from the data collected in the HPWUS.

Emergency/Temporary Shelter Assistance

Emergency Food and Shelter Program (FEMA)
--Assistance directed toward temporary shelter
Emergency Shelter Grants Program (HUD)
Shelter for the Homeless [Department of Defense (DOD)]
Homeless Support Initiatives - Surplus Blankets (DOD)

Food and Nutrition Assistance

Commodities for Soup Kitchens (USDA)
Emergency Food and Shelter Program - Food Assistance (FEMA)
Commissary/Food Bank Initiatives (DOD) and [Department of Transportation (DOT)]
Federal Grain Inspection Service - Donation of
Surplus Samples (USDA)

General Health Assistance

Health Care for the Homeless Grant Program (HHS)
Domiciliary Care for Homeless Veterans Program (VA)

Assistance to Homeless Persons with Disabilities

Projects for Assistance in Transition from Homelessness (PATH) (HHS)
Access to Community Care and Effective Services and Supports (ACCESS) (HHS)
Community Support Program - homeless-specific portion (HHS)
National Institutes of Health (NIH) Research on Homeless (HHS)
Homeless Chronically Mentally Ill Veterans Program (VA)
Safe Havens (HUD)
National Institute on Alcohol Abuse and Alcoholism (NIAAA) Research Demonstration on
Homelessness (HHS)
Drug Abuse Prevention for Runaway & Homeless Youth (HHS)

Education, Training, and Employment Assistance

Educ. Homeless Children & Youth State Grants Prog. (ED)
Exemplary Projects Program - Homeless Children (ED)
Adult Education for the Homeless (ED)
Job Training for the Homeless Demonstration Program (DOL)
Homeless Veterans Reintegration Project (DOL)

Housing Assistance

Transitional Housing Demonstration Program (HHS)
Supportive Housing Demonstration (HUD)

Section 8 Assistance for SROs (HUD)
Single Family Property Disposition Initiatives (HUD)
Transitional Living Program for Homeless Youth (HHS)
Farmer's Home Administration (FMHA) Homes for the Homeless (USDA)
Shelter for Homeless Vets - Acquired Property Sales (VA)
Base Closure Properties (DOD, HUD)

Homeless Prevention

Emergency Food and Shelter Program (FEMA)
-- Prevention Assistance
Emergency Community Services Homeless Grant Program (HHS)

General/Misc. Aid to Homeless Providers

Emergency Community Services Homeless Grant Program (HHS)
Excess & Surplus Federal Real Property [General Services Administration (GSA)/(HUD)/(HHS)]
Runaway and Homeless Youth Program (HHS)

Programs for Homeless Children/Youth/Families

Family Support Centers (HHS)
Transitional Housing Demonstration Program (HHS)
Supportive Housing Demonstration (HUD)
Educ: for Homeless Children & Youth State Grants Program (ED)
Exemplary Projects Program - Homeless Children (ED)
Runaway and Homeless Youth Program (HHS)
Transitional Living Program for Homeless Youth (HHS)
Drug Abuse Prevention for Runaway & Homeless Youth (HHS)

Programs for Homeless Veterans

Domiciliary Care for Homeless Veterans Program (VA)
Homeless Chronically Mentally Ill Veterans Program (VA)
Shelter for Homeless Vets - Acquired Property Sales (VA)
Homeless Veterans Reintegration Project (DOL)

2. Needs and Uses

The pretest of the HPWUS is necessary to ensure that the methodology, and the office and field representative materials meet the operational requirements of the survey. The pretest will test the following critical procedures:

- Developing the comprehensive listing of programs and services for homeless people in the pretest areas.

- Conducting a pre-contact meeting with service providers to ensure their voluntary participation in the survey.

- Testing the process of entering into a Memorandum of Understanding with the service providers to administer payment to the survey respondents and to secure space at the facility to conduct the interview.

- Administering payment to survey respondents via the Memorandum of Understanding.

- Developing the questionnaire wording, Field Representative's training and survey procedures manuals.

- Sampling of persons at each service facility. These procedures must be understood and correctly implemented by Census Bureau field representatives to ensure the statistical integrity of the survey.

- Developing methodology for correcting the duplication of survey respondents and for developing estimates of the population.

The Census Bureau is obtaining a copy of the FEMA Local Recipients file for the pretest counties. The file lists Local Recipient Organizations who currently receive funding from FEMA. The Census Bureau plans to use the file as the initial starting point for list development for the sample areas. The Census Bureau will also call federal and state government offices, agencies, organizations, and knowledgeable local persons to obtain lists of service providers in the area.

The Census Bureau plans to combine the FEMA Local Recipients file with other lists (i.e., Community Action Agencies and Community Services Programs) and generate listings of service providers for each county in the survey and mail the listings along with a copy of the HPWUS - 100B(X), Local Facility Contacts Questionnaire (see Attachment B) and the HPWUS - L1 letter (see Attachment L) to all service providers shown on the FEMA list and all knowledgeable local persons. The government contacts will only be sent the listing of service providers and the HPWUS - L1 letter. The knowledgeable local persons and service providers will be asked to review the listing of all service providers in their area for completeness, and to add any missed service providers to the list (i.e., service providers offering services not funded by FEMA) along with completing the HPWUS - 100B(X) Questionnaire. The government contacts will only be asked to review the listing. Census Bureau personnel also will contact federal and state government offices, agencies, organizations, and knowledgeable local persons to administer the HPWUS - 100A, Government Contacts for Provider Questionnaire. (See Attachment A.)

NOTE: Census Bureau personnel have already completed some initial contacts with federal and state government offices, agencies, organizations, and knowledgeable local persons to begin the list development process.

Shelters for abused women and runaway youths will not be on the listings which will be reviewed but are included in the sample. This is to preserve the confidential locations of shelters for abused women.

The HPWUS-100B(X), Local Facility Contacts Questionnaire collects the following information about the service provider:

- Name

- Contact
- Address
- Telephone Number
- Type of Facility
- Programs Provided
- Services Provided for Homeless/Others at Facility, In Community
- Average Number of Adults and Children Participating in Programs On A Daily Basis, and Percent Homeless
- Average Number of Adults and Children the Facility Serves On A Daily Basis
- Familial Status of Persons the Facility Serves On A Daily Basis
- Public or private affiliation
- Source of funding
- If Shelter Is a Special Facility for Specific Groups
- Number of Facilities Under Contract To, or Accepting Vouchers
- Expected Days of Operation in April
- Expected Days for Specific Programs in April
- Steps Needed to Follow in Order to Obtain Formal Agreement of Participation
- If Facility Maintains a Current Roster of Clients

The Census Bureau will use this information to develop a profile of programs and services in the pretest areas and to select the sample of service providers for the survey.

The Local Facility Contacts Questionnaire may also provide the Census Bureau with additional names of service providers and local persons or organizations knowledgeable about homeless services. (Federal, State, and Local Agencies may not have the name of a service provider if the provider does not receive any federal, state, or local funding.)

After receipt of the reviewed combined FEMA list and the completed HPWUS-100B(X) questionnaires, Census Bureau personnel will remove duplicate entries from the list and prepare a master list of service providers. The Census Bureau will use this master list to select the sample of service providers for the survey. Census Bureau personnel will then verify the HPWUS-100B(X) information with the providers in sample.

Each agency was asked to identify their data needs and to rank the importance of those data requirements. From this ranking, we developed a draft of the proposed Respondent questionnaire HPWUS-200(X). Listed below is a discussion of the survey questions on the Respondent Questionnaire and how the data will be used by HUD, HHS, USDA and other Federal agencies and the other Federal agencies. Section numbers correspond to the section numbers on the questionnaire.

Respondent Questionnaire Cover Page - Items N and O - on the cover page asks the respondent's name and age. Collection of the name (along with the other variables described in Section 4) will be used to eliminate duplicate interviews. Because the sampling and data collection design calls for multiple visits to each provider site, and because one homeless person could be found in more than one sampling frame (e.g., in both soup kitchens and shelters), unduplicating is central to the process of estimating the size of the population.

Question 64 asks for the respondent's social security number. Question 64a asks for the first five digits of the respondent's social security number if the respondent refuses to give

their entire social security number. These questions, along with the name and the other variables described above, are being collected for purposes of unduplicating respondents.

Section 1: Current Living Condition

Questions 1a-7

These questions determine whether or not the respondent is homeless, and are considered essential by all participating agencies. With minor modifications, they are the same screening questions used in Rossi's (1986) Chicago studies, in the National Institute on Drug Abuse (NIDA, 1992) Washington, D.C. Metropolitan Area Drug Study (DC*MADS), and in the Urban Institute's national study (Burt and Cohen, 1988, 1989) which the HPWUS methodology is designed to parallel and extend. For purposes of continuity and comparison, it is important that they remain essentially the same as they were in earlier studies.

Section 2 - Without Permanent Housing

Section 3 - Currently With Permanent Housing

Section 2, Questions 8a-10b, 24-27
Section 3, Questions 33a-40

The answers to these questions are necessary to make estimates of the size of the homeless population. Sampling and estimation experts from the Urban Institute and the Census Bureau developed the questions. Questions 8 and 9 parallel similar questions asked in the 1987 Urban Institute study.

The Census Bureau requires Question 33b to determine if asking respondents to report names of shelters can be used to assess the completeness of the survey's list of shelters.

Section 2, Questions 11-23, 28-32
Section 3, Questions 41-55

These questions are needed to understand the circumstances affecting the respondent in the period immediately before becoming homeless. They have been compiled from similar questions asked in the 1987 Urban Institute study, the DC*MADS study, and other studies. These previously used questions were augmented by questions or item content which pretests revealed to be necessary to give a reasonable understanding of the respondent's experiences. They will reveal the proximate causes of each individual's current homeless episode (or their last homeless episode if they are not now homeless but have been homeless in the past).

HHS considers these questions to be essential and the VA considers them highly desirable. Other agencies whose mission includes efforts to prevent homelessness as well as ameliorate it may also consider them desirable. An understanding of proximate causes can help guide the development of preventive strategies.

Section 2, Questions 11-15
Section 3, Questions 41-44

These questions are either identical to or minor modifications of questions asked in the 1987 Urban Institute study. We modified the wording of some questions to make sure that the respondent and the researcher mean the same thing by their answers (e.g., on Question 13, some women living with their children will say they live alone, because they do not live with a spouse or boyfriend. We want to be sure that "alone" means "alone.")

Section 2, Questions 16a and b
Section 3, Questions 45a and b

These questions are modified versions of a question asked in the 1987 Urban Institute study. We changed the format from obtaining only a single response to probing for all relevant responses and then asking the respondent to identify the primary reason. This eliminates the difficulty in interpreting single responses such as Respondent 1 saying "couldn't pay the rent," Respondent 2 saying "lost my job," and Respondent 3 saying "Was doing drugs," when all three could not pay the rent because they lost their jobs because they were doing drugs.

Section 2, Questions 17-19
Section 3, Questions 46-47c

These questions were not in the 1987 Urban Institute study.

Subsequent research by NIDA (1992) indicates that many homeless people spend a considerable amount of time in institutions or in temporary arrangements with friends or family between the interview date and the time when they last had a permanent place to stay (Question 11). In other words, they are not literally homeless during the whole period since they last had a permanent place to stay. The answers to these questions will let us determine how much of the time they were literally homeless.

Section 2, Question 20

We want this question included to learn whether respondents have any experience in the housing market on their own. Never having been a primary tenant has been shown (Weitzman, 1989) to differentiate homeless from never-homeless families.

Section 2, Questions 21-23
Section 3, Questions 48-50

HHS requested these questions. Local studies (Piliavin, Sosin, and Westerfelt, 1986; Sosin, Colson and Grossman, 1988) have shown seriously elevated rates of childhood experiences in foster care among the adult homeless. The answers to these questions will help identify the prevalence of childhood out-of-home placement and runaway behavior among the adult homeless population for the first time on a national sample. High prevalence could indicate a preventive role in programs within HHS responsibility.

Section 2, Questions 28-32
Section 3, Questions 51-55

These questions are of interest to Department of Agriculture - Farmers Home Administration (FmHA), FEMA,and HHS' Health Care for the Homeless program--the federal agencies supporting emergency services. Answers to these questions will provide some explanation of the movement of homeless people from one type of community to another, such as the

push of no services or no jobs in the community left behind and the pull of expected services and economic opportunities in the community where respondents are interviewed. They will also help identify the conditions that generate homelessness, which may not be the same conditions as those in the community where homeless people are interviewed.

Section 4: Demographics

Questions 56-64a

All the sponsoring agencies consider basic demographic questions which describe the population to be essential. In addition, Question 60 may help explain a lack of participation in the labor force at the time of the interview, and Questions 61a, 61b, 62a and 62b provide data about possible educational difficulties and deficits in addition to the simple fact of "last grade completed." They may help define possible prevention strategies.

Questions 58, 64, and 64a

Question 58 asks for the respondent's date of birth. The date of birth serves a very important purpose of eliminating duplicate interviews. A unique identifier is created using the respondent's date of birth, gender, and one or two other variables. The data set is then searched for duplicates. Because the sampling and data collection design calls for multiple visits to each provider site, and because one homeless person could be found in more than one sampling frame (e.g., in both soup kitchens and shelters), unduplicating is central to the process of estimating the size of the population.

Question 64 asks for the respondent's social security number. Question 64a asks for the first five digits of the respondent's social security number if they refuse to give their entire social security number in response to question 64. These are being collected as one of the other unduplicating variables. The Bureau of the Census, HHS, and the other sponsoring agencies will hold this information in the strictest of confidence and will ensure it is available only to researchers at HHS, the other sponsoring agencies and Bureau of the Census staff.

Section 5: Children and Education

Questions 65-71h

ED and HHS consider these questions to be essential. Answers to this set of questions will show the degree to which homelessness has split families, and which children have been separated from their parent(s). This information is important for planning reunification, housing, and other needs of homeless families.

The information is of primary interest to ED, and the questions about school attendance and barriers are directly relevant to ED's agency mission under the McKinney Act and Congressional directives to gather this information and report it to Congress.

Questions 71b, 71d

We added the pre-school content of these questions for children ages 3-5 at the specific request of HHS. ED requested the other content of these questions.

Questions 71g, 71h

We added the questions about day care at the specific request of HHS.

Question 72

All participating agencies consider this question, on the composition of homeless households to be essential.

Question 73

HHS specifically requested that this question be included on the questionnaire. A pregnancy experienced by a precariously housed woman has been shown to make her more vulnerable to literal homelessness (Weitzman, 1989).

Section 6 - Employment

Questions 74-79

HHS considers these questions to be essential, and the VA considers them desirable. Where the Bureau of Labor Statistics (BLS) routinely asks questions with appropriate content in its national surveys, we adopted the BLS wording for this survey so answers for the homeless can be compared with nationally representative data.

Section 7 - Sources of Income and Service Use

Questions 80-84

HHS considers all questions in this section to be essential. VA also considers Question 80 essential. These questions describe receipt of benefits, other income sources, and total income for the month before the interview. They also describe respondent experiences with a variety of HHS, USDA, and local government benefits, including any change of benefits that might have played a role in the respondent becoming homeless.

Section 8 - Veteran Status

Questions 85-89

The VA submitted these questions and considers them essential. In particular, they have no other national source of data on war zone or combat exposure (Questions 87 and 88), which may play a critical role in the need for services as an antecedent of homelessness.

Section 9 - Food Intake

Questions 90-93

These questions are considered essential by HHS.

Questions 94a-95b

The Census Bureau needs these questions to calculate estimates of the number of homeless people.

The Census Bureau requires Question 95b to determine if asking respondents to report names of soup kitchens can be used to assess the completeness of the survey's list of soup kitchens.

Section 10 - Current Physical Health

Question 96

HHS and VA consider this item essential.

Questions 97-117

HHS considers questions 97-107 to be essential. For many questions, the set of items to be asked about were specified by agency personnel (e.g., specific health conditions for Question 96, specific service sites for Question 99; all of Questions 101 and 103).

The VA needs information about the use of VA facilities. The VA considers the VA-relevant information in Question 99 essential, as it will assist them in determining whether veterans are using other medical facilities to the exclusion of, or in addition to, VA facilities.

Section 11 - Victimization and Imprisonment

Questions 118a-120c

HHS, ED and VA requested that these questions be included on the questionnaire. Several divisions of HHS specifically requested all of the components of Question 120, and question 118c (juvenile detention). A great deal of evidence suggests that parental neglect and abuse (asked about in Questions 120a-c) is implicated in runaway behavior and youth homelessness (Robertson, 1991). It is also obviously a precursor of childhood out-of-home placement, which in turn is associated with both youth and adult homelessness. (Piliavin, Sosin and Westerfelt, 1986; Sosin, Colson and Grossman, 1988). The answers to these questions will reveal the degree to which the present homeless population has these experiences in their background as potential contributing factors to their homelessness.

Section 12 - Mental Health

Questions 121a-126b

HHS considers these questions essential. The remaining agencies completing the ratings considered them highly desirable. Given the evidence for serious mental illness among sizable proportions of the homeless population, these questions will provide data to understand how mental illness relates to the many other factors included in the interview protocol, including use of services and benefit receipt.

Questions 121a-124

Questions 121a-124 are taken directly from the Psychiatric section of the Addiction Severity Index (ASI), an instrument developed by NIAAA to assess addictions and related conditions. These questions form a scale; answers are summed to form a score, which can be compared to national norms for this segment of the ASI. The ability to compare homeless people's responses to a national norm will let us determine where homeless people fit on the continuum of mental health problems. All items in Questions 121a-124 must be present to construct the scale score.

Questions 125-126b

Questions 125-126b are also taken from the ASI, with minor modifications as accepted by NIMH's Program for the Homeless Mentally Ill. They give evidence of treatment patterns (or lack there of), and will supply NIMH with an estimate of unmet service need, as well as the usual sources of care sought by the homeless mentally ill.

Section 13 - Chemical Dependency

Questions 127a-151

HHS considers these questions essential. The remaining agencies completing the ratings consider them highly desirable. Given the evidence for substance abuse among sizable proportions of the homeless population, these questions will provide data to understand how alcoholism and drug abuse relate to the many other factors included in the interview protocol--especially antecedents of homelessness.

Questions 127a-132, 142-144

Questions 127a-132 and 142-144 are taken directly from the Addiction Severity Index (ASI, McLellan et al., 1991, see above). These questions form several scales; answers are summed to form scores, which can be compared to national norms and norms for treatment populations for this segment of the ASI. The ability to compare homeless people's responses to national norms and norms for treatment populations will let us determine where homeless people fit on the continuum of chemical dependency problems. All items in Questions 127a-132 and 142-144 must be present to construct the scale score, and NIAAA has strongly expressed an interest in seeing the scales included in their entirety on this interview protocol.

Questions 135-139, 147-150

Questions 135-139 (for alcohol treatment) and 147-150 (for drug treatment) are also taken from the ASI, with minor modifications as accepted by NIAAA/NIDA. They give evidence of treatment patterns (or lack there of), and will supply NIMH with an estimate of unmet service need, as well as the usual sources of care sought by homeless substance abusers.

Questions 133, 144

The items in these questions are taken from the Short Michigan Alcoholism Screening Test (Question 122--Selzer, Vinokur, and van Rooijen, 1975) and the Drug Abuse Screening Test (Question 132--Skinner, 1982). Both of the original instruments are too long to include in this study in their entirety (24 and 28 items, respectively). However, the inclusion of some measure of symptomatology related to substance abuse was felt to be important, to detect the level of functional impairment related to substance abuse among those who never sought treatment as well as among those who have. In each case the eight items selected are those with the highest correlations with the total scale score for the original scale ($r=.7$ or higher). Scores based on these selected items should function in virtually the same way as scores we would obtain if we used all of each instrument.

Questions 134, 145

These questions assess the respondent's age when heavy alcohol or drug use began. We are including these questions to assure that we will know the duration of the respondents substance abuse problems. Answers to these questions augment the information on the earliest and most recent treatment, and will provide a more complete picture of the respondents' involvement with alcohol and drugs.

Question 151

This question is asked so that respondents can provide their general impressions on the availability and quality of services in their community.

3. Efforts to Minimize Burden

Not applicable. Respondents are individuals at service sites who cannot respond with computer tapes, disks or punch cards. We are also minimizing the burden of the FEMA Local Board Contact Persons, government contacts, service providers and knowledgeable local persons by giving them the combined FEMA listing to review as opposed to asking them to list all service providers in their area.

4. Efforts to Identify Duplication, and Use of Available Information

HUD consulted with other government agencies and outside experts and determined that the proposed national HPWUS will be the only current, national data source with detailed information on the number of literally homeless persons who use services. The most recent national data is the 1987 Urban Institute Study.

In March 1987, the Urban Institute conducted a survey of homeless persons who used services in cities of 100,000 or more. The HPWUS is intended to parallel and extend the methodology used by the Urban Institute in the 1987 survey to capture a higher proportion of the literally homeless population who use services.

a. The HPWUS will include additional geographical coverage. Cities with populations of 100,000 or less and areas outside of cities will be included in the survey sample. (The 1987 Urban Institute survey only included cities with populations over 100,000.)

b. The HPWUS will include additional topic coverage. The respondent questionnaire covers more topics and in greater depth than was covered in the 1987 Urban Institute Survey. There are also some questions similar to those in the 1987 survey so that a comparison may be made between the results of the two surveys. (The 1987 Urban Institute survey only asked about drug treatment. The HPWUS asks about drug treatment, as well as, types and frequencies of drugs used, and information about mental health.)

c. The interview period for the pretest of the HPWUS will be two weeks and for the national survey a month. The interview period for the Urban Institute's 1987 survey was one week.

While the results from the Urban Institute's 1987 survey provide characteristics of homeless persons who used services, it does not include the HPWUS's additional emphasis on geographical and topic coverage as described in A.4. Thus, there is no similar information available that could be used or modified for use for the purposes described.

5. Minimizing Burden on Small Businesses

The Census Bureau plans on using the combined FEMA Local Recipients file to generate county listings of service providers for each county in the survey and mail the listings along with a copy of the HPWUS-100B(X), Local Facility Contacts Questionnaire, to all service providers shown on the FEMA list and all knowledgeable local persons. The government contacts will only be sent the listing of service providers. The knowledgeable local persons and service providers will be asked to review the listing for completeness of all service providers in their area and to add any missed service providers to the list, along with completing the HPWUS - 100B(X) questionnaire. The government contacts will only be asked to review the listing. The Census Bureau believes the file will provide an initial comprehensive listing of service providers currently offering services to the homeless thus reducing the burden of the service providers, government contacts, and knowledgeable local persons. No small businesses will be contacted.

6. Consequences of Less Frequent Collection

Not applicable. This is a one-time survey. The pretest is scheduled to be conducted in April 1995 and the national survey is planned for February 1996.

7. Consistency with 5 CFR 1320.6

The Census Bureau will collect these data in a manner consistent with the guidelines in 5 CFR 1320.6.

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As a result of these consultations, all issues were resolved.

9. Assurance of Confidentiality

The provisions of the Privacy Act of 1974 (5 USC 552a) assure the confidentiality of the data from this survey.

During the pretest and the national survey, the field representatives will inform all service providers and respondents verbally of the confidentiality of their responses and the voluntary nature of the HPWUS along with other information required by the Privacy Act of 1974 at the time of initial contact. As can be seen on the HPWUS questionnaire cover sheets (Attachments A and B respectively), a statement of confidentiality assurance is printed at the top of the form. Careful procedures are followed by the Bureau of the Census to assure privacy during the interview, and to protect the confidentiality of materials generated during the course of the interview. Every Bureau of the Census employee takes an oath and is subject to a jail sentence and a fine for improperly disclosing any information that would identify an individual or household. All field representatives are trained to interview respondents in private. All questionnaires associated with the HPWUS pretest and national survey will be kept under secured conditions by the Bureau of the Census.

10. Justification for Sensitive Questions

The HPWUS 100(A) AND 100(B) questionnaires do not include any questions of a sensitive nature. The HPWUS 200(X) questionnaire has the following sensitive questions:

Section 9 - Question 94

Question 94 asks respondents how they get their food and where they eat. The field representatives will read the response categories to the respondent. One of the possible answers is 'trash cans'. When planning services to feed the homeless population, it is critical to understand where they get their food. We need to know the number of persons who eat from trash cans.

Section 10 - Question 96

Question 96 asks respondents about their medical condition. The field representatives will read the response categories to the respondent. Possible responses include 'test positive for HIV', 'have AIDS', and 'use drugs intravenously'. There is increasing concern about the number of homeless persons with these conditions. Information about these, and other conditions, is essential when planning health care services for the homeless.

Section 11 - Questions 119c and d and 120a-c

These questions ask about parental neglect and abuse. A great deal of evidence suggest that parental neglect and abuse asked about in questions 120a-c is implicated in runaway behavior and youth homelessness. The answers to these questions will reveal the degree to which the present homeless population has these experiences in their background as potential contributing factors to their homelessness.

11. Cost

The total estimated cost for the pretest of the Survey of Homeless Persons Who Use Services is $350,000. We compiled this estimate using individual estimates developed within each Census Bureau division involved in this survey. Estimates are based on the size of the sample and the length of the questionnaires. Administrative overheads, design, printing and mailing costs, and the payment of service providers ($200 to each service provider) and respondents ($10 to each respondent for a completed interview) is included.

The only cost to the service providers and the respondents is the time it takes to complete the questionnaire.

12. Estimate of Respondent Burden

The projected number of government contacts, service providers and respondents to be contacted and the estimated burden for the survey are indicated below:

Forms	Estimated Number of Contacts/ Service Providers/ Respondents	Time (Minutes)	Total Burden (Hours)
Government Contacts for Providers Questionnaire HPWUS-100A	35	5 minutes	3 hours
Review of Combined FEMA list and completion of Local Facility Contacts Questionnaire HPWUS-100B(X)	125	60 minutes	125 hours
Respondent Questionnaire HPWUS - 200	72	45 minutes	54 hours
Nonrespondents	18	7 minutes	2 hours
Total	250	117 minutes	184 hours

We estimate the average time to complete the Government Contacts for Providers Questionnaire (refer to Attachment A) to be 5 minutes; the review of the Combined FEMA list and completion of the Local Facility Contacts Questionnaire (refer to Attachment B) to be 60 minutes and the Service Provider Questionnaire (refer to Attachment C) to be 30 minutes. These estimates are based on in-house testing of the questionnaires by the Census Bureau.

We estimate the information burden for these forms to be 184 hours. This includes:

- 3 hours for the completion of Government Contacts For Providers Questionnaire;
- 125 hours for review of the combined FEMA list and completion of the Local Facility Contacts Questionnaire;
- 56 hours for the Service User Questionnaire.

13. Reason for Change in Burden

Not Applicable. This is a new survey. There are, therefore, 0 hours in the current OMB inventory.

14. Project Schedule

The Census Bureau plans on mailing the listings of service providers (shelters, soup kitchens, and homeless outreach programs) from the combined FEMA Local Recipient file and the HPWUS - L1 letter along with the HPWUS - 100B(X) questionnaire as is appropriate, for those areas in sample to obtain the list of service providers and food pantries in the rural areas. Census Bureau personnel also will contact individuals from federal and state governments, agencies, organizations and knowledgeable local persons and administer the HPWUS-100A questionnaire to obtain the lists of service providers. The Census Bureau will conduct a short 5 minute interview with each service provider to obtain preliminary information and ask all service providers to review the list for their area for accuracy. The Census Bureau will conduct these operations during March and April of 1995. The Census Bureau will also conduct interviews with the service providers during March and April of 1995. The Census Bureau will conduct the interviews with the respondents during April 1995.

B. Collection of Information Employing Statistical Methods

1. Universe and Respondent Selection

The Census Bureau will conduct the pretest of the HPWUS in three areas: Pittsburgh, PA, (includes Allegheny, Fayette, Washington, and Westmoreland Counties); Armstrong County Community Action Agency Catchment area, a Community Assistance Program (CAP) outside the Pittsburgh area; and Atlanta, GA. The Census Bureau will select a sample of three shelters, soup kitchens and/or homeless outreach programs per area and conduct five interviews at each site, twice during the month, for a total of 90 interviews.

The survey will provide detailed characteristics about literally homeless persons who use services. Most research to date has been conducted in urban and suburban areas. For such areas, there is a growing consensus among researchers that a service-based survey design with multiple visits will give a good representation of the homeless population. For other areas, such as nonmetropolitan counties and rural parts of metropolitan areas, the consensus is that service sites are sometimes not adequate to cover the homeless. The Department of Agriculture asked us to expand the survey so that information about rural homelessness can be collected. The Census Bureau identified ways to design the survey to produce reasonably precise estimates of rural homelessness. However, it should be noted that the procedures for measuring rural homelessness will be less sophisticated than our procedures in urban areas. There is much to learn about rural areas and the HPWUS is an excellent opportunity to collect information about rural homelessness. The sampling frame for the rural population of the survey is Community Assistance Program (CAP) "Catchment Areas". CAP catchment areas are counties grouped together to receive funding and provide services to the needy and are served by a CAP agency. Our preliminary research indicates that CAP agencies are a good source for lists of services in the nonmetropolitan areas they cover.

2. Procedures for Collecting Information

Sampled Service Sites

The Census Bureau will conduct the pretest in three areas. Within each site, a comprehensive list of service providers will be developed. Service providers will be randomly selected for inclusion in the pretest, and randomly assigned two days for interviewing. The sample of service providers will be stratified by type of service provided and volume of activity.

To reduce the total duration of the pretest, the pretest sample will be selected from an early version of the list of providers, rather than waiting for the final, comprehensive list. This will still give an adequate test of all procedures.

Sampled Respondents

Respondents will be randomly selected for inclusion in the survey at each of the service sites in sample.

Estimation

No estimation will result from the pretest, but information will be collected during the pretest to evaluate estimation methods for the national survey in 1996.

Several basic types of estimates are needed from the survey:

a. Weighted estimates of the average number of persons using services on any given day in April;

b. Weighted estimates of the total number of persons using services at any time during April.

Other estimates can be derived from these. For example, the weights applied to obtain estimates a. or b. could be used for estimates only of those service-using persons who are homeless according to different definitions of homelessness. For the national survey, it is likely that we will give a range of estimates, corresponding to different assumptions about coverage and multiplicity biases.

The weights for a. will be standard survey weights based on the selection probability, with adjustments for nonresponse. There will need to be a "multiplicity" adjustment to reduce the relative weight of people who have two chances of selection because they use both shelters and soup kitchens, as determined from the questionnaire. The pretest results will be used to determine the optimum mix of shelters and soup kitchens for the 1996 national survey.

For b. we are considering three estimation methods. One purpose of the pretest is to get information to evaluate these methods.

METHOD 1: The weight will be proportional to the number of consecutive days prior to the interview (up to 28 days) that the person did not use a shelter (for the shelter sample) or soup kitchen (for the soup kitchen sample). For example, a person who says this is their first

night in any shelter in the last 28 days will be given a weight 28 times the typical weight of a person who was in a shelter the night before. (Intuitively, the method assumes that for every person we find who is just entering homelessness, there are 27 others whom we miss because we didn't happen to interview them on their first day.) There is a precise mathematical justification for the method as giving an unbiased estimate of the total number of service users during 28-day periods centered around February, making some assumptions that overall patterns of service use are fairly constant throughout the month.

This is intended to be our primary method. The potential drawback of this method would be if the pretest finds too many people who are just starting to use services after a long absence, resulting in too many large weights. Limited research from 1990 census evaluation projects suggests that this should not be a problem. However, if this turns out to be a problem we would either use the Method 2 or use Method 1 with a 7-day "window" instead of a 28-day "window".

METHOD 2: The weight will be inversely proportional to the number of days in the last week the respondent used a shelter (for the shelter sample) or soup kitchen (for the soup kitchen sample). This is the procedure used in the 1987 Urban Institute study. We will ask this question for comparability with that survey. This approach has two disadvantages. First, even if the questions are answered accurately, the method has a mathematical bias unless each person has the same pattern of service use each week. Second, it is not reasonable to ask a person for his/her average shelter use for an entire month, so the method cannot give direct estimates for the total number using services during a period longer than a week.

METHOD 3: Capture-recapture. We do not intend to use this method during the pretest, but we will test the matching procedures as if we were using this method. Our pretest sample will be designed to limit the number of times we encounter the same individual. We are not using capture-recapture estimation, we would have to select the sample independently each day, so that there would be a chance that a person or small shelter might come into sample numerous times.

The Urban Institute and the Census Bureau developed the survey design. As part of Joint Statistical Agreements between the Urban Institute and the Census Bureau, the following operational papers were developed. The papers are included as part of this OMB Clearance request.

Joint Statistical Agreement 91-30

-- Developing a Provider List - November 27, 1991
-- Methodological Issues and Options - November 27, 1991
-- Options for Evaluating Coverage in Urban Areas - December 10, 1991
-- Ranking of Data Items by Federal Agencies - December 10, 1991

Joint Statistical Agreement 92-01

-- Draft Questionnaire and Agency Data Needs - March 26, 1992
-- Developing Provider Lists for a National Homeless Survey - March 26, 1992
-- Proposed Methodology for a National Homeless Survey - March 26, 1992
-- Questions for Unduplicating and for Estimating a Month-Long Point Prevalence and Annual Prevalence - March 26, 1992
-- Developing Estimates of the Number of Service Providers in Different Strata -

April 10, 1992
-- Options for Evaluating Survey Coverage in Urban Areas, and Preliminary Information on Rural Areas - April 10, 1992

Joint Statistical Agreement 92-04 (See Attachment L)

-- Mechanics of List Development and Additional Field and Survey Procedures - August 14, 1992
-- Estimates of Service Providers and Users in Non-MSA Areas, and Options for Evaluating Survey Coverage in These Areas - August 4, 1992

3. Methods to Maximize Response

a. Survey Frame

New research indicates the greatest improvement in coverage of the homeless population is through multiple visits to service sites (e.g., soup kitchens and shelters) and outreach programs during a four-week period. The HPWUS survey design uses a service-based methodology. A "service user" is anyone who uses generic services or shelters, soup kitchens, or other services for the homeless. The survey frame will include shelters, soup kitchens, and outreach programs. A "non-service user" is anyone who does not use any of these services.

According to the 1987 Urban Institute study, the shelter frame covers homeless people who use shelters, which may be 35 to 40 percent of the homeless on any given night, and about 50 percent over the course of a week. If conducted on a one-night basis, the shelters' sampling frame taken by itself will miss many homeless who use shelters infrequently, homeless service users who do not use shelters but do use soup kitchens and other services, and homeless people who do not use any services. If data collection involves repeated samples from the same shelters over the course of a week or a month, a considerably higher proportion of the homeless (perhaps as high as 70 percent) is likely to be captured through a methodology based on shelters.

The soup kitchen sampling frame, taken by itself over the course of a week, will capture a proportion of very poor people residing in conventional dwellings who may turn out to be at imminent risk of homelessness. According to the 1987 Urban Institute study, 43 percent of soup kitchen users are not literally homeless. When shelter and soup kitchen frames are combined during the course of a week, the shelter and soup kitchen frames will probably cover about 70 percent of the literally homeless and a small but unknown proportion of the service-using at-risk population. When data collection covers a month (as planned for the national survey), the coverage will be even greater--perhaps as high as 85-90 percent of the literally homeless.

In many cites, the array of services for the homeless include one or more outreach programs. These programs may be operated by a shelter, soup kitchen, drop-in center, health care center, neighborhood center, or other service facility. Their target population is homeless people who do not routinely use shelters or soup kitchens. The outreach programs typically distribute food, and sometimes blankets or warm clothing. Outreach teams typically follow a route that covers the known locations frequented by homeless street people, or where homeless street people assemble at the time they know the "food wagon" will come by. Including outreach programs in a design as a

sampling frame allows one to maintain the control and efficiency associated with sampling service programs and their users, while still reaching the "reachable" proportion of the street homeless population. Outreach programs are probably the best single source of information about the hidden street population and the most cost effective opportunity to make contact with the street population. Additional enumeration of street locations and encampments yields little overall coverage improvement when shelters, soup kitchens, and outreach programs are interviewed multiple times over a month.

The HPWUS is designed to cover as much of the literally homeless population as possible and still meet the cost considerations of the sponsors. From previous research, it appears that up to 90 percent coverage of the literally homeless population is achievable with the shelter/soup kitchen/ outreach programs methodology conducted during a winter month. This service-based methodology will be considerably cheaper and easier than implementing a street enumeration to attempt to get the last 10 percent. In addition, even if the resources were committed to achieve full coverage, there is no guarantee we would get the last 10 percent.

b. Incentives to Participate in the Survey

Private university researchers, usually with funding from federal grants, have conducted past homeless surveys. In the past, researchers have paid respondents to participate in a survey, usually about $20. The HPWUS survey will impose an extra burden on the service providers who are asked to participate in the survey since they will: participate in pre-contact meeting(s) with Census Bureau regional office staff; provide space at their facility for the Census Bureau's field representatives to interview sample persons on scheduled days and at scheduled times; and administer cash payments to the survey respondents.
The HPWUS survey also will impose extra burden on the selected sample of homeless persons because they will be asked to remain at the service provider's facility for an interview that may take 45 minutes and respond to personal questions. Given these circumstances, we feel it is appropriate to offer a monetary incentive of $200 to each service provider and $10 to each respondent to guarantee their cooperation in the survey.

While there is no research specifically on the effects of paying the homeless, there is a strong research basis for the use of monetary incentives to increase the cooperation of economically disadvantaged populations. Two studies using random assignment have carefully examined the impact of incentives on survey cooperation.

The first study, by Stuart H. Kerachsky and Charles D. Mallor (1981), examined the use of incentives in surveys of Job Corps participants and a comparison group. Five thousand eight hundred people participated in the study. The survey population consisted of economically disadvantaged youths aged 16-21 at the beginning of the study. (The survey respondents were interviewed 3 times over 18 months). Survey respondents were offered either no incentive or a $5 payment for their participation in the 30 minute survey. (The 1991 equivalent value of the incentive payment is approximately $15.)

The impact of the monetary incentives was determined by comparing the survey response rates and other outcomes for the experimental group (the $5 incentive group)

to those for the control group (the $0 incentive group). The most notable findings from this survey on the effect of respondent payments are:

- Response rates increased by offering a monetary incentive. [More people were located (10 percent) and completed the survey (5 percent) when an incentive was offered.]

- Item nonresponse rates decreased. (Fewer "Don't Know" responses.)

- The cost per completed interview was smaller for the group that was offered an incentive.

The second study, by the Educational Testing Service (1991), examined the use of monetary incentives in the pilot test of the National Adult Literacy Survey. The sample population of 2,000 included a nationally representative sample of adults aged 16 and older living in households. The sample persons completed a 15 minute background questionnaire and a timed 45 minute test of literacy skills. The respondents received a monetary incentive of $0, $20, or $35 for participating in the survey. The impact of the monetary incentives were determined by comparing the survey response rates and other outcomes for the experimental groups (the $20 and $35 incentive groups) to those for the control group (the $0 incentive group). The most notable findings from this survey on the effect of respondent payments are:

- Response rates for economically disadvantaged, minority, and high school dropout populations are significantly improved by offering monetary incentives.

- The use of monetary incentives reduced item nonresponse and data collection costs.

Many other studies have been done and articles written documenting the effect of monetary incentives on response rates.

- A study by Miller, Kennedy, and Bryant (1972) of the 1971 Health and Nutrition Examination Survey showed that offering a monetary incentive increased the response rate from 70 percent to 82 percent.

- A study by Chromy and Horvitz (1978) suggests that response rates were found to be unacceptably low when no monetary incentive was used. However, the participation rate increased from 70 to 85 percent with the use of monetary incentives.

- A study by Berk, Mathiowetz, Ward, and White (1988) discusses how monetary incentives improved the response rates of adults.

During 1991 and 1992, the University of Michigan Survey Research Center, examined the effects of monetary incentives on the willingness of youth to participate in the Youth Risk Behavior Surveillance System (YRBS) interview and on their motivation to answer YRBS questions as accurately and truthfully as possible. The study involved focus groups with about 6 to 8 teenagers (ages 12-19) in each group. The focus groups included teenagers from a range of ages, racial, and ethnic backgrounds and both sexes. In order to assess the impact of monetary incentives on respondent

participation and the motivation group, interviews with both the youth and their parents occurred. A split sample experiment was conducted during the pretest interviews in order to more formally assess the effect of monetary incentives on respondent participation. The most notable findings from the YRBS on the effect of respondent payments are:

- Youth who are aware that they will be paid for completing an interview are more likely to agree to participate (the cooperation rate increased from 79 percent to 90 percent because of the respondent being paid for participating in the survey).

  NOTE: The youth group participants stated that monetary compensation (the youth received $20 for participating in the study) was important to their keeping their appointments to participate in the study.

- Youth feel that monetary compensation increases the seriousness with which they approach the task of answering questions and increases the accuracy and truthfulness of their responses. This point is particularly relevant, given the personal nature of the HPWUS questionnaire (i.e., drug and alcohol use and mental health status) and the fact that the HPWUS questionnaire will be administered at the service provider facilities.

The first two studies show that the response rates for economically disadvantaged populations, which include homeless persons who use services, are significantly improved by offering monetary incentives. While the University of Michigan survey only dealt with the effects of monetary incentives on youth, the results not only show that youth respondents are more willing to cooperate when they receive payment but that the parents of the youth also feel that payment is beneficial in obtaining the respondents participation. The results from this survey are noteworthy since the respondents for the HPWUS will include both youth and adults.

No surveys have been conducted with homeless persons to actually compare the response rates of homeless persons who receive a monetary incentive for participation to those homeless persons who do not receive a monetary incentive for participation. However, there have been numerous studies conducted dealing with the homeless population, in which respondents were paid.

In a paper presented at the Fannie Mae Annual Housing conference in Washington, DC on May 14, 1991, Dr. Michael Dennis of the Research Triangle Institute, presented a chronological summary of ten relevant studies on homelessness completed since 1983. (See Attachment H for a list of these studies.) In all ten studies, the respondents received payment for participating in the study. In February 1991, the Research Triangle Institute conducted the Washington, DC Metropolitan Area Drug Study (DC*MADS) and paid participants $10 along with offering them coffee, juices, Pop Tarts, and/or toothbrushes for taking the time to participate in the survey. The Research Triangle Institute also gave a $35 food donation to the service providers each morning they sampled at the provider's facility. In October 1991, the Wilder Foundation completed a statewide enumeration of homeless persons in Minnesota. Respondents received a $5 cash payment for the half-hour interview.

These past practices of paying respondents has direct implications on the HPWUS survey design and on response rates of the HPWUS. The success of the survey is dependent upon the cooperation of the service providers and respondents.

(1) Cooperation of Service Providers

Most service providers require (or prefer) respondents to be compensated for their participation in the survey. Paying the service providers is also critical to guarantee their cooperation. The cooperation of the service providers is essential for the following reasons:

(a) Providers determine if the voluntary survey will be conducted at the facility. They also determine logistical arrangements for conducting the interview.

(b) Providers must agree to allow respondents to remain at the facility (e.g., after eating) to be interviewed. Normally, persons are required to immediately leave the site once services are provided.

(c) Providers often have significant influence with homeless persons seeking their services.

(2) Respondent Cooperation

The survey design of the HPWUS requires sampling persons at the facility. Paying respondents is critical to ensure that designated sample persons remain at the facility to be interviewed once they have used the services offered. Without payment, there is little incentive for respondents to remain on site for an interview that may take 45 minutes and asks personal questions, such as drug and alcohol use, mental health status, living conditions, victimizations, and imprisonment.

In our consultations with outside experts in this field, all persons indicated that paying respondents to participate in the survey was critical to achieving acceptable response rates. All experts agree that we should expect high nonresponse rates if respondents are not compensated for their participation.

To ensure the cooperation of the service providers and the respondents, we recommend that a Memorandum of Understanding (see Attachment I) be entered into by the U.S. Bureau of the Census and the service facility. Under this agreement, the Census Bureau will compensate the service providers for their help. For example, the Census Bureau will ask the service provider to:

- Participate in pre-contact meeting(s) with Census Bureau regional office staff to make logistical arrangements to conduct the survey.
- Make space available at the facility to interview sample persons.
- Agree to allow the field representatives to conduct interviews on scheduled days and at scheduled times according to the statistical sampling schemes designed for the HPWUS.
- Administer cash payments of $10 to survey respondents. Administering cash payments this way alleviates safety concerns about placing the field representatives and survey respondents at risk of crime.

We believe that the studies summarized here make a strong case for the use of monetary incentives to guarantee the cooperation of the service providers and the respondents.

4. Testing of Procedures

The pretest will use within-shelter/soup kitchen sampling procedures adapted from procedures used successfully in surveys the Urban Institute and the Research Triangle Institute conducted. An important purpose of the pretest is to test these procedures with the Census Bureau field staff. These sampling procedures must be understood and correctly implemented by the Census Bureau field staff to ensure the statistical integrity of the survey. Additional areas to be tested are:

a. Developing a comprehensive listing of service providers in the pretest area.

b. Conducting pre-contact meeting(s) with service facilities to ensure their voluntary participation in the survey. Also, testing the process of entering into a Memorandum of Understanding with the service provider to administer payment to the survey respondents and to secure space at the facility to conduct the interview.

c. Administering payment to survey respondents via the Memorandum of Understanding.

d. Developing Field Representative training and procedural manuals.

e. Developing methodology for correcting for duplication of survey respondents and for developing estimates of the population.

5. Contacts for Statistical Aspects and Data Collection

The following individuals are being consulted on statistical aspects of the survey design:

Dr. Martha Burt
The Urban Institute
2100 M Street, NW
Washington, DC 20037
Tel: (202) 857-8551

Dr. Michael Dennis
Research Triangle Institute
Center for Social Research and
Policy Analysis
PO Box 12194
Research Triangle Park, NC 27709-2194
Tel: (919) 541-6429

Dr. Charles H. Alexander
Demographic Statistical Methods Division
Bureau of the Census
Washington, DC 20233
(301) 457-4290

The Census Bureau will collect the data for this survey. Mr. Steven Tourkin is responsible for the collection of all data and is the Census Bureau contact person for the survey.

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Mr. Steven C. Tourkin
Demographic Surveys Division
Bureau of the Census
Washington, DC 20233
(301) 457-3791

List of Attachments

Attachment A	HPWUS-100A Government Contacts for Providers Questionnaire
Attachment B	HPWUS-100B(X) Local Facility Contacts Questionnaire
Attachment C	HPWUS-200(X) Service User (Respondent) Questionnaire
Attachment I	Memorandum of Understanding
Attachment J	Title 12 United States Code Section 1701 z-1
Attachment L	HPWUS-L1 Cover Letter and HPWUS-L1A

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ATTACHMENT A

HPWUS-100A

Survey of Homeless Persons Who Use Services (HPWUS) Agency Questionnaire

Regional Office _____ Date of Contact _____

Name _____

1. Local Government Agency Name (Also enter Department or Division, if applicable.)	2. Telephone Number (Listed name of contact person, if available.)

Good morning (afternoon). My name is _____ and I am calling from the United States Bureau of the Census in (RO city). The Census Bureau is preparing to conduct a survey of homeless persons who receive services from local service providers. In order to conduct this survey, we are creating a comprehensive list of all people or organizations who provide services to homeless persons in the (city/county name) area.

3. *Do you or does your agency maintain a list of people or organizations who provide services to the homeless?*

☐ Yes -- Can you send us (either by mail or FAX) a copy of your listing of local service providers?

a. ☐ Unable to send list. (Provide reason, if given, and continue interview as if a "No" response.)

_____

_____

b. ☐ Sending list. (Provide regional office address or FAX number. Enter respondent's name and title in items 5 and 6. Thank the respondent for his/her assistance and end the interview.)

☐ No -- Can you tell me the names, addresses, and telephone numbers of any local service providers?

c. ☐ Yes -- Enter the name, address, and/or telephone number for up to five service providers in item 4. Enter respondent's name and title in items 5 and 6. Thank the respondent for his/her assistance and end the interview.

d. ☐ No -- (Enter respondent's name and title in items 5 and 6. Thank the respondent for his/her assistance and end the interview.)

4. Service providers (List up to 5 providers. Obtain all information such as name, address, telephone number, etc.).

Facility (Provider) Name (List all names that the facility is known by.)	Address	Physical Location	Telephone Number

5. Name of Respondent	6. Title

Suggested Closing Statement:

Thank you for your assistance in developing a complete list of service providers for the homeless.

Notes:

Form HFWUS–100B(x)
1/13/95

ATTACHMENT B

LOCAL FACILITY CONTACTS

THE SURVEY OF SERVICES FOR HOMELESS PERSONS

We are asking you to identify programs and services that serve people who are homeless as defined by Stewart B. McKinney Homeless Assistance Act of 1987. When thinking about your programs and services, please list all programs or services for the homeless, whether they serve individuals, families, victims of domestic violence, runaway youth, persons with mental illness, or other homeless groups.

The McKinney Act defines "homeless" as:

(1) An individual who lacks a fixed, regular, and adequate night–time residence; and;

(2) An individual who has a primary night–time residency that is:

(i) A supervised publicly or privately operated shelter designed to provide temporary living accomodations (including wlefare hotels, congergate shelter, and transitional housing for the mentally ill);

(ii) An institution that provide a temporary residence for individuals intended to be institutionalized; or

(iii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodations for human beings.

(3) This term does not include any individual imprisoned or otherwise detained under an Act of Congress or a state law.

People who are at imminent risk of losing their housing, because they are being evicted from private dwelling units or are being discharged from institutions and have nowhere else to go, are usually considered to be homeless for program eligibility purposes.

A. Date form completed (Month and Day)	
B Name and Title of person completing form	
C Address	
D Phone Number (include area code)	

We are asking you the following questions on programs that you are affiliated with, or that you offer, that provide assistance to homeless persons.

1. **Do you offer programs to serve the homeless at THIS ADDRESS?**	
Yes, services provided at this address	[] Yes – ANSWER QUESTIONS 2 THROUGH 24
No, services for the homeless are not provided at this address.	[] No – ANSWER QUESTIONS 2 AND 3 ONLY
2. **Do you provide programs for the homeless at other locations?**	[] Yes – LIST NAMES, ADDRESSES, CONTACT PERSONS AND PHONE NUMBERS ON PAGES 37 and 38 [] No
3. **Are you affiliated with a parent organization that provides programs for homeless people at other locations?**	[] Yes – LIST NAMES, ADDRESSES, CONTACT PERSONS AND PHONE NUMBERS ON PAGES 37 and 38 [] No

Completing the Questionnaire

This questionnaire is organized by type of program to make it easier for you to complete. Specifically, questions 4-19 each contain several questions about participation in and services offered under 16 program types. These questions are repeated for each program type.

You only need to provide information about the PROGRAMS you operate at this address, and the services these programs offer.

For example, if you operate 2 separate programs, that each receive separate funding e.g., a drop-in center and transitional housing, you would complete the sections for a drop-in center and for transitional housing, but not the sections for the other 14 program types.

But, if you operate one program that offers various types of services (e.g. a transitional housing program that offers outreach services and mental health services as part of the program), you would complete the section on transitional housing only, and provide information about your outreach and mental health services in question 7k-o.

All Respondents should complete questions 20-26.

3.5 Type of Program/Services at This Address The programs that you may offer at this address are listed below. For each, mark 'Yes' or 'No'. For each program marked 'Yes', please complete the questions on the pages indicated .	IF YES, ANSWER QUESTIONS ON
a. OUTREACH PROGRAM - going out into the streets to take homeless people food, blankets, or other necessities; to offer medical/mental health care and/or chemical dependency screenings/referrals; or to offer other assistance on a regular basis? (Mobile outreach programs only - NOT in-house programs) "Regular" is defined as at least once a week; can be day or night. Mobile food programs are included under the section on Soup Kitchens.	[] Yes - p.2-3 [] No
b. DROP-IN CENTER - that provide daytime services primarily for the homeless (OTHER THAN) facilities serving meals that should be included under SOUP KITCHENS.	[] Yes - p.4-5 [] No
c. EMERGENCY SHELTER PROGRAM - operate on a first-come-first served basis where people must leave in the morning and have no guaranteed bed for the next night OR where people know that they have a bed for a specified period of time (even if they leave the building every day). Shelters include facilities which provide temporary shelter during extremely cold weather (such as churches) and may provide emergency shelter for runaway or neglected children and youth, or for battered or abused women.	[] Yes - p.6-7 [] No
d. TRANSITIONAL HOUSING PROGRAM - (maximum stay up to two years) which offer augmented services to promote self-sufficiency and to gain permanent housing.	[] Yes - p.8-9
e. PERMANENT HOUSING FOR HOMELESS PEOPLE - with support services. This may include Section 8 vouchers, PHA units, SROs, and other long-term housing assistance. In this section ONLY include permanent housing designed to serve persons who are homeless AT THE TIME OF ENTRY INTO the permanent housing.	[] Yes - p.10-11 [] No
f. VOUCHER ARRANGEMENT - hotels, motels, or other facilities (other than shelters) for which vouchers are given out OR which operate under contract to provide shelter to homeless people.	[] Yes - p.12-13 [] No
g. VOUCHER ARRANGEMENT - office which distributes vouchers for shelter to homeless people.	[] Yes - p.14-15 [] No
h. SOUP KITCHEN or MEAL DISTRIBUTION - Soup kitchens, food lines, and programs distributing prepared breakfasts, lunches, or dinners for homeless or needy people. These programs may be organized as food service lines, bag or box lunches, tables where people are seated then served by program personnel, etc. These programs may or may not have a place to sit and eat the meal.	[] Yes - p.16-17 [] No
i. MOBILE FOOD PROGRAM - for homeless, which visits designated street locations offering homeless people food.	[] Yes - p.18-19 [] No
j. FOOD PANTRY PROGRAM - distributes uncooked food in boxes or bags.	[] Yes - p.20-21 [] No
k. HEALTH CARE PROGRAM - provides health care services to homeless people. This includes medical, dental, and other health care problems.	[] Yes - p.22-23 [] No
l. MENTAL HEALTH PROGRAM - for homeless persons, not marked already.	[] Yes - p.24-25 [] No
m. ALCOHOL or OTHER DRUG PROGRAM - for homeless persons, not marked already.	[] Yes - p.26-27 [] No
n. HIV/AIDS PROGRAM - for homeless persons, not marked already.	[] Yes - p.28-29 [] No
o. MIGRANT HOUSING - in the off season for homeless persons.	[] Yes - p.30-31 [] No
p. OTHER FACILITIES - which provide services for the homeless, such as clothing distribution centers, education and/or employment skills training.	[] Yes - p.32-33 [] No

OUTREACH PROGRAM

4 a On an average day in April, how many ADULTS, aged 18 years or older, use the services of this program from this location?	_____ Adults
4 b Of these ADULTS, approximately what percent are regulars or repeaters – using the services of this program at least 1/3 of the days in a month?	_____ Percent Regulars
4 c Of these ADULTS, approximately what percent are homeless?	_____ Percent Homeless
4 d On an average day in April, how many CHILDREN, up to 17 years old, use the services of this program at this location?	_____ Children
4 e Of these CHILDREN, approximately what percent are homeless?	_____ Percent Homeless
4 f Among all persons using the services of this program, please enter the approximate percentage of ---	*The percents below should add up to 100 percent*
– Unaccompanied adult men 18 years or older	_____ Percent
– Unaccompanied adult women 18 years or older	_____ Percent
– People in single–parent families with children	_____ Percent
– People in two–parent families with children	_____ Percent
– Adult couples without children	_____ Percent
– Unaccompanied male youth under 18 years	_____ Percent
– Unaccompanied female youth under 18 years	_____ Percent
4 g Is this program a ---	*MARK (X) ONLY ONE BOX*
– Private, non–profit, religious affiliated program	[] Private, non–profit, religious
– Private, non–profit, non–sectarian program	[] Private, non–profit, non–sectarian
– Public agency	[] Public
– Private, for profit	[] Private for profit
4 h Approximately what percent of your funding for this program do you get from ---	
– Private funding: donations, foundation grants, United Way, individuals contributions	_____ Percent
– Government funding – federal, state or local	_____ Percent
– Other – SPECIFY SOURCE _____	_____ Percent
4 i Is this program primarily for ---	j. For each item marked 'YES', please rank below (1,2,3 etc) where '1' is the primary description of your program, '2' is the second most descriptive, etc.
(1) Victims of domestic violence, battered women?	[] Yes ----------RANK:_____ [] No
(2) Runaway or homeless youth?	[] Yes ----------RANK:_____ [] No
(3) People with mental health problems?	[] Yes ----------RANK:_____ [] No
(4) People with drug or alcohol problems?	[] Yes ----------RANK:_____ [] No
(5) People with HIV/AIDS?	[] Yes ----------RANK:_____ [] No
(6) Veterans?	[] Yes ----------RANK:_____ [] No
(7) Other – SPECIFY _____	[] Yes ----------RANK:_____ [] No

Please answer these questions concerning the services that may be provided under the OUTREACH program.

Question 4 -- SERVICE	k. Do your clients need the services below, as part of this program? IF YES, ANSWER items l, m, n and o		l. Is this service provided at this address?		m. Is this service available to your homeless clients at another location? IF YES, ANSWER n DK = Don't Know			n. Is it available to them when needed, at the other location, AND is it adequate for their needs?	
a. OUTREACH	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
b. CASE MANAGEMENT	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
c. LIFE SKILLS ---									
(1) Money management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transportation usage	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Household management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Other life skills	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
d. EDUCATION ---									
(1) General Equivalency Diploma	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) English as a Second Language	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Early childhood education (Head Start)	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Basic Literacy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) After school tutoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Access and transportation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
e. EMPLOYMENT/VOCATIONAL ---									
(1) Pre-vocational training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transitional employment/paid internship	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Training for specific jobs	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Vocational rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Vocational counseling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Job placement	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(7) Sheltered workshop	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
f. SUBSTANCE ABUSE ---									
(1) Detoxification	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Alcoholics or Narcotics Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Individual/group substance abuse counselling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
g. MENTAL HEALTH ---									
(1) Crisis intervention	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Medication monitoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Psychosocial rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Individual/group psychological counciling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Psychiatric treatment	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Peer group/self help	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
h. PHYSICAL HEALTH ---									
(1) Primary care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Physical rehabilitative care/physical therapy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Prenatal care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Medical screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
i. HIV/AIDS SERVICES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
j. FAMILY AND CHILDREN'S SERVICES ---	[] Yes	[] No							
(1) Day/Evening care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Immunization and screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Parenting training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Parents Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
k. SPECIAL SERVICES FOR HOMELESS VETERANS AND THEIR FAMILIES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
l. OTHER SERVICES									
(1) Housing location assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Housing counseling and short-term rental assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Followup support services	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Enrollment in entitlement program	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Legal assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Any other - SPECIFY _____	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No

4o. Do you operate another program at this location?	[] Yes - LOOK AT CHART ON PAGE 13, AND GO TO THE PAGES FOR THE NEXT PROGRAM [] No - SKIP TO QUESTION 20 ON PAGE 34

DROP–IN CENTER

5 a On an average day in April, how many ADULTS, aged 18 years or older, use the services of this program at this location?	_____ Adults
5 b Of these ADULTS, approximately what percent are regulars or repeaters – using the services of this program at least 1/3 of the days in a month?	_____ Percent Regulars
5 c Of these ADULTS, approximately what percent are homeless?	_____ Percent Homeless
5 d On an average day in April, how many CHILDREN, up to 17 years old, use the services of this program at this location?	_____ Children
5 e Of these CHILDREN, approximately what percent are homeless?	_____ Percent Homeless
5 f Among all persons using the services of this program, please enter the approximate percentage of – – –	*The percents below should add up to 100 percent*
– Unaccompanied adult men 18 years or older	_____ Percent
– Unaccompanied adult women 18 years or older	_____ Percent
– People in single–parent families with children	_____ Percent
– People in two–parent families with children	_____ Percent
– Adult couples without children	_____ Percent
– Unaccompanied male youth under 18 years	_____ Percent
– Unaccompanied female youth under 18 years	_____ Percent
5 g Is this program a – – –	*MARK (X) ONLY ONE BOX*
– Private, non–profit, religious affiliated program – Private, non–profit, non–sectarian program – Public agency – Private, for profit	[] Private, non–profit, religious [] Private, non–profit, non–sectarian [] Public [] Private for profit
5 h Approximately what percent of your funding for this program do you get from – – –	
– Private funding: donations, foundation grants, United Way, individuals contributions	_____ Percent
– Government funding – federal, state or local	_____ Percent
– Other – SPECIFY SOURCE _____	_____ Percent
5 i Is this program primarily for – – –	j. For each item marked 'YES', please rank below (1,2,3 etc) where '1' is the primary description of your program, '2' is the second most descriptive, etc.
(1) Victims of domestic violence, battered women?	[] Yes – – – – – – – – – RANK:_____ [] No
(2) Runaway or homeless youth?	[] Yes – – – – – – – – – RANK:_____ [] No
(3) People with mental health problems?	[] Yes – – – – – – – – – RANK:_____ [] No
(4) People with drug or alcohol problems?	[] Yes – – – – – – – – – RANK:_____ [] No
(5) People with HIV/AIDS?	[] Yes – – – – – – – – – RANK:_____ [] No
(6) Veterans?	[] Yes – – – – – – – – – RANK:_____ [] No
(7) Other – SPECIFY _____	[] Yes – – – – – – – – – RANK:_____ [] No

Please answer these questions concerning the services that may be provided under the DROP–IN CENTERS.

Question 5 -- SERVICE	k. Do your clients need the services below, as part of this program? *IF YES, ANSWER Items l, m, n and o*		l. Is this service provided at this address?		m. Is this service available to your homeless clients at another location? *IF YES, ANSWER n* DK = Don't Know			n. Is it available to them when needed, at the other location, AND is it adequate for their needs?	
a. OUTREACH	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
b. CASE MANAGEMENT	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
c. LIFE SKILLS ---									
(1) Money management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transportation usage	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Household management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Other life skills	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
d. EDUCATION ---									
(1) General Equivalency Diploma	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) English as a Second Language	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Early childhood education (Head Start)	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Basic Literacy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) After school tutoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Access and transportation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
e. EMPLOYMENT/VOCATIONAL ---									
(1) Pre–vocational training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transitional employment/paid internship	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Training for specific jobs	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Vocational rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Vocational counseling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Job placement	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(7) Sheltered workshop	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
f. SUBSTANCE ABUSE ---									
(1) Detoxification	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Alcoholics or Narcotics Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Individual/group substance abuse counseling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
g. MENTAL HEALTH ---									
(1) Crisis intervention	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Medication monitoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Psychosocial rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Individual/group psychological counseling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Psychiatric treatment	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Peer group/self help	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
h. PHYSICAL HEALTH ---									
(1) Primary care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Physical rehabilitative care/physical therapy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Prenatal care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Medical screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
i. HIV/AIDS SERVICES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
j. FAMILY AND CHILDREN'S SERVICES ---	[] Yes	[] No							
(1) Day/Evening care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Immunization and screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Parenting training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Parents Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
k. SPECIAL SERVICES FOR HOMELESS VETERANS AND THEIR FAMILIES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
l. OTHER SERVICES									
(1) Housing location assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Housing counseling and short–term rental assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Followup support services	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Enrollment in entitlement program	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Legal assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Any other – SPECIFY _____	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No

5o. Do you operate another program at this location?

[] Yes – LOOK AT CHART ON PAGE 1B, AND GO TO THE PAGES FOR THE NEXT PROGRAM

[] No – SKIP TO QUESTION 20 ON PAGE 34

EMERGENCY SHELTER

6 a On an average day in April, how many ADULTS, aged 18 years or older, use the services of this program from location?	_____ Adults
6 b Of these ADULTS, approximately what percent are regulars or repeaters–using the services of this program at least 1/3 of the days in a month?	_____ Percent Regulars
6 c Of these ADULTS, approximately what percent are homeless?	_____ Percent Homeless
6 d On an average day in April, how many CHILDREN, up to 17 years old, use the services of this program at this location?	_____ Children
6 e Of these CHILDREN, approximately what percent are homeless?	_____ Percent Homeless
6 f Among all persons using the services of this program, please enter the approximate percentage of – – –	*The percents below should add up to 100 percent*
– Unaccompanied adult men 18 years or older	_____ Percent
– Unaccompanied adult women 18 years or older	_____ Percent
– People in single–parent families with children	_____ Percent
– People in two–parent families with children	_____ Percent
– Adult couples without children	_____ Percent
– Unaccompanied male youth under 18 years	_____ Percent
– Unaccompanied female youth under 18 years	_____ Percent
6 g Is this program a – – –	*MARK (X) ONLY ONE BOX*
– Private, non–profit, reilgious affiliated program	[] Private, non–profit, religious
– Private, non–profit, non–sectarian program	[] Private, non–profit, non–sectarian
– Public agency	[] Public
– Private, for profit	[] Private for profit
6 h Approximately what percent of your funding for this program do you get from – – –	
– Private funding: donations, foundation grants, United Way, individuals contributions	_____ Percent
– Government funding – federal, state or local	_____ Percent
– Other – SPECIFY SOURCE _____	_____ Percent
6 i Is this program primarily for – – –	j. For each item marked 'YES', please rank below (1,2,3 etc) where '1' is the primary description of your program, '2' is the second most descriptive, etc.
(1) Victims of domestic violence, battered women?	[] Yes – – – – – – – – – RANK: _____ [] No
(2) Runaway or homeless youth?	[] Yes – – – – – – – – – RANK: _____ [] No
(3) People with mental health problems?	[] Yes – – – – – – – – – RANK: _____ [] No
(4) People with drug or alcohol problems?	[] Yes – – – – – – – – – RANK: _____ [] No
(5) People with HIV/AIDS?	[] Yes – – – – – – – – – RANK: _____ [] No
(6) Veterans?	[] Yes – – – – – – – – – RANK: _____ [] No
(7) Other – SPECIFY _____	[] Yes – – – – – – – – – RANK: _____ [] No

Please answer these questions concerning the services that may be provided under the EMERGENCY SHELTER programs.

Question 6 -- SERVICE	k. Do your clients need the services below, as part of this program? *IF YES, ANSWER Items l, m, n and o*		l. Is this service provided at this address?		m. Is this service available to your homeless clients at another location? *IF YES, ANSWER n* DK = Don't Know			n. Is it available to them when needed, at the other location, AND is it adequate for their needs?	
a. OUTREACH	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
b. CASE MANAGEMENT	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
c. LIFE SKILLS ---									
(1) Money management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transportation usage	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Household management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Other life skills	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
d. EDUCATION ---									
(1) General Equivalency Diploma	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) English as a Second Language	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Early childhood education (Head Start)	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Basic Literacy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) After school tutoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Access and transportation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
e. EMPLOYMENT/VOCATIONAL ---									
(1) Pre-vocational training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transitional employment/paid internship	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Training for specific jobs	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Vocational rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Vocational counseling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Job placement	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(7) Sheltered workshop	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
f. SUBSTANCE ABUSE ---									
(1) Detoxification	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Alcoholics or Narcotics Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Individual/group substance abuse counselling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
g. MENTAL HEALTH ---									
(1) Crisis intervention	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Medication monitoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Psychosocial rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Individual/group psychological counciling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Psychiatric treatment	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Peer group/self help	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
h. PHYSICAL HEALTH ---									
(1) Primary care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Physical rehabilitative care/physical therapy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Prenatal care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Medical screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
i. HIV/AIDS SERVICES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
j. FAMILY AND CHILDREN'S SERVICES ---	[] Yes	[] No							
(1) Day/Evening care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Immunization and screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Parenting training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Parents Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
k. SPECIAL SERVICES FOR HOMELESS VETERANS AND THEIR FAMILIES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
l. OTHER SERVICES									
(1) Housing location assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Housing counseling and short-term rental assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Followup support services	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Enrollment in entitlement program	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Legal assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Any other - SPECIFY _____	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No

6o. Do you operate another program at this location?	[] Yes - LOOK AT CHART ON PAGE 1~~A~~B, AND GO TO THE PAGES FOR THE NEXT PROGRAM [] No - SKIP TO QUESTION 20 ON PAGE 34

TRANSITIONAL HOUSING PROGRAM	
7 a On an average day in April, how many ADULTS, aged 18 years or older, use the services of this program at this location?	_____ Adults
7 b Of these ADULTS, approximately what percent are regulars or repeaters–using the services of this program at least 1/3 of the days in a month?	_____ Percent Regulars
7 c Of these ADULTS, approximately what percent are homeless?	_____ Percent Homeless
7 d On an average day in April, how many CHILDREN, up to 17 years old, use the services of this program at this location?	_____ Children
7 e Of these CHILDREN, approximately what percent are homeless?	_____ Percent Homeless
7 f Among all persons using the services of this program, please enter the approximate percentage of –––	*The percents below should add up to 100 percent*
– Unaccompanied adult men 18 years or older	_____ Percent
– Unaccompanied adult women 18 years or older	_____ Percent
– People in single–parent families with children	_____ Percent
– People in two–parent families with children	_____ Percent
– Adult couples without children	_____ Percent
– Unaccompanied male youth under 18 years	_____ Percent
– Unaccompanied female youth under 18 years	_____ Percent
7 g Is this program a –––	*MARK (X) ONLY ONE BOX*
– Private, non–profit, religious affiliated program	[] Private, non–profit, religious
– Private, non–profit, non–sectarian program	[] Private, non–profit, non–sectarian
– Public agency	[] Public
– Private, for profit	[] Private for profit
7 h Approximately what percent of your funding for this program do you get from –––	
– Private funding: donations, foundation grants, United Way, individuals contributions	_____ Percent
– Government funding – federal, state or local	_____ Percent
– Other – SPECIFY SOURCE _____	_____ Percent
7 i Is this program primarily for –––	j. For each item marked "YES", please rank below (1,2,3 etc) where '1' is the primary description of your program, '2' is the second most descriptive, etc.
(1) Victims of domestic violence, battered women?	[] Yes ––––––––––RANK:_____ [] No
(2) Runaway or homeless youth?	[] Yes ––––––––––RANK:_____ [] No
(3) People with mental health problems?	[] Yes ––––––––––RANK:_____ [] No
(4) People with drug or alcohol problems?	[] Yes ––––––––––RANK:_____ [] No
(5) People with HIV/AIDS?	[] Yes ––––––––––RANK:_____ [] No
(6) Veterans?	[] Yes ––––––––––RANK:_____ [] No
(7) Other – SPECIFY _____	[] Yes ––––––––––RANK:_____ [] No

Please answer these questions concerning the services that may be provided under the TRANSITIONAL HOUSING program.

Question 7 -- SERVICE	k. Do your clients need the services below, as part of this program? *IF YES, ANSWER Items l, m, n and o*		l. Is this service provided at this address?		m. Is this service available to your homeless clients at another location? *IF YES, ANSWER n* DK = Don't Know			n. Is it available to them when needed, at the other location, AND is it adequate for their needs?	
a. OUTREACH	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
b. CASE MANAGEMENT	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
c. LIFE SKILLS ---									
(1) Money management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transportation usage	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Household management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Other life skills	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
d. EDUCATION ---									
(1) General Equivalency Diploma	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) English as a Second Language	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Early childhood education (Head Start)	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Basic Literacy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) After school tutoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Access and transportation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
e. EMPLOYMENT/VOCATIONAL ---									
(1) Pre-vocational training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transitional employment/paid internship	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Training for specific jobs	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Vocational rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Vocational counseling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Job placement	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(7) Sheltered workshop	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
f. SUBSTANCE ABUSE ---									
(1) Detoxification	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Alcoholics or Narcotics Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Individual/group substance abuse counselling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
g. MENTAL HEALTH ---									
(1) Crisis intervention	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Medication monitoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Psychosocial rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Individual/group psychological counciling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Psychiatric treatment	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Peer group/self help	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
h. PHYSICAL HEALTH ---									
(1) Primary care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Physical rehabilitative care/physical therapy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Prenatal care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Medical screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
i. HIV/AIDS SERVICES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
j. FAMILY AND CHILDREN'S SERVICES ---	[] Yes	[] No							
(1) Day/Evening care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Immunization and screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Parenting training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Parents Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
k. SPECIAL SERVICES FOR HOMELESS VETERANS AND THEIR FAMILIES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
l. OTHER SERVICES									
(1) Housing location assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Housing counseling and short-term rental assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Followup support services	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Enrollment in entitlement program	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Legal assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Any other - SPECIFY _____	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No

7o. Do you operate another program at this location?	[] Yes - LOOK AT CHART ON PAGE 1~~A~~B, AND GO TO THE PAGES FOR THE NEXT PROGRAM [] No - SKIP TO QUESTION 20 ON PAGE 34

PERMANENT HOUSING

8 a On an average day in April, how many ADULTS, aged 18 years or older, use the services of this program at this location?	_____ Adults
8 b Of these ADULTS, approximately what percent are regulars or repeaters – using the services of this program at least 1/3 of the days in a month?	_____ Percent Regulars
8 c Of these ADULTS, approximately what percent are homeless?	_____ Percent Homeless
8 d On an average day in April, how many CHILDREN, up to 17 years old, use the services of this program at this location?	_____ Children
8 e Of these CHILDREN, approximately what percent are homeless?	_____ Percent Homeless
8 f Among all persons using the services of this program, please enter the approximate percentage of – – –	*The percents below should add up to 100 percent*
– Unaccompanied adult men 18 years or older	_____ Percent
– Unaccompanied adult women 18 years or older	_____ Percent
– People in single–parent families with children	_____ Percent
– People in two–parent families with children	_____ Percent
– Adult couples without children	_____ Percent
– Unaccompanied male youth under 18 years	_____ Percent
– Unaccompanied female youth under 18 years	_____ Percent
8 g Is this program a – – –	*MARK (X) ONLY ONE BOX*
– Private, non–profit, religious affiliated program	[] Private, non–profit, religious
– Private, non–profit, non–sectarian program	[] Private, non–profit, non–sectarian
– Public agency	[] Public
– Private, for profit	[] Private for profit
8 h Approximately what percent of your funding for this program do you get from – – –	
– Private funding: donations, foundation grants, United Way, individuals contributions	_____ Percent
– Government funding – federal, state or local	_____ Percent
– Other – SPECIFY SOURCE _____	_____ Percent
8 i Is this program primarily for – – –	j. For each item marked 'YES', please rank below (1,2,3 etc) where '1' is the primary description of your program, '2' is the second most descriptive, etc.
(1) Victims of domestic violence, battered women?	[] Yes – – – – – – – – – RANK: _____ [] No
(2) Runaway or homeless youth?	[] Yes – – – – – – – – – RANK: _____ [] No
(3) People with mental health problems?	[] Yes – – – – – – – – – RANK: _____ [] No
(4) People with drug or alcohol problems?	[] Yes – – – – – – – – – RANK: _____ [] No
(5) People with HIV/AIDS?	[] Yes – – – – – – – – – RANK: _____ [] No
(6) Veterans?	[] Yes – – – – – – – – – RANK: _____ [] No
(7) Other – SPECIFY _____	[] Yes – – – – – – – – – RANK: _____ [] No

Please answer these questions concerning the services that may be provided under the PERMANENT HOUSING program.

Question 8 -- SERVICE	k. Do your clients need the services below, as part of this program? *IF YES, ANSWER Items l, m, n and o*		l. Is this service provided at this address?		m. Is this service available to your homeless clients at another location? *IF YES, ANSWER n* DK = Don't Know			n. Is it available to them when needed, at the other location, AND is it adequate for their needs?	
a. OUTREACH	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
b. CASE MANAGEMENT	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
c. LIFE SKILLS ---									
(1) Money management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transportation usage	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Household management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Other life skills	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
d. EDUCATION ---									
(1) General Equivalency Diploma	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) English as a Second Language	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Early childhood education (Head Start)	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Basic Literacy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) After school tutoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Access and transportation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
e. EMPLOYMENT/VOCATIONAL ---									
(1) Pre-vocational training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transitional employment/paid internship	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Training for specific jobs	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Vocational rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Vocational counseling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Job placement	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(7) Sheltered workshop	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
f. SUBSTANCE ABUSE ---									
(1) Detoxification	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Alcoholics or Narcotics Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Individual/group substance abuse counselling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
g. MENTAL HEALTH ---									
(1) Crisis intervention	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Medication monitoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Psychosocial rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Individual/group psychological counciling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Psychiatric treatment	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Peer group/self help	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
h. PHYSICAL HEALTH ---									
(1) Primary care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Physical rehabilitative care/physical therapy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Prenatal care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Medical screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
i. HIV/AIDS SERVICES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
j. FAMILY AND CHILDREN'S SERVICES ---	[] Yes	[] No							
(1) Day/Evening care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Immunization and screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Parenting training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Parents Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
k. SPECIAL SERVICES FOR HOMELESS VETERANS AND THEIR FAMILIES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
l. OTHER SERVICES									
(1) Housing location assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Housing counseling and short-term rental assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Followup support services	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Enrollment in entitlement program	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Legal assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Any other - SPECIFY _____	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No

8o. Do you operate another program at this location?	[] Yes - LOOK AT CHART ON PAGE 1~~A~~B, AND GO TO THE PAGES FOR THE NEXT PROGRAM [] No - SKIP TO QUESTION 20 ON PAGE 34

VOUCHER ARRANGEMENT – HOTELS, MOTELS, ETC.

9 a On an average day in April, how many ADULTS, aged 18 years or older, use the services of this program at this location?	_____ Adults
9 b Of these ADULTS, approximately what percent are regulars or repeaters – using the services of this program at least 1/3 of the days in a month?	_____ Percent Regulars
9 c Of these ADULTS, approximately what percent are homeless?	_____ Percent Homeless
9 d On an average day in April, how many CHILDREN, up to 17 years old, use the services of this program at this location?	_____ Children
9 e Of these CHILDREN, approximately what percent are homeless?	_____ Percent Homeless
9 f Among all persons using the services of this program, please enter the approximate percentage of ---	*The percents below should add up to 100 percent*
– Unaccompanied adult men 18 years or older	_____ Percent
– Unaccompanied adult women 18 years or older	_____ Percent
– People in single–parent families with children	_____ Percent
– People in two–parent families with children	_____ Percent
– Adult couples without children	_____ Percent
– Unaccompanied male youth under 18 years	_____ Percent
– Unaccompanied female youth under 18 years	_____ Percent
9 g Which one of the following is this program ---	*MARK (X) ONLY ONE BOX*
– Private, non–profit, religious affiliated program	[] Private, non–profit, religious
– Private, non–profit, non–sectarian program	[] Private, non–profit, non–sectarian
– Public agency	[] Public
– Private, for profit	[] Private for profit
9 h Approximately what percent of your funding for this program do you get from ---	
– Private funding: donations, foundation grants, United Way, individuals contributions	_____ Percent
– Government funding – federal, state or local	_____ Percent
– Other – SPECIFY SOURCE _____	_____ Percent
9 i Is this program primarily for ---	j. For each item marked 'YES', please rank below (1,2,3 etc) where '1' is the primary description of your program, '2' is the second most descriptive, etc.
(1) Victims of domestic violence, battered women?	[] Yes ---------RANK:_____ [] No
(2) Runaway or homeless youth?	[] Yes ---------RANK:_____ [] No
(3) People with mental health problems?	[] Yes ---------RANK:_____ [] No
(4) People with drug or alcohol problems?	[] Yes ---------RANK:_____ [] No
(5) People with HIV/AIDS?	[] Yes ---------RANK:_____ [] No
(6) Veterans?	[] Yes ---------RANK:_____ [] No
(7) Other – SPECIFY _____	[] Yes ---------RANK:_____ [] No
9 k Under THIS program, does your facility distribute contracts/vouchers for shelter?	[] Yes – ANSWER l [] No – SKIP to m.
9 l How many shelters, hotels/motels, boarding or lodging houses or other facilities accept your vouchers/are under contract to you?	_____ Number of places accepting vouchers _____ Number of places under contract

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Please answer these questions concerning the services that may be provided under the VOUCHER ARRANGEMENT program – hotels, motels, or other facilities.

Question 9 -- SERVICE	m. Do your clients need the services below, as part of this program? *IF YES, ANSWER Items n, o, p and q*		n. Is this service provided at this address?		o. Is this service available to your homeless clients at another location? *IF YES, ANSWER p* DK = Don't Know			p. Is it available to them when needed, at the other location, AND is it adequate for their needs?	
a. OUTREACH	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
b. CASE MANAGEMENT	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
c. LIFE SKILLS ---									
(1) Money management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transportation usage	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Household management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Other life skills	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
d. EDUCATION ---									
(1) General Equivalency Diploma	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) English as a Second Language	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Early childhood education (Head Start)	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Basic Literacy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) After school tutoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Access and transportation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
e. EMPLOYMENT/VOCATIONAL ---									
(1) Pre-vocational training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transitional employment/paid internship	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Training for specific jobs	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Vocational rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Vocational counseling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Job placement	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(7) Sheltered workshop	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
f. SUBSTANCE ABUSE ---									
(1) Detoxification	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Alcoholics or Narcotics Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Individual/group substance abuse counseling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
g. MENTAL HEALTH ---									
(1) Crisis intervention	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Medication monitoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Psychosocial rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Individual/group psychological counciling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Psychiatric treatment	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Peer group/self help	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
h. PHYSICAL HEALTH ---									
(1) Primary care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Physical rehabilitative care/physical therapy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Prenatal care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Medical screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
i. HIV/AIDS SERVICES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
j. FAMILY AND CHILDREN'S SERVICES ---	[] Yes	[] No							
(1) Day/Evening care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Immunization and screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Parenting training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Parents Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
k. SPECIAL SERVICES FOR HOMELESS VETERANS AND THEIR FAMILIES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
l. OTHER SERVICES									
(1) Housing location assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Housing counseling and short-term rental assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Followup support services	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Enrollment in entitlement program	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Legal assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Any other – SPECIFY _____	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No

9q. Do you operate another program at this location?	[] Yes – LOOK AT CHART ON PAGE 1~~A~~B, AND GO TO THE PAGES FOR THE NEXT PROGRAM [] No – SKIP TO QUESTION 20 ON PAGE 34

VOUCHER ARRANGEMENT – DISTRIBUTES VOUCHERS

10 a On an average day in April, how many ADULTS, aged 18 years or older, use the services of this program at this location?	_____ Adults
10 b Of these ADULTS, approximately what percent are regulars or repeaters – using the services of this program at least 1/3 of the days in a month?	_____ Percent Regulars
10 c Of these ADULTS, approximately what percent are homeless?	_____ Percent Homeless
10 d On an average day in April, how many CHILDREN, up to 17 years old, use the services of this program at this location?	_____ Children
10 e Of these CHILDREN, approximately what percent are homeless?	_____ Percent Homeless
10 f Among all persons using the services of this program, please enter the approximate percentage of – – –	*The percents below should add up to 100 percent*
– Unaccompanied adult men 18 years or older	_____ Percent
– Unaccompanied adult women 18 years or older	_____ Percent
– People in single–parent families with children	_____ Percent
– People in two–parent families with children	_____ Percent
– Adult couples without children	_____ Percent
– Unaccompanied male youth under 18 years	_____ Percent
– Unaccompanied female youth under 18 years	_____ Percent
10 g Which one of the following is this program – – –	*MARK (X) ONLY ONE BOX*
– Private, non–profit, religious affiliated program	[] Private, non–profit, religious
– Private, non–profit, non–sectarian program	[] Private, non–profit, non–sectarian
– Public agency	[] Public
– Private, for profit	[] Private for profit
10 h Approximately what percent of your funding for this program do you get from – – –	
– Private funding: donations, foundation grants, United Way, individuals contributions	_____ Percent
– Government funding – federal, state or local	_____ Percent
– Other – SPECIFY SOURCE _____	_____ Percent
10 i Is this program primarily for – – –	j. For each item marked 'YES', please rank below (1,2,3 etc) where '1' is the primary description of your program, '2' is the second most descriptive, etc.
(1) Victims of domestic violence, battered women?	[] Yes ---------RANK:_____ [] No
(2) Runaway or homeless youth?	[] Yes ---------RANK:_____ [] No
(3) People with mental health problems?	[] Yes ---------RANK:_____ [] No
(4) People with drug or alcohol problems?	[] Yes ---------RANK:_____ [] No
(5) People with HIV/AIDS?	[] Yes ---------RANK:_____ [] No
(6) Veterans?	[] Yes ---------RANK:_____ [] No
(7) Other – SPECIFY _____	[] Yes ---------RANK:_____ [] No
10 k Under THIS program, does your facility distribute contracts/vouchers for shelter?	[] Yes – ANSWER l [] No – SKIP to m
10 l How many shelters, hotels/motels, boarding or lodging houses or other facilities accept your vouchers/are under contract to you?	_____ Number of places accepting vouchers _____ Number of places under contract

Please answer these questions concerning the services that may be provided under the VOUCHER ARRANGEMENT program – office which distributes vouchers

Question 10 -- SERVICE	m. Do your clients need the services below, as part of this program? *IF YES, ANSWER Items n, o, p and q*		n. Is this service provided at this address?		o. Is this service available to your homeless clients at another location? *IF YES, ANSWER p* DK = Don't Know			p. Is it available to them when needed, at the other location, AND is it adequate for their needs?	
a. OUTREACH	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
b. CASE MANAGEMENT	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
c. LIFE SKILLS ---									
(1) Money management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transportation usage	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Household management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Other life skills	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
d. EDUCATION ---									
(1) General Equivalency Diploma	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) English as a Second Language	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Early childhood education (Head Start)	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Basic Literacy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) After school tutoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Access and transportation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
e. EMPLOYMENT/VOCATIONAL ---									
(1) Pre-vocational training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transitional employment/paid internship	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Training for specific jobs	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Vocational rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Vocational counseling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Job placement	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(7) Sheltered workshop	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
f. SUBSTANCE ABUSE ---									
(1) Detoxification	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Alcoholics or Narcotics Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Individual/group substance abuse counselling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
g. MENTAL HEALTH ---									
(1) Crisis intervention	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Medication monitoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Psychosocial rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Individual/group psychological counciling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Psychiatric treatment	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Peer group/self help	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
h. PHYSICAL HEALTH ---									
(1) Primary care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Physical rehabilitative care/physical therapy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Prenatal care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Medical screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
i. HIV/AIDS SERVICES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
j. FAMILY AND CHILDREN'S SERVICES ---	[] Yes	[] No							
(1) Day/Evening care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Immunization and screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Parenting training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Parents Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
k. SPECIAL SERVICES FOR HOMELESS VETERANS AND THEIR FAMILIES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
l. OTHER SERVICES									
(1) Housing location assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Housing counseling and short-term rental assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Followup support services	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Enrollment in entitlement program	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Legal assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Any other – SPECIFY _____	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No

10q. Do you operate another program at this location?	[] Yes – LOOK AT CHART ON PAGE 1~~7~~8, AND GO TO THE PAGES FOR THE NEXT PROGRAM [] No – SKIP TO QUESTION 20 ON PAGE 34

SOUP KITCHEN or MEAL DISTRIBUTION

11 a On an average day in April, how many ADULTS, aged 18 years or older, use the services of this program from location?	_____ Adults
11 b Of these ADULTS, approximately what percent are regulars or repeaters—using the services of this program at least 1/3 of the days in a month?	_____ Percent Regulars
11 c Of these ADULTS, approximately what percent are homeless?	_____ Percent Homeless
11 d On an average day in April, how many CHILDREN, up to 17 years old, use the services of this program at this location?	_____ Children
11 e Of these CHILDREN, approximately what percent are homeless?	_____ Percent Homeless
11 f Among all persons using the services of this program, please enter the approximate percentage of ---	*The percents below should add up to 100 percent*
– Unaccompanied adult men 18 years or older	_____ Percent
– Unaccompanied adult women 18 years or older	_____ Percent
– People in single–parent families with children	_____ Percent
– People in two–parent families with children	_____ Percent
– Adult couples without children	_____ Percent
– Unaccompanied male youth under 18 years	_____ Percent
– Unaccompanied female youth under 18 years	_____ Percent
11 g Is this program a ---	*MARK (X) ONLY ONE BOX*
– Private, non–profit, religious affiliated program	[] Private, non–profit, religious
– Private, non–profit, non–sectarian program	[] Private, non–profit, non–sectarian
– Public agency	[] Public
– Private, for profit	[] Private for profit
11 h Approximately what percent of your funding for this program do you get from ---	
– Private funding: donations, foundation grants, United Way, individuals contributions	_____ Percent
– Government funding – federal, state or local	_____ Percent
– Other – SPECIFY SOURCE _____	_____ Percent
11 i Is this program primarily for ---	j. For each item marked 'YES', please rank below (1,2,3 etc) where '1' is the primary description of your program, '2' is the second most descriptive, etc.
(1) Victims of domestic violence, battered women?	[] Yes ----------RANK:_____ [] No
(2) Runaway or homeless youth?	[] Yes ----------RANK:_____ [] No
(3) People with mental health problems?	[] Yes ----------RANK:_____ [] No
(4) People with drug or alcohol problems?	[] Yes ----------RANK:_____ [] No
(5) People with HIV/AIDS?	[] Yes ----------RANK:_____ [] No
(6) Veterans?	[] Yes ----------RANK:_____ [] No
(7) Other – SPECIFY _____	[] Yes ----------RANK:_____ [] No

Please answer these questions concerning the services that may be provided under the SOUP KITCHEN or MEAL DISTRIBUTION program.

Question 11 -- SERVICE	k. Do your clients need the services below, as part of this program? *IF YES, ANSWER Items l, m, n and o*		l. Is this service provided at this address?		m. Is this service available to your homeless clients at another location? *IF YES, ANSWER n* DK = Don't Know			n. Is it available to them when needed, at the other location, AND is it adequate for their needs?	
a. OUTREACH	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
b. CASE MANAGEMENT	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
c. LIFE SKILLS ---									
(1) Money management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transportation usage	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Household management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Other life skills	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
d. EDUCATION ---									
(1) General Equivalency Diploma	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) English as a Second Language	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Early childhood education (Head Start)	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Basic Literacy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) After school tutoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Access and transportation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
e. EMPLOYMENT/VOCATIONAL ---									
(1) Pre-vocational training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transitional employment/paid internship	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Training for specific jobs	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Vocational rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Vocational counseling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Job placement	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(7) Sheltered workshop	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
f. SUBSTANCE ABUSE ---									
(1) Detoxification	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Alcoholics or Narcotics Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Individual/group substance abuse counselling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
g. MENTAL HEALTH ---									
(1) Crisis intervention	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Medication monitoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Psychosocial rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Individual/group psychological counciling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Psychiatric treatment	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Peer group/self help	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
h. PHYSICAL HEALTH ---									
(1) Primary care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Physical rehabilitative care/physical therapy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Prenatal care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Medical screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
i. HIV/AIDS SERVICES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
j. FAMILY AND CHILDREN'S SERVICES ---	[] Yes	[] No							
(1) Day/Evening care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Immunization and screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Parenting training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Parents Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
k. SPECIAL SERVICES FOR HOMELESS VETERANS AND THEIR FAMILIES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
l. OTHER SERVICES									
(1) Housing location assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Housing counseling and short-term rental assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Followup support services	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Enrollment in entitlement program	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Legal assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Any other – SPECIFY _____	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No

11o. Do you operate another program at this location?	[] Yes – LOOK AT CHART ON PAGE 1~~A~~B, AND GO TO THE PAGES FOR THE NEXT PROGRAM [] No – SKIP TO QUESTION 20 ON PAGE 34

MOBILE FOOD PROGRAM

12 a On an average day in April, how many ADULTS, aged 18 years or older, use the services of this program from location?	_____ Adults
12 b Of these ADULTS, approximately what percent are regulars or repeaters– using the services of this program at least 1/3 of the days in a month?	_____ Percent Regulars
12 c Of these ADULTS, approximately what percent are homeless?	_____ Percent Homeless
12 d On an average day in April, how many CHILDREN, up to 17 years old, use the services of this program at this location?	_____ Children
12 e Of these CHILDREN, approximately what percent are homeless?	_____ Percent Homeless
12 f Among all persons using the services of this program, please enter the approximate percentage of ---	*The percents below should add up to 100 percent*
– Unaccompanied adult men 18 years or older	_____ Percent
– Unaccompanied adult women 18 years or older	_____ Percent
– People in single–parent families with children	_____ Percent
– People in two–parent families with children	_____ Percent
– Adult couples without children	_____ Percent
– Unaccompanied male youth under 18 years	_____ Percent
– Unaccompanied female youth under 18 years	_____ Percent
12 g Is this program a ---	*MARK (X) ONLY ONE BOX*
– Private, non–profit, religious affiliated program	[] Private, non–profit, religious
– Private, non–profit, non–sectarian program	[] Private, non–profit, non–sectarian
– Public agency	[] Public
– Private, for profit	[] Private for profit
12 h Approximately what percent of your funding for this program do you get from ---	
– Private funding: donations, foundation grants, United Way, individuals contributions	_____ Percent
– Government funding – federal, state or local	_____ Percent
– Other – SPECIFY SOURCE _____	_____ Percent
12 i Is this program primarily for ---	j. For each item marked 'YES', please rank below (1,2,3 etc) where '1' is the primary description of your program, '2' is the second most descriptive, etc.
(1) Victims of domestic violence, battered women?	[] Yes ----------RANK:_____ [] No
(2) Runaway or homeless youth?	[] Yes ----------RANK:_____ [] No
(3) People with mental health problems?	[] Yes ----------RANK:_____ [] No
(4) People with drug or alcohol problems?	[] Yes ----------RANK:_____ [] No
(5) People with HIV/AIDS?	[] Yes ----------RANK:_____ [] No
(6) Veterans?	[] Yes ----------RANK:_____ [] No
(7) Other – SPECIFY _____	[] Yes ----------RANK:_____ [] No

Please answer these questions concerning the services that may be provided under the MOBILE FOOD program.

Question 12 -- SERVICE	k. Do your clients need the services below, as part of this program? *IF YES, ANSWER Items l, m, n and o*		l. Is this service provided at this address?		m. Is this service available to your homeless clients at another location? *IF YES, ANSWER n* DK = Don't Know			n. Is it available to them when needed, at the other location, AND is it adequate for their needs?	
a. OUTREACH	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
b. CASE MANAGEMENT	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
c. LIFE SKILLS ---									
(1) Money management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transportation usage	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Household management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Other life skills	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
d. EDUCATION ---									
(1) General Equivalency Diploma	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) English as a Second Language	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Early childhood education (Head Start)	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Basic Literacy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) After school tutoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Access and transportation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
e. EMPLOYMENT/VOCATIONAL ---									
(1) Pre-vocational training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transitional employment/paid internship	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Training for specific jobs	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Vocational rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Vocational counseling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Job placement	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(7) Sheltered workshop	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
f. SUBSTANCE ABUSE ---									
(1) Detoxification	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Alcoholics or Narcotics Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Individual/group substance abuse counseling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
g. MENTAL HEALTH ---									
(1) Crisis intervention	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Medication monitoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Psychosocial rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Individual/group psychological counciling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Psychiatric treatment	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Peer group/self help	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
h. PHYSICAL HEALTH ---									
(1) Primary care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Physical rehabilitative care/physical therapy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Prenatal care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Medical screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
i. HIV/AIDS SERVICES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
j. FAMILY AND CHILDREN'S SERVICES ---	[] Yes	[] No							
(1) Day/Evening care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Immunization and screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Parenting training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Parents Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
k. SPECIAL SERVICES FOR HOMELESS VETERANS AND THEIR FAMILIES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
l. OTHER SERVICES									
(1) Housing location assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Housing counseling and short-term rental assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Followup support services	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Enrollment in entitlement program	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Legal assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Any other - SPECIFY _____	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No

12o. Do you operate another program at this location?	[] Yes - LOOK AT CHART ON PAGE 18, AND GO TO THE PAGES FOR THE NEXT PROGRAM [] No - SKIP TO QUESTION 20 ON PAGE 34

FOOD PANTRY PROGRAM

13 a On an average day in April, how many ADULTS, aged 18 years or older, use the services of this program from location?	_____ Adults
13 b Of these ADULTS, approximately what percent are regulars or repeaters—using the services of this program at least 1/3 of the days in a month?	_____ Percent Regulars
13 c Of these ADULTS, approximately what percent are homeless?	_____ Percent Homeless
13 d On an average day in April, how many CHILDREN, up to 17 years old, use the services of this program at this location?	_____ Children
13 e Of these CHILDREN, approximately what percent are homeless?	_____ Percent Homeless
13 f Among all persons using the services of this program, please enter the approximate percentage of ---	*The percents below should add up to 100 percent*
– Unaccompanied adult men 18 years or older	_____ Percent
– Unaccompanied adult women 18 years or older	_____ Percent
– People in single–parent families with children	_____ Percent
– People in two–parent families with children	_____ Percent
– Adult couples without children	_____ Percent
– Unaccompanied male youth under 18 years	_____ Percent
– Unaccompanied female youth under 18 years	_____ Percent
13 g Is this program a ---	*MARK (X) ONLY ONE BOX*
– Private, non–profit, religious affiliated program	[] Private, non–profit, religious
– Private, non–profit, non–sectarian program	[] Private, non–profit, non–sectarian
– Public agency	[] Public
– Private, for profit	[] Private for profit
13 h Approximately what percent of your funding for this program do you get from ---	
– Private funding: donations, foundation grants, United Way, individuals contributions	_____ Percent
– Government funding – federal, state or local	_____ Percent
– Other – SPECIFY SOURCE _____	_____ Percent
13 i Is this program primarily for ---	]. For each item marked 'YES', please rank below (1,2,3 etc) where '1' is the primary description of your program, '2' is the second most descriptive, etc.
(1) Victims of domestic violence, battered women?	[] Yes ---------RANK:_____ [] No
(2) Runaway or homeless youth?	[] Yes ---------RANK:_____ [] No
(3) People with mental health problems?	[] Yes ---------RANK:_____ [] No
(4) People with drug or alcohol problems?	[] Yes ---------RANK:_____ [] No
(5) People with HIV/AIDS?	[] Yes ---------RANK:_____ [] No
(6) Veterans?	[] Yes ---------RANK:_____ [] No
(7) Other – SPECIFY _____	[] Yes ---------RANK:_____ [] No

Please answer these questions concerning the services that may be provided under the FOOD PANTRY program.

Question 13 -- SERVICE	k. Do your clients need the services below, as part of this program? *IF YES, ANSWER Items l, m, n and o*		l. Is this service provided at this address?		m. Is this service available to your homeless clients at another location? *IF YES, ANSWER n* DK = Don't Know			n. Is it available to them when needed, at the other location, AND is it adequate for their needs?	
a. OUTREACH	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
b. CASE MANAGEMENT	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
c. LIFE SKILLS ---									
(1) Money management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transportation usage	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Household management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Other life skills	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
d. EDUCATION ---									
(1) General Equivalency Diploma	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) English as a Second Language	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Early childhood education (Head Start)	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Basic Literacy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) After school tutoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Access and transportation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
e. EMPLOYMENT/VOCATIONAL ---									
(1) Pre-vocational training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transitional employment/paid internship	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Training for specific jobs	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Vocational rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Vocational counseling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Job placement	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(7) Sheltered workshop	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
f. SUBSTANCE ABUSE ---									
(1) Detoxification	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Alcoholics or Narcotics Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Individual/group substance abuse counselling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
g. MENTAL HEALTH ---									
(1) Crisis intervention	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Medication monitoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Psychosocial rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Individual/group psychological counciling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Psychiatric treatment	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Peer group/self help	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
h. PHYSICAL HEALTH ---									
(1) Primary care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Physical rehabilitative care/physical therapy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Prenatal care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Medical screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
i. HIV/AIDS SERVICES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
j. FAMILY AND CHILDREN'S SERVICES ---	[] Yes	[] No							
(1) Day/Evening care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Immunization and screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Parenting training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Parents Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
k. SPECIAL SERVICES FOR HOMELESS VETERANS AND THEIR FAMILIES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
l. OTHER SERVICES									
(1) Housing location assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Housing counseling and short-term rental assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Followup support services	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Enrollment in entitlement program	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Legal assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Any other - SPECIFY _____	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No

13o. Do you operate another program at this location?	[] Yes - LOOK AT CHART ON PAGE 1~~A~~B, AND GO TO THE PAGES FOR THE NEXT PROGRAM [] No - SKIP TO QUESTION 20 ON PAGE 34

HEALTH CARE

14 a On an average day in April, how many ADULTS, aged 18 years or older, use the services of this program from location?	_____ Adults
14 b Of these ADULTS, approximately what percent are regulars or repeaters—using the services of this program at least 1/3 of the days in a month?	_____ Percent Regulars
14 c Of these ADULTS, approximately what percent are homeless?	_____ Percent Homeless
14 d On an average day in April, how many CHILDREN, up to 17 years old, use the services of this program at this location?	_____ Children
14 e Of these CHILDREN, approximately what percent are homeless?	_____ Percent Homeless
14 f Among all persons using the services of this program, please enter the approximate percentage of ---	*The percents below should add up to 100 percent*
– Unaccompanied adult men 18 years or older	_____ Percent
– Unaccompanied adult women 18 years or older	_____ Percent
– People in single–parent families with children	_____ Percent
– People in two–parent families with children	_____ Percent
– Adult couples without children	_____ Percent
– Unaccompanied male youth under 18 years	_____ Percent
– Unaccompanied female youth under 18 years	_____ Percent
14 g Is this program a ---	*MARK (X) ONLY ONE BOX*
– Private, non–profit, religious affiliated program	[] Private, non–profit, religious
– Private, non–profit, non–sectarian program	[] Private, non–profit, non–sectarian
– Public agency	[] Public
– Private, for profit	[] Private for profit
14 h Approximately what percent of your funding for this program do you get from ---	
– Private funding: donations, foundation grants, United Way, individuals contributions	_____ Percent
– Government funding – federal, state or local	_____ Percent
– Other – SPECIFY SOURCE _____	_____ Percent
14 i Is this program primarily for ---	]. For each item marked 'YES', please rank below (1,2,3 etc) where '1' is the primary description of your program, '2' is the second most descriptive, etc.
(1) Victims of domestic violence, battered women?	[] Yes ---------RANK:_____ [] No
(2) Runaway or homeless youth?	[] Yes ---------RANK:_____ [] No
(3) People with mental health problems?	[] Yes ---------RANK:_____ [] No
(4) People with drug or alcohol problems?	[] Yes ---------RANK:_____ [] No
(5) People with HIV/AIDS?	[] Yes ---------RANK:_____ [] No
(6) Veterans?	[] Yes ---------RANK:_____ [] No
(7) Other – SPECIFY _____	[] Yes ---------RANK:_____ [] No

Please answer these questions concerning the services that may be provided under the HEALTH CARE programs.

Question 14 -- SERVICE	k. Do your clients need the services below, as part of this program? *IF YES, ANSWER Items l, m, n and o*		l. Is this service provided at this address?		m. Is this service available to your homeless clients at another location? *IF YES, ANSWER n* DK = Don't Know			n. Is it available to them when needed, at the other location, AND is it adequate for their needs?	
a. OUTREACH	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
b. CASE MANAGEMENT	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
c. LIFE SKILLS ---									
(1) Money management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transportation usage	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Household management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Other life skills	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
d. EDUCATION ---									
(1) General Equivalency Diploma	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) English as a Second Language	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Early childhood education (Head Start)	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Basic Literacy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) After school tutoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Access and transportation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
e. EMPLOYMENT/VOCATIONAL ---									
(1) Pre-vocational training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transitional employment/paid internship	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Training for specific jobs	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Vocational rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Vocational counseling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Job placement	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(7) Sheltered workshop	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
f. SUBSTANCE ABUSE ---									
(1) Detoxification	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Alcoholics or Narcotics Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Individual/group substance abuse counselling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
g. MENTAL HEALTH ---									
(1) Crisis intervention	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Medication monitoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Psychosocial rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Individual/group psychological counciling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Psychiatric treatment	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Peer group/self help	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
h. PHYSICAL HEALTH ---									
(1) Primary care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Physical rehabilitative care/physical therapy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Prenatal care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Medical screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
i. HIV/AIDS SERVICES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
j. FAMILY AND CHILDREN'S SERVICES ---	[] Yes	[] No							
(1) Day/Evening care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Immunization and screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Parenting training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Parents Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
k. SPECIAL SERVICES FOR HOMELESS VETERANS AND THEIR FAMILIES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
l. OTHER SERVICES									
(1) Housing location assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Housing counseling and short-term rental assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Followup support services	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Enrollment in entitlement program	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Legal assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Any other - SPECIFY _____	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
14o. Do you operate another program at this location?	[] Yes - LOOK AT CHART ON PAGE 18, AND GO TO THE PAGES FOR THE NEXT PROGRAM [] No - SKIP TO QUESTION 20 ON PAGE 34								

MENTAL HEALTH PROGRAM

15 a On an average day in April, how many ADULTS, aged 18 years or older, use the services of this program from location?	_____ Adults
15 b Of these ADULTS, approximately what percent are regulars or repeaters—using the services of this program at least 1/3 of the days in a month?	_____ Percent Regulars
15 c Of these ADULTS, approximately what percent are homeless?	_____ Percent Homeless
15 d On an average day in April, how many CHILDREN, up to 17 years old, use the services of this program at this location?	_____ Children
15 e Of these CHILDREN, approximately what percent are homeless?	_____ Percent Homeless
15 f Among all persons using the services of this program, please enter the approximate percentage of ---	*The percents below should add up to 100 percent*
– Unaccompanied adult men 18 years or older	_____ Percent
– Unaccompanied adult women 18 years or older	_____ Percent
– People in single–parent families with children	_____ Percent
– People in two–parent families with children	_____ Percent
– Adult couples without children	_____ Percent
– Unaccompanied male youth under 18 years	_____ Percent
– Unaccompanied female youth under 18 years	_____ Percent
15 g Is this program a ---	*MARK (X) ONLY ONE BOX*
– Private, non–profit, religious affiliated program	[] Private, non–profit, religious
– Private, non–profit, non–sectarian program	[] Private, non–profit, non–sectarian
– Public agency	[] Public
– Private, for profit	[] Private for profit
15 h Approximately what percent of your funding for this program do you get from ---	
– Private funding: donations, foundation grants, United Way, individuals contributions	_____ Percent
– Government funding – federal, state or local	_____ Percent
– Other – SPECIFY SOURCE _____	_____ Percent
15 i Is this program primarily for ---	j. For each item marked 'YES', please rank below (1,2,3 etc) where '1' is the primary description of your program, '2' is the second most descriptive, etc.
(1) Victims of domestic violence, battered women?	[] Yes ---------RANK:_____ [] No
(2) Runaway or homeless youth?	[] Yes ---------RANK:_____ [] No
(3) People with mental health problems?	[] Yes ---------RANK:_____ [] No
(4) People with drug or alcohol problems?	[] Yes ---------RANK:_____ [] No
(5) People with HIV/AIDS?	[] Yes ---------RANK:_____ [] No
(6) Veterans?	[] Yes ---------RANK:_____ [] No
(7) Other – SPECIFY _____	[] Yes ---------RANK:_____ [] No

Please answer these questions concerning the services that may be provided under the MENTAL HEALTH programs.

Question 15 -- SERVICE	k. Do your clients need the services below, as part of this program? *IF YES, ANSWER Items l, m, n and o*	l. Is this service provided at this address?	m. Is this service available to your homeless clients at another location? *IF YES, ANSWER n* DK = Don't Know	n. Is it available to them when needed, at the other location AND is it adequate for their needs?
a. OUTREACH	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
b. CASE MANAGEMENT	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
c. LIFE SKILLS ---				
(1) Money management	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(2) Transportation usage	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(3) Household management	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(4) Other life skills	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
d. EDUCATION ---				
(1) General Equivalency Diploma	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(2) English as a Second Language	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(3) Early childhood education (Head Start)	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(4) Basic Literacy	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(5) After school tutoring	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(6) Access and transportation	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
e. EMPLOYMENT/VOCATIONAL ---				
(1) Pre-vocational training	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(2) Transitional employment/paid internship	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(3) Training for specific jobs	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(4) Vocational rehabilitation	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(5) Vocational counseling	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(6) Job placement	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(7) Sheltered workshop	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
f. SUBSTANCE ABUSE ---				
(1) Detoxification	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(2) Alcoholics or Narcotics Anonymous	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(3) Individual/group substance abuse counseling	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
g. MENTAL HEALTH ---				
(1) Crisis intervention	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(2) Medication monitoring	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(3) Psychosocial rehabilitation	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(4) Individual/group psychological counciling	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(5) Psychiatric treatment	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(6) Peer group/self help	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
h. PHYSICAL HEALTH ---				
(1) Primary care	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(2) Physical rehabilitative care/physical therapy	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(3) Prenatal care	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(4) Medical screening	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
i. HIV/AIDS SERVICES	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
j. FAMILY AND CHILDREN'S SERVICES ---	[] Yes [] No			
(1) Day/Evening care	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(2) Immunization and screening	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(3) Parenting training	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(4) Parents Anonymous	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
k. SPECIAL SERVICES FOR HOMELESS VETERANS AND THEIR FAMILIES	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
l. OTHER SERVICES				
(1) Housing location assistance	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(2) Housing counseling and short-term rental assistance	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(3) Followup support services	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(4) Enrollment in entitlement program	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(5) Legal assistance	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
(6) Any other - SPECIFY _____	[] Yes [] No	[] Yes [] No	[] Yes [] No [] DK	[] Yes [] No
15o. Do you operate another program at this location?	[] Yes - LOOK AT CHART ON PAGE 1~~A~~B, AND GO TO THE PAGES FOR THE NEXT PROGRAM [] No - SKIP TO QUESTION 20 ON PAGE 34			

ALCOHOL or OTHER DRUG PROGRAM

16 a On an average day in April, how many ADULTS, aged 18 years or older, use the services of this program from location?	_____ Adults
16 b Of these ADULTS, approximately what percent are regulars or repeaters– using the services of this program at least 1/3 of the days in a month?	_____ Percent Regulars
16 c Of these ADULTS, approximately what percent are homeless?	_____ Percent Homeless
16 d On an average day in April, how many CHILDREN, up to 17 years old, use the services of this program at this location?	_____ Children
16 e Of these CHILDREN, approximately what percent are homeless?	_____ Percent Homeless
16 f Among all persons using the services of this program, please enter the approximate percentage of – – –	*The percents below should add up to 100 percent*
– Unaccompanied adult men 18 years or older	_____ Percent
– Unaccompanied adult women 18 years or older	_____ Percent
– People in single–parent families with children	_____ Percent
– People in two–parent families with children	_____ Percent
– Adult couples without children	_____ Percent
– Unaccompanied male youth under 18 years	_____ Percent
– Unaccompanied female youth under 18 years	_____ Percent
16 g Is this program a – – –	*MARK (X) ONLY ONE BOX*
– Private, non–profit, religious affiliated program	[] Private, non–profit, religious
– Private, non–profit, non–sectarian program	[] Private, non–profit, non–sectarian
– Public agency	[] Public
– Private, for profit	[] Private for profit
16 h Approximately what percent of your funding for this program do you get from – – –	
– Private funding: donations, foundation grants, United Way, individuals contributions	_____ Percent
– Government funding – federal, state or local	_____ Percent
– Other – SPECIFY SOURCE _____	_____ Percent
16 i Is this program primarily for – – –	For each item marked 'YES', please rank below (1,2,3 etc) where '1' is the primary description of your program, '2' is the second most descriptive, etc.
(1) Victims of domestic violence, battered women?	[] Yes ---------RANK:_____ [] No
(2) Runaway or homeless youth?	[] Yes ---------RANK:_____ [] No
(3) People with mental health problems?	[] Yes ---------RANK:_____ [] No
(4) People with drug or alcohol problems?	[] Yes ---------RANK:_____ [] No
(5) People with HIV/AIDS?	[] Yes ---------RANK:_____ [] No
(6) Veterans?	[] Yes ---------RANK:_____ [] No
(7) Other – SPECIFY _____	[] Yes ---------RANK:_____ [] No

Please answer these questions concerning the services that may be provided under the ALCOHOL OR OTHER DRUG programs

Question 16 -- SERVICE	k. Do your clients need the services below, as part of this program? *IF YES, ANSWER Items l, m, n and o*		l. Is this service provided at this address?		m. Is this service available to your homeless clients at another location? *IF YES, ANSWER n* DK = Don't Know			n. Is it available to them when needed, at the other location, AND is it adequate for their needs?	
a. OUTREACH	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
b. CASE MANAGEMENT	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
c. LIFE SKILLS ---									
(1) Money management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transportation usage	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Household management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Other life skills	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
d. EDUCATION ---									
(1) General Equivalency Diploma	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) English as a Second Language	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Early childhood education (Head Start)	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Basic Literacy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) After school tutoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Access and transportation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
e. EMPLOYMENT/VOCATIONAL ---									
(1) Pre-vocational training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transitional employment/paid internship	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Training for specific jobs	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Vocational rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Vocational counseling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Job placement	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(7) Sheltered workshop	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
f. SUBSTANCE ABUSE ---									
(1) Detoxification	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Alcoholics or Narcotics Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Individual/group substance abuse counselling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
g. MENTAL HEALTH ---									
(1) Crisis Intervention	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Medication monitoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Psychosocial rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Individual/group psychological counciling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Psychiatric treatment	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Peer group/self help	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
h. PHYSICAL HEALTH ---									
(1) Primary care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Physical rehabilitative care/physical therapy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Prenatal care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Medical screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
i. HIV/AIDS SERVICES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
j. FAMILY AND CHILDREN'S SERVICES ---	[] Yes	[] No							
(1) Day/Evening care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Immunization and screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Parenting training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Parents Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
k. SPECIAL SERVICES FOR HOMELESS VETERANS AND THEIR FAMILIES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
l. OTHER SERVICES									
(1) Housing location assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Housing counseling and short-term rental assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Followup support services	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Enrollment in entitlement program	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Legal assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Any other - SPECIFY _____	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
16o. Do you operate another program at this location?	[] Yes - LOOK AT CHART ON PAGE 18 AND GO TO THE PAGES FOR THE NEXT PROGRAM [] No - SKIP TO QUESTION 20 ON PAGE 34								

HIV/AIDS PROGRAM

17 a On an average day in April, how many ADULTS, aged 18 years or older, use the services of this program from location?	_____ Adults
17 b Of these ADULTS, approximately what percent are regulars or repeaters– using the services of this program at least 1/3 of the days in a month?	_____ Percent Regulars
17 c Of these ADULTS, approximately what percent are homeless?	_____ Percent Homeless
17 d On an average day in April, how many CHILDREN, up to 17 years old, use the services of this program at this location?	_____ Children
17 e Of these CHILDREN, approximately what percent are homeless?	_____ Percent Homeless
17 f Among all persons using the services of this program, please enter the approximate percentage of ---	*The percents below should add up to 100 percent*
– Unaccompanied adult men 18 years or older	_____ Percent
– Unaccompanied adult women 18 years or older	_____ Percent
– People in single–parent families with children	_____ Percent
– People in two–parent families with children	_____ Percent
– Adult couples without children	_____ Percent
– Unaccompanied male youth under 18 years	_____ Percent
– Unaccompanied female youth under 18 years	_____ Percent
17 g Is this program a ---	*MARK (X) ONLY ONE BOX*
– Private, non–profit, religious affiliated program	[] Private, non–profit, religious
– Private, non–profit, non–sectarian program	[] Private, non–profit, non–sectarian
– Public agency	[] Public
– Private, for profit	[] Private for profit
17 h Approximately what percent of your funding for this program do you get from ---	
– Private funding: donations, foundation grants, United Way, individuals contributions	_____ Percent
– Government funding – federal, state or local	_____ Percent
– Other – SPECIFY SOURCE _____	_____ Percent
17 i Is this program primarily for ---	]. For each item marked 'YES', please rank below (1,2,3 etc) where '1' is the primary description of your program, '2' is the second most descriptive, etc.
(1) Victims of domestic violence, battered women?	[] Yes ----------RANK:_____ [] No
(2) Runaway or homeless youth?	[] Yes ----------RANK:_____ [] No
(3) People with mental health problems?	[] Yes ----------RANK:_____ [] No
(4) People with drug or alcohol problems?	[] Yes ----------RANK:_____ [] No
(5) People with HIV/AIDS?	[] Yes ----------RANK:_____ [] No
(6) Veterans?	[] Yes ----------RANK:_____ [] No
(7) Other – SPECIFY _____	[] Yes ----------RANK:_____ [] No

Please answer these questions concerning the services that may be provided under the HIV/AIDS programs.

Question 17 -- SERVICE	k. Do your clients need the services below, as part of this program? *IF YES, ANSWER Items l, m, n and o*		l. Is this service provided at this address?		m. Is this service available to your homeless clients at another location? *IF YES, ANSWER n* DK = Don't Know			n. Is it available to them when needed, at the other location, AND is it adequate for their needs?	
a. OUTREACH	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
b. CASE MANAGEMENT	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
c. LIFE SKILLS ---									
(1) Money management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transportation usage	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Household management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Other life skills	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
d. EDUCATION ---									
(1) General Equivalency Diploma	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) English as a Second Language	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Early childhood education (Head Start)	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Basic Literacy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) After school tutoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Access and transportation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
e. EMPLOYMENT/VOCATIONAL ---									
(1) Pre-vocational training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transitional employment/paid internship	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Training for specific jobs	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Vocational rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Vocational counseling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Job placement	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(7) Sheltered workshop	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
f. SUBSTANCE ABUSE ---									
(1) Detoxification	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Alcoholics or Narcotics Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Individual/group substance abuse counselling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
g. MENTAL HEALTH ---									
(1) Crisis intervention	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Medication monitoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Psychosocial rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Individual/group psychological counciling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Psychiatric treatment	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Peer group/self help	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
h. PHYSICAL HEALTH ---									
(1) Primary care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Physical rehabilitative care/physical therapy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Prenatal care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Medical screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
i. HIV/AIDS SERVICES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
j. FAMILY AND CHILDREN'S SERVICES ---	[] Yes	[] No							
(1) Day/Evening care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Immunization and screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Parenting training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Parents Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
k. SPECIAL SERVICES FOR HOMELESS VETERANS AND THEIR FAMILIES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
l. OTHER SERVICES									
(1) Housing location assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Housing counseling and short-term rental assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Followup support services	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Enrollment in entitlement program	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Legal assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Any other - SPECIFY _____	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No

17o. Do you operate another program at this location?	[] Yes - LOOK AT CHART ON PAGE 12, AND GO TO THE PAGES FOR THE NEXT PROGRAM [] No - SKIP TO QUESTION 20 ON PAGE 34

MIGRANT HOUSING

18 a On an average day in April, how many ADULTS, aged 18 years or older, use the services of this program from location?	_____ Adults
18 b Of these ADULTS, approximately what percent are regulars or repeaters—using the services of this program at least 1/3 of the days in a month?	_____ Percent Regulars
18 c Of these ADULTS, approximately what percent are homeless?	_____ Percent Homeless
18 d On an average day in April, how many CHILDREN, up to 17 years old, use the services of this program at this location?	_____ Children
18 e Of these CHILDREN, approximately what percent are homeless?	_____ Percent Homeless
18 f Among all persons using the services of this program, please enter the approximate percentage of ---	*The percents below should add up to 100 percent*
– Unaccompanied adult men 18 years or older	_____ Percent
– Unaccompanied adult women 18 years or older	_____ Percent
– People in single-parent families with children	_____ Percent
– People in two-parent families with children	_____ Percent
– Adult couples without children	_____ Percent
– Unaccompanied male youth under 18 years	_____ Percent
– Unaccompanied female youth under 18 years	_____ Percent
18 g Is this program a ---	*MARK (X) ONLY ONE BOX*
– Private, non-profit, religious affiliated program	[] Private, non-profit, religious
– Private, non-profit, non-sectarian program	[] Private, non-profit, non-sectarian
– Public agency	[] Public
– Private, for profit	[] Private for profit
18 h Approximately what percent of your funding for this program do you get from ---	
– Private funding: donations, foundation grants, United Way, individuals contributions	_____ Percent
– Government funding – federal, state or local	_____ Percent
– Other – SPECIFY SOURCE _____	_____ Percent
18 i Is this program primarily for ---	]. For each item marked 'YES', please rank below (1,2,3 etc) where '1' is the primary description of your program, '2' is the second most descriptive, etc.
(1) Victims of domestic violence, battered women?	[] Yes ---------RANK:_____ [] No
(2) Runaway or homeless youth?	[] Yes ---------RANK:_____ [] No
(3) People with mental health problems?	[] Yes ---------RANK:_____ [] No
(4) People with drug or alcohol problems?	[] Yes ---------RANK:_____ [] No
(5) People with HIV/AIDS?	[] Yes ---------RANK:_____ [] No
(6) Veterans?	[] Yes ---------RANK:_____ [] No
(7) Other – SPECIFY _____	[] Yes ---------RANK:_____ [] No

Please answer these questions concerning the services that may be provided under the MIGRANT HOUSING.

Question 18 -- SERVICE	k. Do your clients need the services below, as part of this program? *IF YES, ANSWER Items l, m, n and o*		l. Is this service provided at this address?		m. Is this service available to your homeless clients at another location? *IF YES, ANSWER n* DK = Don't Know			n. Is it available to them when needed, at the other location, AND is it adequate for their needs?	
a. OUTREACH	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
b. CASE MANAGEMENT	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
c. LIFE SKILLS ---									
(1) Money management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transportation usage	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Household management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Other life skills	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
d. EDUCATION ---									
(1) General Equivalency Diploma	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) English as a Second Language	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Early childhood education (Head Start)	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Basic Literacy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) After school tutoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Access and transportation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
e. EMPLOYMENT/VOCATIONAL ---									
(1) Pre-vocational training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transitional employment/paid internship	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Training for specific jobs	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Vocational rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Vocational counseling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Job placement	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(7) Sheltered workshop	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
f. SUBSTANCE ABUSE ---									
(1) Detoxification	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Alcoholics or Narcotics Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Individual/group substance abuse counselling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
g. MENTAL HEALTH ---									
(1) Crisis intervention	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Medication monitoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Psychosocial rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Individual/group psychological counciling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Psychiatric treatment	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Peer group/self help	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
h. PHYSICAL HEALTH ---									
(1) Primary care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Physical rehabilitative care/physical therapy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Prenatal care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Medical screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
i. HIV/AIDS SERVICES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
j. FAMILY AND CHILDREN'S SERVICES ---	[] Yes	[] No							
(1) Day/Evening care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Immunization and screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Parenting training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Parents Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
k. SPECIAL SERVICES FOR HOMELESS VETERANS AND THEIR FAMILIES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
l. OTHER SERVICES									
(1) Housing location assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Housing counseling and short-term rental assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Followup support services	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Enrollment in entitlement program	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Legal assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Any other -- SPECIFY _____	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No

18o. Do you operate another program at this location?	[] Yes - LOOK AT CHART ON PAGE 1~~X~~ B AND GO TO THE PAGES FOR THE NEXT PROGRAM [] No - SKIP TO QUESTION 20 ON PAGE 34

OTHER FACILITIES

19 a On an average day in April, how many ADULTS, aged 18 years or older, use the services of this program from location?	_____ Adults
19 b Of these ADULTS, approximately what percent are regulars or repeaters– using the services of this program at least 1/3 of the days in a month?	_____ Percent Regulars
19 c Of these ADULTS, approximately what percent are homeless?	_____ Percent Homeless
19 d On an average day in April, how many CHILDREN, up to 17 years old, use the services of this program at this location?	_____ Children
19 e Of these CHILDREN, approximately what percent are homeless?	_____ Percent Homeless
19 f Among all persons using the services of this program, please enter the approximate percentage of ---	*The percents below should add up to 100 percent*
– Unaccompanied adult men 18 years or older	_____ Percent
– Unaccompanied adult women 18 years or older	_____ Percent
– People in single–parent families with children	_____ Percent
– People in two–parent families with children	_____ Percent
– Adult couples without children	_____ Percent
– Unaccompanied male youth under 18 years	_____ Percent
– Unaccompanied female youth under 18 years	_____ Percent
19 g Is this program a ---	*MARK (X) ONLY ONE BOX*
– Private, non–profit, religious affiliated program	[] Private, non–profit, religious
– Private, non–profit, non–sectarian program	[] Private, non–profit, non–sectarian
– Public agency	[] Public
– Private, for profit	[] Private for profit
19 h Approximately what percent of your funding for this program do you get from ---	
– Private funding: donations, foundation grants, United Way, individuals contributions	_____ Percent
– Government funding – federal, state or local	_____ Percent
– Other – SPECIFY SOURCE _____	_____ Percent
19 i Is this program primarily for ---	j. For each item marked 'YES', please rank below (1,2,3 etc) where '1' is the primary description of your program, '2' is the second most descriptive, etc.
(1) Victims of domestic violence, battered women?	[] Yes ---------RANK:_____ [] No
(2) Runaway or homeless youth?	[] Yes ---------RANK:_____ [] No
(3) People with mental health problems?	[] Yes ---------RANK:_____ [] No
(4) People with drug or alcohol problems?	[] Yes ---------RANK:_____ [] No
(5) People with HIV/AIDS?	[] Yes ---------RANK:_____ [] No
(6) Veterans?	[] Yes ---------RANK:_____ [] No
(7) Other – SPECIFY _____	[] Yes ---------RANK:_____ [] No

Please answer these questions concerning the services that may be provided under the OTHER PROGRAMS.

Question 19 -- SERVICE	k. Do your clients need the services below, as part of this program? *IF YES, ANSWER Items l, m, n and o*		l. Is this service provided at this address?		m. Is this service available to your homeless clients at another location? *IF YES, ANSWER n* DK = Don't Know			n. Is it available to them when needed, at the other location AND is it adequate for their needs?	
a. OUTREACH	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
b. CASE MANAGEMENT	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
c. LIFE SKILLS ---									
(1) Money management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transportation usage	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Household management	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Other life skills	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
d. EDUCATION ---									
(1) General Equivalency Diploma	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) English as a Second Language	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Early childhood education (Head Start)	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Basic Literacy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) After school tutoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Access and transportation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
e. EMPLOYMENT/VOCATIONAL ---									
(1) Pre-vocational training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Transitional employment/paid internship	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Training for specific jobs	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Vocational rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Vocational counseling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Job placement	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(7) Sheltered workshop	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
f. SUBSTANCE ABUSE ---									
(1) Detoxification	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Alcoholics or Narcotics Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Individual/group substance abuse counseling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
g. MENTAL HEALTH ---									
(1) Crisis intervention	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Medication monitoring	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Psychosocial rehabilitation	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Individual/group psychological counciling	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Psychiatric treatment	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Peer group/self help	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
h. PHYSICAL HEALTH ---									
(1) Primary care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Physical rehabilitative care/physical therapy	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Prenatal care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Medical screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
i. HIV/AIDS SERVICES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
j. FAMILY AND CHILDREN'S SERVICES ---	[] Yes	[] No							
(1) Day/Evening care	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Immunization and screening	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Parenting training	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Parents Anonymous	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
k. SPECIAL SERVICES FOR HOMELESS VETERANS AND THEIR FAMILIES	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
l. OTHER SERVICES									
(1) Housing location assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(2) Housing counseling and short-term rental assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(3) Followup support services	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(4) Enrollment in entitlement program	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(5) Legal assistance	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No
(6) Any other -- SPECIFY _____	[] Yes	[] No	[] Yes	[] No	[] Yes	[] No	[] DK	[] Yes	[] No

19o. Do you operate another program at this location?	[] Yes -- LOOK AT CHART ON PAGE 1~~A~~B, AND GO TO THE PAGES FOR THE NEXT PROGRAM [] No -- SKIP TO QUESTION 20 ON PAGE 34

20. **Will this facility (these facilities) be open in April?**	[] Yes – ANSWER 21 [] No – Skip to 24
21. **Will (this facility/these facilities) be open on a DAILY basis (every day) to provide services in April 1995?**	[] Yes – SKIP to 23 [] No – ANSWER 22 [] Uncertain
22. **What days of the week will your (facility/facilities) provide services in April?** *Mark (X) on the calendar at right all the days that service will be provided.*	APRIL Sun Mon Tue Wed Thu Fri Sat 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 [] Uncertain

23. Now we want to determine when each PROGRAM is offered. On the chart at right, mark (X) when each program is provided for your clients. We need to know the day and time when each program is offered. Census workers will visit selected sites in April to interview a sample of your clients. We need this information to plan those visits.

Mark (X) all that apply

	Mon (1)	Tue (2)	Wed (3)	Thu (4)	Fri (5)	Sat (6)	Sun (7)	Open daily in April (8)	Time (9)
a. Outreach programs									a.m ____p.m. to a.m ____p.m.
b. Drop–in centers									a.m ____p.m. to a.m ____p.m.
c. Emergency shelters									a.m ____p.m. to a.m ____p.m.
d. Transitional housing									a.m ____p.m. to a.m ____p.m.
e. Permanent housing for the homeless									a.m ____p.m. to a.m ____p.m.
f. Voucher contract arrangement – times the office is open									a.m ____p.m. to a.m ____p.m.
g. Soup kitchen – breakfast									a.m ____p.m. to a.m ____p.m.
h. Soup kitchen – lunch									a.m ____p.m. to a.m ____p.m.
i. Soup kitchen – dinner									a.m ____p.m. to a.m ____p.m.
j. Mobile food programs									a.m ____p.m. to a.m ____p.m.
k. Food pantry									a.m ____p.m. to a.m ____p.m.
l. Health care providers									a.m ____p.m. to a.m ____p.m.
m. Mental health agencies									a.m ____p.m. to a.m ____p.m.
n. Alcohol/drug programs									a.m ____p.m. to a.m ____p.m.
o. HIV/AIDS programs									a.m ____p.m. to a.m ____p.m.
p. Migrant housing									a.m ____p.m. to a.m ____p.m.
q. Other programs –Specify _____									a.m ____p.m. to a.m ____p.m.

24. Does this facility operate under any other names, or is it called by any other names?	[] Yes – **What names?** _____ _____ _____ _____ _____ _____ _____ [] No
25. In April 1995, census workers will come to a sample of facilities to interview people using your programs. If your facility is selected as one of the places, what are the steps that we need to follow for obtaining a formal agreement of participation? **a. Do we need a Board's approval?**	[] Yes [] No
b. Can you (the contact person and/or director) give permission?	[] Yes – SKIP to 25d [] No
c. Who do we contact?	_____ _____ _____
d. Please provide any additional information that may help us with making arrangements, such as an approximate time frame needed to gain an agreement, etc.	_____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____
26a Does your facility (facilities) maintain a current roster of clients who use your services?	[] Yes – ANSWER 26b [] No – ADD ANY COMMENTS TO PAGE 39
26b Would this Roster be available to our interviewers for sample selection?	[] Yes [] No
Please add any additional comments that you have on page 39.	

Please enter all information below for PARENT ORGANIZATION and any other locations that you are affiliated with that provide programs for the homeless.

A. PARENT ORGANIZATION information	
Name	Address
Contact Person	Telephone Number (include area code)

B. OTHER FACILITIES – information for each one	
(1) Name	Address
Contact Person	Telephone Number (include area code)
(2) Name	Address
Contact Person	Telephone Number (include area code)
(3) Name	Address
Contact Person	Telephone Number (include area code)
(4) Name	Address
Contact Person	Telephone Number (include area code)
(5) Name	Address
Contact Person	Telephone Number (include area code)
(6) Name	Address
Contact Person	Telephone Number (include area code)

Please enter all information below for any additional locations that you are affiliated with that provide programs for the homeless.

B. ADDITIONAL FACILITIES – information for each one	
(7) Name	Address
Contact Person	Telephone Number (include area code)
(8) Name	Address
Contact Person	Telephone Number (include area code)
(9) Name	Address
Contact Person	Telephone Number (include area code)
(10) Name	Address
Contact Person	Telephone Number (include area code)
(11) Name	Address
Contact Person	Telephone Number (include area code)
(12) Name	Address
Contact Person	Telephone Number (include area code)

Comments

Attachment C

OMB No. XXXX–XXXX: Approval Expires XX/XX/XX

FORM HPWUS–200(X)

U. S. Department of Commerce
Bureau of the Census
Actir. · as collection agent for the
U. S. Department of Housing and Urban Development

SERVICE USERS

THE SURVEY OF HOMELESS PERSONS WHO USE SERVICES

Public reporting burden for this collection of information is estimated to average 45 minutes per response. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Offices, Office of Information Policies and Systems, U. S. Department of Housing and Urban Development, Washington, D. C. 20410–3600 and to the Office of Management and Budget, Paperwork Reduction Project (xxxx–xxxx), Washington, D. C. 20503. Do not send this completed form to either of these addresses.

A. RO code	B. State	C. County
D. PSU	E. Facility code	F. Questionnaire ID

NOTICE – Your report to the Census Bureau is confidential by law (Title 5, USC 552a). All identifiable information will be used only by persons engaged in and for the purposes of the survey, and may not be disclosed or released to others for any purpose.

G. Name of facility

H. Mailing address – *Number and street or Post Office Box*

City State ZIP Code

I. Field Representative name ID code

INTERVIEW

J. Status – *Mark (X) one*	K. Date	L. Time	M. Total time
01 [ ] Interviewed 02 [ ] Refused	Month Day	Start a.m. p.m Finish a.m. p.m	minutes

INTRODUCTION

Hello, I am (Field Representative's name) from the United States Bureau of the Census. Here is my identification card. We are conducting a survey for the United States Department of Housing and Urban Development to obtain information on persons who use services such as shelters and soup kitchens. The survey will take about 45 minutes of your time. The information you give me is used for statistical purposes only. None of the information you give which could identify you or this place will be released to the public. Participating in this survey is voluntary. You do not have to, if you do not want to, in other words. We will, of course, pay you for your time if you complete the questionnaire. If you have no other questions we will begin.

N. What is your name?

Last

First

O. What is your age?

Years

Notes

SECTION 1: CURRENT LIVING CONDITION This section asks you about your current living situation.	
1a. As of today, do you have some place in (TOWN/CITY NAME) that you consider to be a permanent place where you live?	1 ___ Yes – GO to 1b. 2 ___ No – GO to Section 2 3 ___ Don't know 4 ___ Refused
1b. Where in the county is that?	___ ___ _____ Office use only
2. Do you pay to stay in the place where you live (even if someone else owns the place)?	1 ___ Yes, pay for my room, pay rent, mortgage, or already own it 2 ___ No 3 ___ Don't Know 4 ___ Refused
3a. Is the place you live a house, apartment, a room, a shelter, or some other kind of place?	1 ___ A house 2 ___ An apartment 3 ___ A room (other than hotel) – GO to 3b. 4 ___ Hotel (place with separate rooms that you pay for yourself) 5 ___ Dormitory Hotel (place without separate rooms that you pay for yourself) 6 ___ A migrant worker's camp – GO to 6. 7 ___ A shelter (includes transitional shelters) 8 ___ A welfare or voucher hotel 9 ___ A car or other vehicle 10 ___ An abandoned building 11 ___ A spot in a place of business (e.g. subway, movie, bar, all–night restaurant, bus station, etc.) 12 ___ Any place outside (streets, parks, culverts, campgrounds, etc.) 13 ___ Some other place (SPECIFY: _____) 14 ___ Don't know 15 ___ Refused – GO to Section 2
3b. What is the address of that place?	_____ _____
4. Is the place where you live your own place or someone else's place?	1 ___ Own place – GO to Section 3 2 ___ Someone else's place 3 ___ Don't know 4 ___ Refused
5. Whose place is it?	1 ___ Parent's 2 ___ Other relative's 3 ___ Friend's 4 ___ Someone else's place (SPECIFY: _____) 5 ___ Don't know 6 ___ Refused
6. How often do you use that place for sleeping? Would you say...? (READ CATEGORIES)	1 ___ Every day 2 ___ Almost every day 3 ___ Once or twice a week 4 ___ Less than once a week – GO to section 2 5 ___ Don't know 6 ___ Refused
7. Do you have an arrangement with your (parents/relatives/friends/someone else) to sleep in their place on a regular basis – that is, for 5 or more days a week?	1 ___ Yes – GO to section 3 2 ___ No 3 ___ Don't know 4 ___ Refused – GO to section 2

SECTION 2: WITHOUT PERMANENT HOUSING

8a. Where did you sleep or rest during the last 24 hours? (READ RESPONSE CATEGORIES AND MARK (X) ALL THAT APPLY.)	1 ___ Shelter _____/_____ (Name) (Address) 2 ___ Someone's room, apartment, or house 3 ___ Hotel/motel (voucher) 4 ___ A migrant workers camp 5 ___ In an institution (jail, hospital, detox) 6 ___ Place of business (bus, bus station, all–night movie, airport, subway, bar, laundromat, restaurant, farm building, etc.) 7 ___ A car (including other abandoned vehicles) 8 ___ An abandoned building 9 ___ Anywhere outside (street, park, cardboard box, campground, etc.) 10 ___ Someplace else _____/_____ (Name) (Address) 11 ___ Don't know 12 ___ Refused
8b. Where in the county is that?	___ ___ _____ Office use only

9a. Over the last seven days, that is, since last (DAY OF INTERVIEW), on which nights did you sleep or rest in the following places? (READ CATEGORIES.)	Su	M	T	W	Th	F	Sa
1 In my own house, apartment, or room (includes foster and group homes)							
2 In someone else's home or apartment							
3 In a shelter or vouchered hotel/motel							
4 In a migrant workers camp							
5 In an institution (jail, hospital)							
6 In a place of business, (bus, bus station, all–night movie, airport, subway, bar, laundromat, restaurant, farm building, etc.)							
7 In a car, van, truck, or other vehicle (including abandoned vehicles)							
8 In an empty or abandoned building							
9 Anywhere outside (on the streets, in a park, under a culvert, in a cardboard box, on a bench, campground, etc.)							
10 Elsewhere (SPECIFY: _____)							

9b. (Ask if shelter marked in Q.8a or Q.9a) Can you tell me the names of the shelters you have used in the last 7 days?	_____ _____ _____ _____
Check item 1: Is there at least one "X" in each day column in Q.9a?	___ *Yes* ___ *No (Go back and correct answers until each day column has at least one "X".)*
Check item 2: Is Q.8a marked "1" or Q.9a marked "3"?	___ *Yes (GO to Q.10b)* ___ *No*
10a. Have you ever slept in a shelter or in a room paid for by a voucher?	___ Yes ___ No ___ Don't know ___ Refused GO to Q.11

10b. When was the last time you slept at a shelter, or in a room paid for by a voucher?	1___ Last night 2___ # of days ago(if within the past week, enter the number of days) 3___ # of weeks ago(if within the past month, enter the number of weeks) 4___ # of months ago(if within the past year, enter the number of months) 5___ 13 or more months ago 6___ Never 7___ Don't know 8___ Refused
11. Other than shelters, when was the last time you had a house, apartment, room or other regular place to stay? (Regular is 5 or more days.)	1___ # of days ago(if within the past week, enter the number of days) 2___ # of weeks ago(if within the past month, enter the number of weeks) 3___ # of months ago(if within the past year, enter the number of months) 4___/___ # of years and months yrs/mos 5___ Don't know 6 __ Refused
12. Was it a...? (READ CHOICES AND MARK (X) ONE ANSWER.)	1___ House 2___ Apartment 3___ Room 4___ Some other kind of place (SPECIFY: _____) 5___ Don't know 6___ Refused
13. Did anyone else live with you, including children, or other adults, or did you live there all by yourself?	1___ Lived by myself (no spouse, no children, no one else) --------> (SKIP TO Q.15) 2___ Lived with other people 3___ Don't know 4___ Refused
14. If you lived with other people, who did you share that place with? (READ CATEGORIES AND MARK (X) ALL THAT APPLY.)	1___ Spouse 2___ Children 3___ Parents (mother and/or father, mother and/or father in-laws) 4___ Foster family 5___ Sisters and/or brothers, in-laws 6___ Your adult children 7___ Grandparents 8___ Other relatives 9___ Partner/boyfriend/girlfriend 10___ Friends 11___ Other residents 12___ Other persons (SPECIFY: _____) 13___ Don't know 14___ Refused
15. Who did that place belong to? That is, who paid the rent or mortgage or owned it? (READ CATEGORIES AND MARK (X) ALL THAT APPLY.)	1___ Self 2___ Spouse 3___ Parents (mother and/or father, mother and/or father in-laws) 4___ Foster family 5___ Sisters and/or brothers, in-laws 6___ Your adult children 7___ Grandparents 8___ Other relatives 9___ Partner/boyfriend/girlfriend 10___ Friends 11___ Non-profit/government program or institution 12___ Other persons (SPECIFY: _____) 13___ Don't know 14___ Refused

		16b. What is the main reason that you left? (MARK (X) ONE REASON)
16a. Did you leave that place because...? (READ CHOICES AND MARK (X) ALL THAT APPLY.)	1___ Couldn't pay the rent	___
	2___ Someone who paid the rent/mortgage stopped paying it	___
	3___ Lost your job	___
	4___ Lost welfare or other cash assistance benefit	___
	5___ Was drinking	___
	6___ Was doing drugs	___
	7___ Went into hospital or treatment program	___
	8___ ARC/AIDS/HIV-related	___
	9___ Was pregnant/just had baby	___
	10___ Became sick or disabled (other than ARC/AIDS)	___
	11___ Went into military	___
	12___ Went to jail or prison	___
	13___ Left town	___
	14___ Didn't get along with people there	___
	15___ People you were staying with asked you to leave	___
	16___ Pushed out, kicked out	___
	17___ Landlord made you leave	___
	18___ Building condemned, destroyed or urban renewal	___
	19___ Fire	___
	20___ You, or children, abused, beaten, violence in household	___
	21___ Released, dismissed, discharged	___
	22___ Other (SPECIFY:_____)	___
	23___ Don't know	___
	24___ Refused	___
17. (Ask only if Yes marked in Q.10a) (SHOW FLASHCARD) Between the time you left that place and now, how much time have you spent in shelters?	1___ All of the time	
	2___ Most of the time	
	3___ About three-quarters of the time	
	4___ About half of the time	
	5___ About one-quarter of the time	
	6___ Almost none of the time	
	7___ None of the time	
	8___ Don't know	
	9___ Refused	

18a. Since you left your last permanent place, have you spent time in...? (READ CHOICES AND MARK (X) ALL THAT APPLY.)	Yes	No	18b. If all no in Q.18a, skip to Q.20. If yes in 18a, ask– How much time did you spend in...? 1 to 7 days	1 to 4 weeks	1 to 6 months	7 to 12 months	13 to 24 months	2 or more years
1 Temporary place of your own (paid for by you)	—	—	—	—	—	—	—	—
2 Homes of relatives	—	—	—	—	—	—	—	—
3 Homes of friends	—	—	—	—	—	—	—	—
4 Foster home	—	—	—	—	—	—	—	—
5 Mental Hospital	—	—	—	—	—	—	—	—
6 Other Hospital	—	—	—	—	—	—	—	—
7 Nursing home, board & care home, group home	—	—	—	—	—	—	—	—
8 Migrant workers camp	—	—	—	—	—	—	—	—
9 Military	—	—	—	—	—	—	—	—
10 Jail or prison	—	—	—	—	—	—	—	—
11 Halfway house, 3/4 way house, other transitional	—	—	—	—	—	—	—	—
12 Other (SPECIFY:_____)	—	—	—	—	—	—	—	—
13 Don't Know	—	—	—	—	—	—	—	—
14 Refused	—	—	—	—	—	—	—	—

Check Item 3: IF ALL RESPONSES IN 18a MARKED NO, SKIP TO Q.20.

19. (SHOW FLASHCARD) When you were without a permanent home the last time, how much time did you spend in these places? (DO NOT INCLUDE TIME SPENT AT SHELTERS)	1___ All of the time 2___ Most of the time 3___ About three–quarters of the time 4___ About half of the time 5___ About one–quarter of the time 6___ Almost none of the time 7___ None of the time 8___ Don't know 9___ Refused
20. Have you EVER had a place of your own where you paid the rent or your name was on the lease, or you owned it?	1___ Yes, by myself 2___ Yes, with spouse 3___ Yes, with other (SPECIFY:_____) 4___ No 5___ Refused

21. Did you ever live in any of the following places for children or teenagers? (READ CHOICES AND MARK (X) ALL THAT APPLY.)		
a. A foster home	1___ Yes 2___ No	3___ DK 4___ RF
b. A group home	1___ Yes 2___ No	3___ DK 4___ RF
c. Any other kind of institution	1___ Yes 2___ No	3___ DK 4___ RF

22. (From the time you were born until your 18th birthday), did you ever run away from home, or were you forced to leave your home (pushed out), for 24 hours or more? (Includes a foster or group home or other institution)	1___ No, never ran away or was pushed out ----------> (SKIP TO Q.24) 2___ Yes, ran away 3___ Yes, pushed out or forced to leave by parents, relatives, guardian or foster parent (ASK Q. 23) 4___ Refused ----------> (SKIP TO Q.24)
23. Altogether, how much time did you spend away from home before you were 18 years old?	1___ Less than one week 2___ 1–4 weeks 3___ 1–6 months 4___ 7–12 months 5___ 13–24 months (1–2 years) 6___ More than 2 years 7___ Don't know 8___ Refused
24. (INCLUDING THIS TIME), how many times in your life have you been(homeless/without permanent housing)? That is, not living in your own house, apartment, or room on a regular basis?	1___ Times before this time 2___ Just this time ----------> (SKIP TO Q.28)
25. How long were you (homeless/without permanent housing) during the period (of homelessness) just before this one?	1___ # of days ago(if within the past week, enter the number of days) 2___ # of weeks ago(if within the past month, enter the number of weeks) 3___ # of months ago(if within the past year, enter the number of months) 4___/___ # of years ago and months yrs/mos 5___ Don't know 6___ Refused
26. How long ago did your LAST period (of homelessness/without permanent housing) end? (Refers to the time before this one)?	1___ # of days ago(if within the past week, enter the number of days) 2___ # of weeks ago(if within the past month, enter the number of weeks) 3___ # of months ago(if within the past year, enter the number of months) 4___/___ # of years ago and months yrs/mos 5___ Don't know 6___ Refused
27. How old were you when you FIRST found yourself without permanent housing or a regular place to stay?	1_____ Age
28. Where were you living when you became (homeless/without permanent housing) THIS time?	1_____/_____ Town/City State 2___ Don't know 3___ Refused
Check Item 4: IS (City/State) SAME LOCATION AS INTERVIEW CITY?	___ *Yes (SKIP TO Q.56)* ___ *No*

29. Why did you leave (city in Q.28)? (MARK (X) ALL THAT APPLY.)	1___ No jobs available 2___ No help available from family 3___ Used available services until exceeded time limit 4___ Entered institution in another city (e.g., jail, mental hospital) 5___ No services in that place 6___ Made to leave (given bus fare to leave town, driven to county line, etc.) 7___ Close of Agricultural Season 8___ Other (SPECIFY:_____) 9___ Refused
30. Why did you come here (to interview city)? (MARK (X) ALL THAT APPLY.)	1___ To look for work, heard jobs were here 2___ Cheap housing 3___ Had friends and/or relatives here 4___ Availability of shelters/missions 5___ Good services/programs 6___ Climate 7___ Following crops 8___ On the way to where I am going, just passing through 9___ No particular reason 10___ Other (SPECIFY:_____) 11___ Refused
31. How long have you been in (interview city)?	1___ Less than 3 months 2___ 4 to 6 months 3___ 7 to 12 months 4___ 1 year 5___ 2 to 5 years 6___ 6 to 10 years 7___ More than 10 years but less than all may life 8___ All my life
32. Since you (became homeless/left your last permanent place), how many towns/cities have you stayed 2 or more days in?	1___ 1 place 2___ 2 places 3___ 3 places 4___ 4 places 5___ 5 to 10 places 6___ 11 or more places (SKIP TO Q.56)

SECTION 3: CURRENTLY WITH PERMANENT HOUSING		
		Days Per Week
33a. Over the last seven days, that is, since last (DAY OF INTERVIEW) on how many nights did you sleep or rest in the following places? (READ RESPONSE CATEGORIES)	1 In my own house, apartment, or room (includes foster and group homes)	
	2 In someone else's home or apartment	
	3 In a shelter or vouchered hotel/motel	
	4 In a migrant workers camp	
	5 In an institution (jail, hospital)	
	6 In a place of business (bus, bus station, all-night movie, airport, subway, bar, laundromat, restaurant, farm building, etc.)	
	7 In a car, van, truck, or other vehicle (including abandoned vehicles)	
	8 In an empty or abandoned building	
	9 Anywhere outside (on the streets, in a park, under a culvert, in a cardboard box, on a bench, campground, etc.)	
	10 Elsewhere (SPECIFY:_____)	
	Total	7
33b. (Ask if shelter marked in Q.33a) Can you tell me the names of the shelters you have used in the last 7 days?	SHELTERS	
Check Item 5: DO ANSWERS IN Q.33 TOTAL 7?	___ *Yes (Continue with Q.34)* ___ *No (Go back and correct answers until responses total 7.; Continue with Q.34)*	
34. Have you ever been (homeless/without permanent housing), that is, not living in your own house, apartment, or room on a regular basis?	1___ Yes 2___ No ----------> (SKIP TO Q.56) 3___ Don't know 4___ Refused	
35. How many times in your life have you been (homeless/without permanent housing)?	1_____ Number of times	
36. How old were you the first time you were (homeless/without permanent housing)?	1_____ Age	
37. How long were you (homeless/without permanent housing)? If more than once, use the most recent one.	1___ # of days ago(if within the past week, enter the number of days) 2___ # of weeks ago(if 1–4 weeks ago, enter number of weeks) 3___ # of months ago(1–12 months ago, enter number of months) 4___/___ # of years and months yrs/mos 5_ Don't know 6___ Refused	
38. How long ago did your last time (of homelessness/without permanent housing) end?	1___ # of days ago(if within the past week, enter the number of days) 2___ # of weeks ago(if 1–4 weeks ago, enter number of weeks) 3___ # of months ago(1–12 months ago, enter number of months) 4___/___ # of years and months yrs/mos 5___ Don't know 6___ Refused	

39. Have you ever slept at a shelter, or in a room paid for by a voucher?	1___ Yes 2___ No ----------> (SKIP TO Q.41)
40. When was the last time you slept at a shelter, or in a room paid for by a voucher?	1___ Last night 2___ # of days ago(if within the past week, enter the number of days) 3___ # of weeks ago(if 1–4 weeks ago, enter number of weeks) 4___ # of months ago(1–12 months ago, enter number of months) 5___ 13 or more months ago 6___ Never 7___ Don't know 8___ Refused
41. Please think about the LAST time you did not have a home or regular place to stay. What type of place were you living in just before you were (homeless/without permanent housing) the LAST time? Was it a ...? (READ CATEGORIES.)	1___ House 2___ Apartment 3___ Room 4___ Some other kind of place (SPECIFY:_____) 5___ Don't know 6___ Refused
42. Did anyone else live with you, including children, or other adults, or did you live there by yourself?	1___ Lived by myself (no spouse, no children, no one else) -------> (SKIP TO Q. 44) 2___ Lived with other people 3___ Don't know 4___ Refused
43. If you lived with other people, did you share that place with...? (READ CATEGORIES AND MARK (X) ALL THAT APPLY.)	1___ Spouse 2___ Children 3___ Parents (mother and/or father, mother and/or father in-laws) 4___ Foster family 5___ Sisters and/or brothers, in-laws 6___ Your adult children 7___ Grandparents 8___ Other relatives 9___ Partner/boyfriend/girlfriend 10___ Friends 11___ Other residents 12___ Other persons (SPECIFY:_____) 13___ Don't know 14___ Refused
44. Who did that place belong to? That is, who paid the rent or mortgage or owned it? (MARK (X) ALL THAT APPLY.)	1___ Self 2___ Spouse 3___ Parents (mother and/or father, mother and/or father in-laws) 4___ Foster family 5___ Sisters and/or brothers, in-laws 6___ Your adult children 7___ Grandparents 8___ Other relatives 9___ Partner/boyfriend/girlfriend 10___ Friends 11___ Non-profit/government program or institution 12___ Other persons (SPECIFY:_____) 13___ Don't know 14___ Refused

		45b. What is the main reason that you left? (MARK (X) ONE REASON)
45a. Did you leave that place because...? (READ ALL CATEGORIES AND MARK (X) ALL THAT APPLY.)	1___ Couldn't pay the rent	___
	2___ Someone who paid the rent or mortgage stopped paying it	___
	3___ Lost your job	___
	4___ Lost job – seasonal farm work ended	
	5___ Lost welfare or other cash assistance benefit	___
	6___ Was drinking	___
	7___ Was doing drugs	___
	8___ Went into hospital or treatment program	___
	9___ ARC/AIDS/HIV–related	___
	10___ Was pregnant/just had baby	___
	11___ Became sick or disabled (other than ARC/AIDS related)	___
	12___ Went into military	___
	13___ Went to jail or prison	___
	14___ Left town	___
	15___ Didn't get along with people there	___
	16___ People you were staying with asked you to leave	___
	17___ Pushed out, kicked out	___
	18___ Landlord made you leave	___
	19___ Building condemned, destroyed or urban renewal	___
	20___ Fire	___
	21___ You, or children, abused, beaten, violence in household	___
	22___ Released, dismissed, discharged	___
	23___ Other (SPECIFY:_____)	___
	24___ Don't know	___
	25___ Refused	___
46. (Ask only if Q.39 marked yes) (SHOW FLASHCARD) During the time that you (were homeless/did not have a permanent place to stay), how much time did you spend in shelters?	1___ All of the time	
	2___ Most of the time	
	3___ About three–quarters of the time	
	4___ About half of the time	
	5___ About one–quarter of the time	
	6___ Almost none of the time	
	7___ None of the time	
	8___ Don't know	
	9___ Refused	

47a. Since you left your last permanent place, did you spend time in...? READ CHOICES AND MARK (X) ALL THAT APPLY.)	Yes	No	47b. If all no in 47a, skip to Q.48. If yes in 47a, ask – How much time did you spend in...? 1 to 7 days	1 to 4 weeks	1 to 6 months	7 to 12 months	13 to 24 months	2 or more years
1 Temporary place of your own (paid for by you)	___	___	___	___	___	___	___	___
2 Homes of relatives	___	___	___	___	___	___	___	___
3 Homes of friends	___	___	___	___	___	___	___	___
4 Foster home	___	___	___	___	___	___	___	___
5 Mental Hospital	___	___	___	___	___	___	___	___
6 Other Hospital	___	___	___	___	___	___	___	___
7 Nursing home, board & care home, group home	___	___	___	___	___	___	___	___
8 Military	___	___	___	___	___	___	___	___
9 Jail or prison	___	___	___	___	___	___	___	___
10 Halfway house, 3/4 way house, other transitional	___	___	___	___	___	___	___	___
11 Other (SPECIFY:_____)	___	___	___	___	___	___	___	___
12 Don't Know	___	___	___	___	___	___	___	___
13 Refused	___	___	___	___	___	___	___	___

Check Item 6: ARE RESPONSES IN Q.47a ALL "NO"?	___ *Yes (SKIP TO Q.48)* ___ *No*
47c. (SHOW FLASHCARD) When you were without a home the LAST time, how much time did you spend in these places? (DO NOT INCLUDE TIME SPENT AT SHELTERS.)	1___ All of the time 2___ Most of the time 3___ About three–quarters of the time 4___ About half of the time 5___ About one–quarter of the time 6___ Almost none of the time 7___ None of the time 8___ Don't know 9___ Refused

48. Did you ever live in any of the following places for children or teenagers? (READ CHOICES AND MARK (X) ALL THAT APPLY.)		
a. A foster home	1___ Yes 2___ No	3___ DK 4___ RF
b. A group home	1___ Yes 2___ No	3___ DK 4___ RF
c. Any other kind of institution	1___ Yes 2___ No	3___ DK 4___ RF

49. (From the time you were born until your 18th birthday), did you ever run away from home, or were you forced to leave your home (pushed out), for 24 hours or more (Includes a foster or group home or other institution)?		
1___ No, never ran away or was pushed out ------>	(SKIP TO Q.51)	
2___ Yes, ran away		(ASK Q. 50)
3___ Yes, pushed out or forced to leave by parents, relatives, guardian or foster parents		
4___ Refused -------->	(SKIP TO Q.51)	

50. Altogether, how much time did you spend away from home before you turned 18?	1___ Less than one week 2___ 1–4 weeks 3___ 1–6 months 4___ 7–12 months 5___ 13–24 months (1–2 years) 6___ More than 2 years 7___ Refused
51. When you were (homeless/ without permanent housing) the last time, where were you living?	1_____/_____ Town/City State 2___ Don't know 3___ Refused
Check Item 7: IS (City/State) SAME AS INTERVIEW CITY?	___ *Yes (SKIP TO Q.54)* ___ *No*
52. Why did you leave (city in Q.51)? (MARK (X) ALL THAT APPLY.)	1___ No jobs available 2___ No help available from family 3___ Used available services until exceeded time limit 4___ Entered institution in another city (e.g., jail, mental hospital) 5___ No services in that place 6___ Made to leave (given bus fare to leave town, driven to county line, etc.) 7___ Close of agricultural season 8___ Other (SPECIFY? _____ _____) 9___ Refused
53. Why did you come here to (interview city)? (MARK (X) ALL THAT APPLY.)	1___ To look for work, heard jobs were here 2___ Cheap housing 3___ Had friends and/or relatives here 4___ Availability of shelters/missions 5___ Good services/programs 6___ Climate 7___ Following crops 8___ On the way to where I am going, just passing through 9___ No particular reason 10___ Other (SPECIFY?_____) 11___ Refused
54. How long have you been in (interview city)?	1___ Less than 3 months 2___ 4 to 6 months 3___ 7 to 12 months 4___ 1 year 5___ 2 to 5 years 6___ 6 to 10 years 7___ More than 10 years but less than all my life 8___ All my life
55. When you were (homeless/without permanent housing), in how many towns/ cities did you stay 2 or more days in?	1___ 1 place 2___ 2 places 3___ 3 places 4___ 4 places 5___ 5 to 10 places 6___ 11 or more places

SECTION 4: DEMOGRAPHICS The next questions ask for some basic background information about you.	
56. Gender: (FILL BY OBSERVATION)	1___ Male 2___ Female
57. (SHOW FLASHCARD) What is your race?	1___ Black 2___ White 3___ American Indian/Native American 4___ Asian/Pacific Islander 5___ Other (SPECIFY:_____) 6___ Don't Know 7___ Refused
57a. (SHOW FLASHCARD) Are you of Spanish/Hispanic origin? For example: Mexican, Mexican/American, Cuban, Puerto Rican.	1___ Yes 2___ No (not Spanish/Hispanic) ——→ (SKIP TO Q.58)
57b. Which Spanish/Hispanic group are you?	1___ Mexican, Mexican/American, Chicano 2___ Puerto Rican 3___ Cuban 4___ Other Spanish/Hispanic
58. What is your date of birth?	1____ ____ ____ MM DD YY
59. How much school have you completed? (READ CATEGORIES IF PERSON IS UNSURE. MARK (X) FOR THE HIGHEST LEVEL COMPLETED OR DEGREE RECEIVED. IF CURRENTLY ENROLLED, MARK THE LEVEL OF PREVIOUS GRADE ATTENDED OR HIGHEST DEGREE RECEIVED.)	1___ No school completed 2___ Nursery school 3___ Kindergarten 4___ 1st, 2nd, 3rd, 4th grade 5___ 5th, 6th, 7th, or 8th grade 6___ 9th grade 7___ 10th grade 8___ 11th grade 9___ 12th grade, NO DIPLOMA 10___ HIGH SCHOOL GRADUATE – high school DIPLOMA or the equivalent (e.g. GED) 11___ Some college but no degree 12___ Associate degree in college – Occupational program 13___ Associate degree in college – Academic program 14___ Bachelor's degree (e.g. BA,AB,BS) 15___ Master's degree (e.g. MA, MEng, MEd, MSE, MBA) 16___ Professional school degree (e.g. MD, DDS, DVM, LLB, JD) 17___ Doctorate degree (e.g. PhD,EdD)
60. Are you working on any diploma, degree, courses, or training program now? (MARK (X) ALL THAT APPLY.)	1___ Yes, on G.E.D. 2___ Yes, on high school diploma 3___ Yes, on college courses or degree 4___ Yes, on vocational or other training program or apprenticeship 5___ Yes, other (SPECIFY:_____) 6___ No 7___ Don't know 8___ Refused

61a. Did you ever repeat one or more grades in school?	1___ No 2___ Repeated one grade 3___ Repeated more than one grade 4___ Don't know 5___ Refused
61b. Were you ever enrolled in special education?	1___ Yes 2___ No
Check Item 8: IS Q.59 MARKED 1 THROUGH 9?	___ *Yes* ___ *No (SKIP TO Q.63)*
62a. Did you drop out of school for a period of time?	1___ No, never dropped out 2___ Dropped out of junior high/middle school (5–8) 3___ Dropped out of senior high school (9–12) 4___ Don't know 5___ Refused
62b. Were you ever suspended?	1___ Yes 2___ No
62c. Were you ever expelled?	1___ Yes 2___ No
63. What is your present marital status? Are you ... (READ CATEGORIES AND MARK (X) ONLY ONE.)	1___ Now married, except separated (includes common law) 2___ Divorced 3___ Separated 4___ Widowed 5___ Never married 6___ Don't know 7___ Refused
64. What is your Social Security number?	___-__-____
64a. (If social security number refused, ask...) What are the first 5 digits of your Social Security number?	_____

SECTION 5 – CHILDREN AND EDUCATION			
The next questions ask you about any children you may have. 65. Do you have any children?	1 ___ Yes 2 ___ No 3 ___ Don't know 4 ___ Refused GO to 72		
66. How many children do you have who are – – a. Under 18?	___ Child(ren) – GO to 67a. 1 ___ None – GO to 72		
b. 18 and over?	___ Child(ren) – GO to 72		
Complete questions 67a. through 71h. for ONE child at a time. 67a. What is the name and age of each child under 18? *(Enter number of months if under one year of age)*	CHILD 1 Name ___ Year(s) OR ___ Month(s) 1 ___ Don't know 2 ___ Refused	CHILD 2 Name ___ Year(s) OR ___ Month(s) 1 ___ Don't know 2 ___ Refused	CHILD 3 Name ___ Year(s) OR ___ Month(s) 1 ___ Don't know 2 ___ Refused
b. What is (child's name)'s sex?	1 ___ Male 2 ___ Female	1 ___ Male 2 ___ Female	1 ___ Male 2 ___ Female
68. Does (child's name) live with you?	1 ___ Yes 2 ___ No	1 ___ Yes 2 ___ No	1 ___ Yes 2 ___ No
69. Where does (child's name) live now?	1 ___ Child lives with his/her other parent 2 ___ Child lives with my parent(s) or in–laws 3 ___ Child lives with other relatives 4 ___ Child is in foster care, group home, jail or other institution 5 ___ Other – Specify _____ 6 ___ Don't know where child lives 7 ___ Refused	1 ___ Child lives with his/her other parent 2 ___ Child lives with my parent(s) or in–laws 3 ___ Child lives with other relatives 4 ___ Child is in foster care, group home, jail or other institution 5 ___ Other – Specify _____ 6 ___ Don't know where child lives 7 ___ Refused	1 ___ Child lives with his/her other parent 2 ___ Child lives with my parent(s) or in–laws 3 ___ Child lives with other relatives 4 ___ Child is in foster care, group home, jail or other institution 5 ___ Other – Specify _____ 6 ___ Don't know where child lives 7 ___ Refused
70. How long has it been since (child's name) has lived with you?	1 ___ 0 to 6 months 2 ___ 7 to 12 months 3 ___ 1 to 2 years 4 ___ 3 to 4 years 5 ___ More than 4 years 6 ___ Child never lived with me – GO to 72 7 ___ Refused	1 ___ 0 to 6 months 2 ___ 7 to 12 months 3 ___ 1 to 2 years 4 ___ 3 to 4 years 5 ___ More than 4 years 6 ___ Child never lived with me – GO to 72 7 ___ Refused	1 ___ 0 to 6 months 2 ___ 7 to 12 months 3 ___ 1 to 2 years 4 ___ 3 to 4 years 5 ___ More than 4 years 6 ___ Child never lived with me – GO to 72 7 ___ Refused
CHECK ITEM A – If Q 68 is marked "YES" and child's age is–	___ 6 years or older – *Ask 71a* ___ 3, 4, or 5 years old– *Skip 71b* ___ Less than 3 years – *Skip to 71g*	___ 6 years or older – *Ask 71a* ___ 3, 4, or 5 years old– *Skip 71b* ___ Less than 3 years – *Skip to 71g*	___ 6 years or older – *Ask 71a* ___ 3, 4, or 5 years old– *Skip 71b* ___ Less than 3 years – *Skip to 71g*
71. Does (child's name) attend school?	1 ___ Yes, regularly attends school – skip to 71e. 2 ___ Attends school but not regularly, misses a lot 3 ___ No, not attending school 4 ___ Refused	1 ___ Yes, regularly attends school – skip to 71e. 2 ___ Attends school but not regularly, misses a lot 3 ___ No, not attending school 4 ___ Refused	1 ___ Yes, regularly attends school – skip to 71e. 2 ___ Attends school but not regularly, misses a lot 3 ___ No, not attending school 4 ___ Refused

CHILD 4	CHILD 5	CHILD 6	CHILD 7
Name	Name	Name	Name
___ Year(s) OR ___ Month(s) 1 ___ Don't know 2 ___ Refused	___ Year(s) OR ___ Month(s) 1 ___ Don't know 2 ___ Refused	___ Year(s) OR ___ Month(s) 1 ___ Don't know 2 ___ Refused	___ Year(s) OR ___ Month(s) 1 ___ Don't know 2 ___ Refused
1 ___ Male 2 ___ Female	1 ___ Male 2 ___ Female	1 ___ Male 2 ___ Female	1 ___ Male 2 ___ Female
1 ___ Yes 2 ___ No	1 ___ Yes 2 ___ No	1 ___ Yes 2 ___ No	1 ___ Yes 2 ___ No
1 ___ Child lives with his/her other parent 2 ___ Child lives with my parent(s) or in-laws 3 ___ Child lives with other relatives 4 ___ Child is in foster care, group home, jail or other institution 5 ___ Other – Specify _____ 6 ___ Don't know where child lives 7 ___ Refused	1 ___ Child lives with his/her other parent 2 ___ Child lives with my parent(s) or in-laws 3 ___ Child lives with other relatives 4 ___ Child is in foster care, group home, jail or other institution 5 ___ Other – Specify _____ 6 ___ Don't know where child lives 7 ___ Refused	1 ___ Child lives with his/her other parent 2 ___ Child lives with my parent(s) or in-laws 3 ___ Child lives with other relatives 4 ___ Child is in foster care, group home, jail or other institution 5 ___ Other – Specify _____ 6 ___ Don't know where child lives 7 ___ Refused	1 ___ Child lives with his/her other parent 2 ___ Child lives with my parent(s) or in-laws 3 ___ Child lives with other relatives 4 ___ Child is in foster care, group home, jail or other institution 5 ___ Other – Specify _____ 6 ___ Don't know where child lives 7 ___ Refused
1 ___ 0 to 6 months 2 ___ 7 to 12 months 3 ___ 1 to 2 years 4 ___ 3 to 4 years 5 ___ More than 4 years 6 ___ Child never lived with me – GO to 72 7 ___ Refused	1 ___ 0 to 6 months 2 ___ 7 to 12 months 3 ___ 1 to 2 years 4 ___ 3 to 4 years 5 ___ More than 4 years 6 ___ Child never lived with me – GO to 72 7 ___ Refused	1 ___ 0 to 6 months 2 ___ 7 to 12 months 3 ___ 1 to 2 years 4 ___ 3 to 4 years 5 ___ More than 4 years 6 ___ Child never lived with me – GO to 72 7 ___ Refused	1 ___ 0 to 6 months 2 ___ 7 to 12 months 3 ___ 1 to 2 years 4 ___ 3 to 4 years 5 ___ More than 4 years 6 ___ Child never lived with me – GO to 72 7 ___ Refused
___ 6 years or older – *Ask 71a* ___ 3, 4, or 5 years old– *Skip 71b* ___ Less than 3 years – *Skip to 71g*	___ 6 years or older – *Ask 71a* ___ 3, 4, or 5 years old– *Skip 71b* ___ Less than 3 years – *Skip to 71g*	___ 6 years or older – *Ask 71a* ___ 3, 4, or 5 years old– *Skip 71b* ___ Less than 3 years – *Skip to 71g*	___ 6 years or older – *Ask 71a* ___ 3, 4, or 5 years old– *Skip 71b* ___ Less than 3 years – *Skip to 71g*
1 ___ Yes, regularly attends school – skip to 71e. 2 ___ Attends school but not regularly, misses a lot 3 ___ No, not attending school 4 ___ Refused	1 ___ Yes, regularly attends school – skip to 71e. 2 ___ Attends school but not regularly, misses a lot 3 ___ No, not attending school 4 ___ Refused	1 ___ Yes, regularly attends school – skip to 71e. 2 ___ Attends school but not regularly, misses a lot 3 ___ No, not attending school 4 ___ Refused	1 ___ Yes, regularly attends school – skip to 71e. 2 ___ Attends school but not regularly, misses a lot 3 ___ No, not attending school 4 ___ Refused

Please list the children's names in the same order as on pages 5–1 and 5–2.	CHILD 1 Name	CHILD 2 Name	CHILD 3 Name
71b. Does (child's name) attend kindergarten, Head Start, or other pre–school program?	1 ___ Yes, regularly attends a ___ Kindergarten b ___ Head Start c ___ Other pre–school (nursery school, pre–kindergarten) Go to 71c 2 ___ Enrolled, but does not attend regularly 3 ___ Not enrolled 4 ___ Refused	1 ___ Yes, regularly attends a ___ Kindergarten b ___ Head Start c ___ Other pre–school (nursery school, pre–kindergarten) Go to 71c 2 ___ Enrolled, but does not attend regularly 3 ___ Not enrolled 4 ___ Refused	1 ___ Yes, regularly attends a ___ Kindergarten b ___ Head Start c ___ Other pre–school (nursery school, pre–kindergarten) Go to 71c 2 ___ Enrolled, but does not attend regularly 3 ___ Not enrolled 4 ___ Refused
c. If not attending regularly, how long has it been since (child's name) regularly attended school?	1 ___ Less than 1 month 2 ___ 1 to 3 months 3 ___ 4 to 6 months 4 ___ 7 months or more 5 ___ Don't know 6 ___ Never attended 7 ___ Refused	1 ___ Less than 1 month 2 ___ 1 to 3 months 3 ___ 4 to 6 months 4 ___ 7 months or more 5 ___ Don't know 6 ___ Never attended 7 ___ Refused	1 ___ Less than 1 month 2 ___ 1 to 3 months 3 ___ 4 to 6 months 4 ___ 7 months or more 5 ___ Don't know 6 ___ Never attended 7 ___ Refused
d. Why doesn't (child's name) attend school or pre–school regularly? *Mark (X) all that apply.*	1 ___ Problems with trans–portation, no transportation 2 ___ Can't register, no documents 3 ___ Don't stay in one place long enough 4 ___ Lack of clothing, shoes, can't keep clean 5 ___ Child doesn't like school 6 ___ Has to babysit younger brothers/sisters 7 ___ Has been sick, doesn't feel well 8 ___ Too tired, can't get him/her up in the morning 9 ___ Other – Specify _____ _____ 10 ___ Don't know 11 ___ Refused	1 ___ Problems with trans–portation, no transportation 2 ___ Can't register, no documents 3 ___ Don't stay in one place long enough 4 ___ Lack of clothing, shoes, can't keep clean 5 ___ Child doesn't like school 6 ___ Has to babysit younger brothers/sisters 7 ___ Has been sick, doesn't feel well 8 ___ Too tired, can't get him/her up in the morning 9 ___ Other – Specify _____ _____ 10 ___ Don't know 11 ___ Refused	1 ___ Problems with trans–portation, no transportation 2 ___ Can't register, no documents 3 ___ Don't stay in one place long enough 4 ___ Lack of clothing, shoes, can't keep clean 5 ___ Child doesn't like school 6 ___ Has to babysit younger brothers/sisters 7 ___ Has been sick, doesn't feel well 8 ___ Too tired, can't get him/her up in the morning 9 ___ Other – Specify _____ _____ 10 ___ Don't know 11 ___ Refused
e. Has (child's name) ever been assigned to a special education class?	1 ___ Yes 2 ___ No 3 ___ Don't know 4 ___ Refused	1 ___ Yes 2 ___ No 3 ___ Don't know 4 ___ Refused	1 ___ Yes 2 ___ No 3 ___ Don't know 4 ___ Refused
f. Has (child's name) repeated any grade?	1 ___ Yes 2 ___ No 3 ___ Don't know 4 ___ Refused	1 ___ Yes 2 ___ No 3 ___ Don't know 4 ___ Refused	1 ___ Yes 2 ___ No 3 ___ Don't know 4 ___ Refused
g. Other than school or pre–school, does (child's name) receive day care?	1 ___ Yes 2 ___ No 3 ___ Don't know 4 ___ Refused Go to 72	1 ___ Yes 2 ___ No 3 ___ Don't know 4 ___ Refused Go to 72	1 ___ Yes 2 ___ No 3 ___ Don't know 4 ___ Refused Go to 72
h. Where does (child's name) go for day care?	1 ___ At the shelter 2 ___ At a day care center 3 ___ To friends/relatives 4 ___ Don't know 5 ___ Refused	1 ___ At the shelter 2 ___ At a day care center 3 ___ To friends/relatives 4 ___ Don't know 5 ___ Refused	1 ___ At the shelter 2 ___ At a day care center 3 ___ To friends/relatives 4 ___ Don't know 5 ___ Refused

CHILD 4	CHILD 5	CHILD 6	CHILD 7
Name	Name	Name	Name
1 ___ Yes, regularly attends a ___ Kindergarten b ___ Head Start c ___ Other pre-school (nursery school, pre-kindergarten) Go to 71e 2 ___ Enrolled, but does not attend regularly 3 ___ Not enrolled 4 ___ Refused	1 ___ Yes, regularly attends a ___ Kindergarten b ___ Head Start c ___ Other pre-school (nursery school, pre-kindergarten) Go to 71e 2 ___ Enrolled, but does not attend regularly 3 ___ Not enrolled 4 ___ Refused	1 ___ Yes, regularly attends a ___ Kindergarten b ___ Head Start c ___ Other pre-school (nursery school, pre-kindergarten) Go to 71e 2 ___ Enrolled, but does not attend regularly 3 ___ Not enrolled 4 ___ Refused	1 ___ Yes, regularly attends a ___ Kindergarten b ___ Head Start c ___ Other pre-school (nursery school, pre-kindergarten) Go to 71e 2 ___ Enrolled, but does not attend regularly 3 ___ Not enrolled 4 ___ Refused
1 ___ Less than 1 month 2 ___ 1 to 3 months 3 ___ 4 to 6 months 4 ___ 7 months or more 5 ___ Don't know 6 ___ Never attended 7 ___ Refused	1 ___ Less than 1 month 2 ___ 1 to 3 months 3 ___ 4 to 6 months 4 ___ 7 months or more 5 ___ Don't know 6 ___ Never attended 7 ___ Refused	1 ___ Less than 1 month 2 ___ 1 to 3 months 3 ___ 4 to 6 months 4 ___ 7 months or more 5 ___ Don't know 6 ___ Never attended 7 ___ Refused	1 ___ Less than 1 month 2 ___ 1 to 3 months 3 ___ 4 to 6 months 4 ___ 7 months or more 5 ___ Don't know 6 ___ Never attended 7 ___ Refused
1 ___ Problems with transportation, no transportation 2 ___ Can't register, no documents 3 ___ Don't stay in one place long enough 4 ___ Lack of clothing, shoes, can't keep clean 5 ___ Child doesn't like school 6 ___ Has to babysit younger brothers/sisters 7 ___ Has been sick, doesn't feel well 8 ___ Too tired, can't get him/her up in the morning 9 ___ Other – Specify _____ _____ 10 ___ Don't know 11 ___ Refused	1 ___ Problems with transportation, no transportation 2 ___ Can't register, no documents 3 ___ Don't stay in one place long enough 4 ___ Lack of clothing, shoes, can't keep clean 5 ___ Child doesn't like school 6 ___ Has to babysit younger brothers/sisters 7 ___ Has been sick, doesn't feel well 8 ___ Too tired, can't get him/her up in the morning 9 ___ Other – Specify _____ _____ 10 ___ Don't know 11 ___ Refused	1 ___ Problems with transportation, no transportation 2 ___ Can't register, no documents 3 ___ Don't stay in one place long enough 4 ___ Lack of clothing, shoes, can't keep clean 5 ___ Child doesn't like school 6 ___ Has to babysit younger brothers/sisters 7 ___ Has been sick, doesn't feel well 8 ___ Too tired, can't get him/her up in the morning 9 ___ Other – Specify _____ _____ 10 ___ Don't know 11 ___ Refused	1 ___ Problems with transportation, no transportation 2 ___ Can't register, no documents 3 ___ Don't stay in one place long enough 4 ___ Lack of clothing, shoes, can't keep clean 5 ___ Child doesn't like school 6 ___ Has to babysit younger brothers/sisters 7 ___ Has been sick, doesn't feel well 8 ___ Too tired, can't get him/her up in the morning 9 ___ Other – Specify _____ _____ 10 ___ Don't know 11 ___ Refused
1 ___ Yes 2 ___ No 3 ___ Don't know 4 ___ Refused	1 ___ Yes 2 ___ No 3 ___ Don't know 4 ___ Refused	1 ___ Yes 2 ___ No 3 ___ Don't know 4 ___ Refused	1 ___ Yes 2 ___ No 3 ___ Don't know 4 ___ Refused
1 ___ Yes 2 ___ No 3 ___ Don't know 4 ___ Refused	1 ___ Yes 2 ___ No 3 ___ Don't know 4 ___ Refused	1 ___ Yes 2 ___ No 3 ___ Don't know 4 ___ Refused	1 ___ Yes 2 ___ No 3 ___ Don't know 4 ___ Refused
1 ___ Yes 2 ___ No 3 ___ Don't know 4 ___ Refused GO to 72	1 ___ Yes 2 ___ No 3 ___ Don't know 4 ___ Refused GO to 72	1 ___ Yes 2 ___ No 3 ___ Don't know 4 ___ Refused GO to 72	1 ___ Yes 2 ___ No 3 ___ Don't know 4 ___ Refused GO to 72
1 ___ At the shelter 2 ___ At a day care center 3 ___ To friends/relatives 4 ___ Don't know 5 ___ Refused	1 ___ At the shelter 2 ___ At a day care center 3 ___ To friends/relatives 4 ___ Don't know 5 ___ Refused	1 ___ At the shelter 2 ___ At a day care center 3 ___ To friends/relatives 4 ___ Don't know 5 ___ Refused	1 ___ At the shelter 2 ___ At a day care center 3 ___ To friends/relatives 4 ___ Don't know 5 ___ Refused

72. *ASK ONLY IF HOMELESS.* **Are any adults homeless with you, or are you by yourself?**	1 ☐ R is by her/himself 2 ☐ Spouse 3 ☐ Other relative – *Specify* ☞ _____ 4 ☐ Nonfamily – *Specify* ☞ _____ 5 ☐ Don't know 6 ☐ Refused
73. *ASK OF FEMALES ONLY.* **Are you pregnant now?**	1 ☐ Yes 2 ☐ No 3 ☐ Don't know 4 ☐ Refused

Notes

FORM HPWU8-16100 (9-11-93)

SECTION 6: EMPLOYMENT The next few questions ask about work.	
74. Did you do any PAID work at all during the last 30 days (ANY THING THAT BRINGS IN MONEY)?	1___ Yes 2___ No 3___ Don't Know 4___ Refused (SKIP TO Q. 77a)
75. Is this work...? (READ CATEGORIES AND MARK (X) ONLY ONE RESPONSE.)	1___ A job you have had for three months or more with the same employer? 2___ A job you have had for less than 3 months, but you expect to continue for 3 or more months 3___ A temporary job (one you expect to last less than 3 months) 4___ A day job, pick-up (one that lasts only a few hours, or one or two days) 5___ Peddling (selling books, clothes, other items on the street) or collecting cans and bottles to exchange for money 6___ Other (SPECIFY:_____) (SKIP TO Q.77a) 7___ Don't Know 8___ Refused
76. During the last 30 days, how many hours did you usually work per week in paid employment in all full- or part-time jobs, including day labor?	1___ Usual number of hours per week 2___ Don't Know 3___ Refused (SKIP TO Q.78)
77a. When did you last work for pay at a regular job or business, either full- or part-time?	1___ Within past week 2___ Within past 6 months 3___ Within past 7 months to a year ago 4___ 1 to 2 years ago 5___ 2 to 3 years ago 6___ 3 to 4 years ago 7___ 4 to 5 years ago (GO TO Q.77b) 8___ 5 or more years ago 9___ Never worked (SKIP TO Q.77c)
77b. Why did you leave that job?	1___ Personal, family (Incl. pregnancy) or school 2___ Health 3___ Retirement or old age 4___ Seasonal job completed 5___ Slack work or business conditions, laid off 6___ Temporary - nonseasonal job completed 7___ Unsatisfactory work arrangements (hours, pay, etc.) 8___ Other (SPECIFY:_____)
77c. Do you want a regular job now, either full- or part-time?	1___ Yes 2___ Maybe - it depends 3___ No 4___ Don't Know

78a. Are you looking for work now?	1___ Yes------> (SKIP TO Q.79) 2___ No
78b. What are the reasons you are not looking for work? (MARK (X) ALL THAT APPLY.)	1___ Believes no work available in line of work or area 2___ Couldn't find any work 3___ Lacks necessary schooling, training, skills or experience 4___ Ill health, physical disability 5___ Can't arrange child care 6___ Family responsibilities 7___ In school or other training 8___ Other (SPECIFY:_____) 9___ Don't Know
79. If Never marked in Q.77a, skip to Q.80. Since you were 16 years old, how much of your life have you had a job or done some work for pay?	1___ All or almost all of the time 2___ About 3/4 of the time 3___ About half of the time 4___ About 1/4 of the time 5___ Almost none of the time

SECTION 7: SOURCES OF INCOME AND SERVICE USE

The next few questions ask about your income, and about your use of certain government programs and services.

80. Have you received any money from any of these sources in the last month? (READ CATEGORIES AND MARK (X) ALL THAT APPLY.)	1___ Steady Employment 2___ Day Labor 3___ Aid to Families with Dependent Children (AFDC) 4___ General Assistance (CA, PA, HR, GR) 5___ Social Security (old age, survivors, and retirement) 6___ Social Security Disability Insurance (SSDI) 7___ Supplemental Security Income (SSI) 8___ Veteran's Disability Payments 9___ Veteran's Pension (not disability related) 10___ Other pensions 11___ Private Disability Insurance 12___ Unemployment Compensation 13___ Spouse 14___ Parents 15___ Other Relatives 16___ Friends (includes boyfriends or girlfriends) 17___ Sale of personal belongings 18___ Asking for money on the streets 19___ Blood or plasma center 20___ Illegal activities 21___ Other (SPECIFY: _____)
81. Over the last 30 days, what was your total income from ALL sources? (MARK CATEGORY ONLY IF RESPONDENT CANNOT REPORT TOTAL INCOME.)	$____,_____ 1___ Less than $100 2___ $100 to 299 3___ $300 to 499 4___ $500 to 699 5___ $700 to 799 6___ $1,000 to 1,199 7___ $1,200 to 1,499 8___ $1,500 to 1,999 9___ $2,000 to 2,499 10___ $2,500 to 2,999 11___ $3,000 or more 12___ Don't know 13___ Refused
82a. Do you receive food stamps now?	1___ Yes 2___ No 3___ Don't know 4___ Refused
82b. If yes in Q.82a, ask – How much do you get each month in food stamps?	$____,_____
Check Item 15: ARE ITEMS 3 THRU 9 MARKED IN Q.80, OR Q.82a MARKED "YES"?	*1___ Yes* *2___ No (SKIP TO Q.84)*

FR INSTRUCTION – Mark Q.83a and b "Yes" for each corresponding benefit program.

83a. I'm going to read you a list of government benefit programs. Have you ever applied for...?		83b. If all "NO" in Q.83a, skip to Q.84. If "YES" in Q.83a ask – Did you ever receive benefits?	83c. If Q.34 marked "NO", skip to Q.84. If "YES" in Q.83b. ask – Were you getting money from (program) when you had to leave the last permanent place you stayed?	83d. If "YES" in Q83c., ask – Were you cut off from (program) within the year before you had to leave the last permanent place you stayed?	83e. If "YES" in Q83d., ask – Why were you cut off from (program)?
Aid to Families with Dependent Children	1 ___ Yes 2 ___ No 3 ___ Don't know	1 ___ Yes 2 ___ No 3 ___ Don't know	1 ___ Yes 2 ___ No 3 ___ Don't know	1 ___ Yes 2 ___ No 3 ___ Don't know	3 ___ Don't know
Food stamps	1 ___ Yes 2 ___ No 3 ___ Don't know	1 ___ Yes 2 ___ No 3 ___ Don't know	1 ___ Yes 2 ___ No 3 ___ Don't know	1 ___ Yes 2 ___ No 3 ___ Don't know	3 ___ Don't know
General assistance	1 ___ Yes 2 ___ No 3 ___ Don't know	1 ___ Yes 2 ___ No 3 ___ Don't know	1 ___ Yes 2 ___ No 3 ___ Don't know	1 ___ Yes 2 ___ No 3 ___ Don't know	3 ___ Don't know
Supplemental Security Income	1 ___ Yes 2 ___ No 3 ___ Don't know	1 ___ Yes 2 ___ No 3 ___ Don't know	1 ___ Yes 2 ___ No 3 ___ Don't know	1 ___ Yes 2 ___ No 3 ___ Don't know	3 ___ Don't know
Social Security Disability Income	1 ___ Yes 2 ___ No 3 ___ Don't know	1 ___ Yes 2 ___ No 3 ___ Don't know	1 ___ Yes 2 ___ No 3 ___ Don't know	1 ___ Yes 2 ___ No 3 ___ Don't know	3 ___ Don't know
84a. Now I am going to ask you about another list of services. Which of the following services have you used in the last month? (READ CATEGORIES AND MARK (X) ALL THAT APPLY.)	1 ___ Free or almost free clothing 2 ___ Drop–in centers 3 ___ Free public transportation (e.g. bus, subway, or cab tokens) 4 ___ Day care 5 ___ Counseling (for employment, parenting, self–esteem, – not mental health) 6 ___ Outreach program for homeless people (people come to you to hand out food, blankets, see if you're okay, offer help) 7 ___ Free school breakfasts and/or lunches 8 ___ WIC (Women, Infants, and Children nutrition program) 9 ___ Other (SPECIFY:_____) 10 ___ Refused				
84b. When was the last time you used one of these services?	1 ___ Today 2 ___ # of days ago (if within the past week, enter the number of days) 3 ___ # of weeks ago (if within the past month, enter the number of weeks) 4 ___ # of months ago (if within the past year, enter the number of months) 5 ___ 13 or more months ago 6 ___ Never 7 ___ Don't know 8 ___ Refused				
84c. Which service was it?	1 ___ Free or almost free clothing 2 ___ Drop–in centers 3 ___ Free public transportation (e.g. bus, subway, or cab tokens) 4 ___ Day care 5 ___ Counseling (for employment, parenting, self–esteem, – not mental health) 6 ___ Outreach program for homeless people (people come to you to hand out food, blankets, see if you're okay, offer help) 7 ___ Free school breakfasts and/or lunches 8 ___ WIC (Women, Infants, and Children nutrition program) 9 ___ Other (SPECIFY:_____) 10 ___ Refused				
Check Item 16: ARE RESPONDENTS 18 YEARS OR YOUNGER?	___ *Yes (SKIP to Q.90)* ___ *No*				

SECTION 8: VETERAN STATUS The next questions ask about experiences in the armed services.	
85. Excluding any time you may have served for training or other purposes in the Reserves or National Guard, have you ever served on active duty in the United States Armed Forces?	1___ Yes, active duty 2___ No 3___ Don't Know 4___ Refused (SKIP TO Q. 90)
86. In total, how many years of active military duty service have you had?	1_____ Years
87. Were you ever stationed in a war zone?	1___ Yes 2___ No
88. During your military service, were you ever in or exposed to combat?	1___ Yes 2___ No 3___ Don't know 4___ Refused
89. Have you ever used a medical facility that was operated by the VA for overnight hospital care, outpatient visits, or for nursing home, convalescent home, or admissions for long-term care?	1___ Yes 2___ No 3___ Don't know 4___ Refused

SECTION 9: FOOD INTAKE **These questions ask about the food you eat and where you get your food.**	
90. Which of the following best describes your situation in terms of food you eat...? READ CATEGORIES AND MARK (X) ONE ANSWER.)	1___ Get enough of the kinds of foods you want to eat 2___ Get enough, but not always what you want to eat 3___ Sometimes not enough to eat 4___ Often not enough to eat 5___ Don't know 6___ Refused
91. How many times do you usually eat in a day?	1___ Less than once per day 2___ Once per day 3___ Twice per day 4___ Three times per day 5___ Four times per day 6___ Five times per day 7___ More than five times per day 8___ Don't know 9___ Refused
92. In the last seven days, since last (DAY OF INTERVIEW), did you go a whole day without anything at all to eat?	1___ Yes 2___ No 3___ Don't Know 4___ Refused (SKIP TO Q.94)
93. How many days last week did you go without anything to eat for the whole day?	1___ Number of days 2___ Don't Know 3___ Refused
94a. Have you ever eaten in a soup kitchen or gotten food from a pantry?	1___ Yes 2___ No 3___ Don't know 4___ Refused (SKIP TO Q.96)
94b. When was the last time you ate at a soup kitchen or got food from a food pantry?	1___ Today 2___ # of days ago(within the past week, enter the number of days) 3___ # of weeks ago(if within the past month, enter the number of weeks) 4___ # of months ago(if within the past year, enter the number of months) 5___ More than a year ago 6___ Never 7___ Don't know 8___ Refused

		Su	M	T	W	Th	F	Sa
95a. Over the last seven days, that is, since last (DAY OF INTERVIEW), on which days did you get food from the following places? (READ CATEGORIES.)	1 In my own house, apartment, or room (includes foster and group homes)							
	2 Soup kitchens (including free bag lunches and dinner)							
	3 Shelter where you live (shelter provides)							
	4 Shelter where you live (you cook)							
	5 Food pantry							
	6 Food wagon (free food)							
	7 Street vendor (you pay)							
	8 Friend's or relative's place							
	9 Grocery store							
	10 Restaurant where you pay							
	11 Restaurant (back door, handouts)							
	12 Handouts from people passing by							
	13 Trash cans							
	14 Other (SPECIFY: _____)							
	15 Refused							
(Because people may get food from several different sources during any single day, these numbers do not have to add up to 7 and probably will not.)								
95b. (Ask if soup kitchen marked in Q.94a or Q.95a) Can you tell me the names of the soup kitchens you have used in the last 7 days?								

SECTION 10: CURRENT PHYSICAL HEALTH **The next questions ask about your health and medical care.**	
96. Do you have any of the following medical conditions...? (READ CATEGORIES AND MARK (X) ALL THAT APPLY.)	1___ Sugar in your blood (diabetes) 2___ Anemia (poor blood) 3___ High blood pressure 4___ Heart disease/stroke 5___ Problems with your liver 6___ Arthritis, rheumatism, joint problems 7___ Chest infection, cold, cough, bronchitis 8___ Pneumonia 9___ Tuberculosis 10___ Skin disease, skin infection, skin sores, skin ulcers 11___ Lice, scabies, other similar infestations 12___ Cancer 13___ Problem walking, lost limb, other handicap 14___ Gonorrhea, syphilis, herpes, chlamydia, other STDs (NOT AIDS) 15___ Test positive for HIV 16___ Have AIDS 17___ Use drugs intravenously (shoot up) 18___ Other (SPECIFY:_____ _____) 19___ None 20___ Don't Know 21___ Refused
97. When was the last time you were examined or treated by a physician/doctor for physical health problems, including routine checkups?	1___ Within the past 12 months 2___ 1-2 years ago 3___ More than 2 years ago 4___ Never 5___ Don't Know (SKIP TO Q.102) 6___ Refused
98. Who paid for your visit?	1___ I paid myself 2___ Health Care for the Homeless clinic 3___ Migrant health care facility 4___ Other free clinic 5___ Veteran's Administration (VA) 6___ Medicaid/Welfare/Public Insurance 7___ Private insurance 8___ No one paid bill 9___ Other (SPECIFY:_____) 10___ Don't Know 11___ Refused

99. In the last year, have you gotten medical care from any of the following places? (READ CATEGORIES AND MARK (X) ALL THAT APPLY.)	Yes	No	Don't Know	Refused
Outpatient Care				
a. A hospital clinic	1___	2___	3___	4___
b. A hospital emergency room	1___	2___	3___	4___
c. A VA clinic	1___	2___	3___	4___
d. A community health clinic	1___	2___	3___	4___
e. A migrant health care facility	1___	2___	3___	4___
f. A clinic or doctor in a shelter or soup kitchen (Health Care for the Homeless)	1___	2___	3___	4___
g. A doctor or nurse visiting you on the street	1___	2___	3___	4___
h. A private doctor's office (not in a hospital or clinic)	1___	2___	3___	4___
Inpatient Care				
i. A VA hospital as an inpatient	1___	2___	3___	4___
j. Any other hospital as an inpatient	1___	2___	3___	4___

100. All together, how many times have you received medical treatment in the past year, from all sources combined?	1___ Never 2___ Once 3___ 2–3 times 4___ 4–10 times 5___ 11 or more times 6___ Don't know 7___ Refused
Check Item 17: ARE ALL RESPONSES IN Q.99 MARKED NO AND Q.100 MARKED 2 - 5?	___ *Yes (REASK Q.100 TO RESOLVE DISCREPANCIES)* ___ *No*
101. Are you able to take any medicines that have been prescribed for you as your doctor directed? (READ CATEGORIES AND MARK (X) ALL THAT APPLY.)	1___ Yes, always take as directed 2___ Sometimes run out and do not refill prescription when I should 3___ Sometimes lose medicine 4___ Sometimes forget to take medicine 5___ Other deviation (SPECIFY:_____) 6___ Not supposed to be taking any medicines, so question irrelevant 7___ Don't know 8___ Refused
102. Have you needed to see a doctor in the last year but not been able to?	1___ Yes 2___ No 3___ Don't Know 4___ Refused
103. What do you do when you are sick and cannot see a doctor? (MARK (X) ALL THAT APPLY.)	1___ Nothing 2___ Buy aspirin or other remedies at a drugstore 3___ Borrow medicine from a friend 4___ Get medicine at a shelter 5___ Other (SPECIFY:_____) 6___ Don't know 7___ Refused

104. When was the last time you were treated by a dentist for problems with your teeth or gums?	1___ Within the past 12 months 2___ Number of years ago 3___ Never 4___ Don't Know (SKIP TO Q.106) 5___ Refused
105. Who paid for your visit?	1___ I paid myself 2___ Health Care for the Homeless clinic 3___ Migrant health care facility 4___ Other free clinic 5___ Ve.eran's Administration (VA) 6___ Medicaid/Welfare/Public Insurance 7___ Private insurance 8___ No one paid bill 9___ Other (SPECIFY: _____) 10___ Don't Know 11___ Refused
106. Have you needed to see a dentist in the last year but not been able to ?	1___ Yes 2___ No 3___ Don't Know 4___ Refused
107. Are you currently on medical assistance? (e.g. Medicaid, MediCal, Medically Needy, public assistance medical care)	1___ Yes 2___ Not yet, but applied 3___ No 4___ Don't Know 5___ Refused
108. (Ask only if children with respondent) When was the last time your child(ren) was/were examined or treated by a physician/doctor for physical health problems, including routine checkups?	1___ Within the past 12 months 2___ 1-2 years ago 3___ More than 2 years ago 4___ Never 5___ Don't Know (SKIP TO Q.112) 6___ Refused
109. Who paid for their visit?	1___ I paid myself 2___ Health Care for the Homeless clinic 3___ Migrant health care facility 4___ Other free clinic 5___ Veteran's Administration (VA) 6___ Medicaid/Welfare/Public Insurance 7___ Private insurance 8___ No one paid bill 9___ Other (SPECIFY:_____) 10___ Don't Know 11___ Refused

110. In the last year, has/have your child(ren) received medical care from any of the following places...? (READ CHOICES AND MARK (X) ALL THAT APPLY.)	Yes	No	Don't Know	Refused
Outpatient Care				
a. A hospital clinic	1___	2___	3___	4___
b. A hospital emergency room	1___	2___	3___	4___
c. A community health clinic	1___	2___	3___	4___
d. A migrant health care facility	1___	2___	3___	4___
e. A clinic or doctor in a shelter or soup kitchen (Health Care for the Homeless)	1___	2___	3___	4___
f. A doctor or nurse visiting you on the street	1___	2___	3___	4___
g. A private doctor's office (not in a hospital or clinic)	1___	2___	3___	4___
Inpatient Care				
h. Any hospital as an inpatient	1___	2___	3___	4___

111. Are they able to take any medicines that have been prescribed for them as their doctor directed? (READ CATEGORIES AND MARK (X) ALL THAT APPLY.)	1___ Yes, always take as directed 2___ Sometimes run out and do not refill prescription when I should 3___ Sometimes lose medicine 4___ Sometimes forget to take medicine 5___ Other deviation (SPECIFY:_____) 6___ Not supposed to be taking any medicines, so question irrelevant 7___ Don't know 8___ Refused
112. Have they needed to see a doctor in the last year but not been able to?	1___ Yes 2___ No 3___ Don't Know 4___ Refused
113. What do you do when they are sick and cannot see a doctor? (MARK (X) ALL THAT APPLY.)	1___ Nothing 2___ Buy aspirin or other remedies at a drugstore 3___ Borrow medicine from a friend 4___ Get medicine at a shelter 5___ Take them to a doctor or clinic 6___ Other (SPECIFY:_____) 7___ Don't know 8___ Refused
114. When was the last time your child(ren) was/were treated by a dentist for problems with their teeth or gums?	1___ Within the past 12 months 2___ Number of years ago 3___ Never 4___ Don't Know (SKIP TO Q.116) 5___ Refused

115. Who paid for their visit?	1___ I paid myself 2___ Health Care for the Homeless clinic 3___ Migrant health care facility 4___ Other free clinic 5___ Veteran's Administration (VA) 6___ Medicaid/Welfare/Public Insurance 7___ Private insurance 8___ No one paid bill 9___ Other (SPECIFY: _____) 10___ Don't Know 11___ Refused
116. Have they needed to see a dentist in the last year but not been able to ?	1___ Yes 2___ No 3___ Don't Know 4___ Refused
117. Are they currently on medical assistance? (e.g. Medicaid, MediCal, Medically Needy, public assistance medical care)	1___.Yes 2___ Not yet, but applied 3___ No 4___ Don't Know 5___ Refused

SECTION 11: VICTIMIZATION AND IMPRISONMENT

The next questions ask about things that have happened to you.

118. Have you ever in your lifetime:	Yes	No	Don't Know	Refused
a. Spent more than five days in a city or county jail	1___	2___	3___	4___
b. Served time in state or federal prison	1___	2___	3___	4___
c. Spent time in juvenile detention before you were 18	1___	2___	3___	4___

Check Item 18: SKIP TO Q.120 IF RESPONDENT HAS NEVER BEEN HOMELESS.

119. While you were (homeless/without permanent housing) did anyone ever ever do any of the following to you:	Yes	No	Don't Know	Refused
a. Steal money or things directly from you, while you were there	1___	2___	3___	4___
b. Steal money or things from your bags, locker, etc. (while you were gone)	1___	2___	3___	4___
c. Physically assault you, beat you up	1___	2___	3___	4___
d. Sexually assault you, rape you	1___	2___	3___	4___

120. From the time you were a baby until you were 16, did anyone you live with (parent, step–parent, brother or sister, step–brother or –sister, parent's boy or girlfriend, etc.), ever...?	Yes	No	Don't Know	Refused
a. Leave you without adequate food or shelter	1___	2___	3___	4___
b. Physically abuse you, to cause physical injury	1___	2___	3___	4___
c. Force you or pressure you to do sexual acts that you did not want to do	1___	2___	3___	4___

SECTION 12: MENTAL HEALTH

121a. Have you ever had a significant period (that was not a direct result of drug/alcohol use), in your life in which you have...? (READ CATEGORIES AND MARK (X) ALL THAT APPLY.)

121b. If All NO In Q.121a, skip to Q.127.

If yes in 121a, ask – How recently did you experience (read items...)?

(USE CODES BELOW TO ANSWER 121b.)

1 = Within the past 30 days
2 = 1-6 months ago
3 = 7-12 months ago
4 = 13-24 months ago
5 = 25- 48 months ago (3-4 years)
6 = 4 or more years
7 = Don't know
99 = Refused

	Yes	No	
1 Experienced serious depression	___	___	___
2 Experienced serious anxiety or anxiety or tension	___	___	___
3 Experienced hallucinations	___	___	___
4 Experienced trouble understanding, concentrating or remembering	___	___	___
5 Experienced trouble controlling violent behavior	___	___	___
6 Experienced serious thoughts of suicide	___	___	___
7 Attempted suicide	___	___	___
8 Taken prescribed medication for any psychological/emotional problem	___	___	___

122. In the past 30 days, on how many days have you had these psychological or emotional problems?

1___ Number of days
2___ None
3___ Don't know
4___ Refused

(SKIP TO Q.125)

123. (SHOW FLASHCARD) During the past 30 days, how much have you been troubled or bothered by these psychological or emotional problems? (MARK (X) ONLY ONE)

1___ Not at all
2___ Slightly (a little)
3___ Moderately
4___ Considerably
5___ Extremely
6___ Don't know
7___ Refused

124. (SHOW FLASHCARD) How important to you now is treatment or counseling for these psychological problems?

1___ Not at all
2___ Slightly (a little)
3___ Moderately
4___ Considerably
5___ Extremely
6___ Don't know
7___ Refused

125a. Have you ever received outpatient treatment or counseling for emotional or mental problems (from a clinic, or a private doctor)?

1___ Yes
2___ No
3___ Don't Know
4___ Refused

(SKIP TO Q.126)

125b. (DO NOT ASK IF Q.34 MARKED NO) Was that before or after you were (homeless/without permanent housing) for the first time?

1___ Before
2___ After
3___ Don't know
4___ Refused

125c. When was the last time you received OUTPATIENT treatment or counseling for emotional or mental problems?	1___ 0–4 weeks ago 2___ 1–6 months ago 3___ 7–12 months ago 4___ 13–24 months ago (1–2 years) 5___ More than 2 years ago 6___ Don't know 7___ Refused
126a. Have you ever been HOSPITALIZED for emotional or mental problems?	1___ Yes 2___ No 3___ Don't know 4___ Refused (SKIP TO Q. 127)
126b. (DO NOT ASK IF Q.34 MARKED NO.) Was that before or after you were (homeless/without permanent housing) for the first time?	1___ Before 2___ After 3___ Don't know 4___ Refused
126c. When was the last time you were hospitalized for emotional or mental problems?	1___ 0–4 weeks ago 2___ 1–6 months ago 3___ 7–12 months ago 4___ 13–24 months ago (1–2 years) 5___ More than 2 years ago 6___ Don't know 7___ Refused

SECTION 13: CHEMICAL DEPENDENCY

These questions ask about alcohol and drug use.

127a. During your lifetime, have there been times when you have used...?	Yes / No
– Alcohol 3 or more times a week	____ / ____
– Alcohol to get drunk 3 or more times a week	____ / ____
127b. IF ALL NO IN Q.127a, SKIP TO Q.140. If yes in Q.127a, ask – When was the most recent time you used...?	Code
– Alcohol 3 or more times a week	____
– Alcohol to get drunk 3 or more times a week	____
	(USE CODES BELOW TO ANSWER Q.127b.) 1 = Within the past 30 days 2 = 1–6 months ago 3 = 7–12 months ago 4 = 13–24 months ago 5 = 25–48 months ago (3–4 years) 6 = 4 or more years 7 = Don't know 99 = Refused
Check Item 19: IS ALCOHOL MARKED Code 1 IN Q.127b?	___ Yes ___ No (Skip to Q.133)
128. In the past 30 days, on how many days did you use alcohol?	___ Number of days
129. In the past 30 days, on how many days did you experience alcohol problems, including cravings for alcohol, adverse effects from alcohol, withdrawal symptoms from alcohol, or the desire but inability to stop drinking alcohol (do not include inability to find alcohol)?	___ Number of days
130. During the past 30 days, how much money did you spend on alcohol?	$_____,_____
131. (SHOW FLASHCARD) In the past 30 days, how troubled or bothered were you by alcohol problems?	1___ Not at all 2___ Slightly (a little) 3___ Moderately 4___ Considerably 5___ Extremely 6___ Don't know 7___ Refused
132. (SHOW FLASHCARD) How important to you is treatment for alcohol problems that you are not now getting? (need for alcohol-related treatment, not general therapy.)	1___ Not at all 2___ Slightly (a little) 3___ Moderately 4___ Considerably 5___ Extremely 6___ Don't know 7___ Refused

133. Because of drinking have you ever...? (READ CATEGORIES AND MARK (X) ALL THAT APPLY.)	Yes	No	Don't Know	Refused
a. Lost consciousness, passed out?	1___	2___	3___	4___
b. Had blackouts where you don't remember things?	1___	2___	3___	4___
c. Experienced tremors or shaking?	1___	2___	3___	4___
d. Experienced seizures, convulsions?	1___	2___	3___	4___
e. Attended a meeting of Alcoholics Anonymous?	1___	2___	3___	4___
f. Not been able to stop drinking when you wanted to?	1___	2___	3___	4___
g. Has drinking ever created problems between you and your wife, husband, parent, or other near relative?	1___	2___	3___	4___
h. Been arrested, even for a few hours, because of behavior due to drinking (e.g., drunk driving, getting in fights, being "drunk and disorderly")?	1___	2___	3___	4___

134. How old were you when you first started drinking heavily?	1___ Age 2___ Never drank heavily 3___ Don't know 4___ Refused
135. In your lifetime, how many times have you been treated for alcohol abuse?	1___ Never ----> (SKIP TO Q.140) 2___ Number of times 3___ Too many to remember 4___ Don't know 5___ Refused
136a. Have you ever received INPATIENT treatment, (including detox) for problems with alcohol?	1___ Yes 2___ No 3___ Don't know -------> (SKIP TO Q.138) 4___ Refused
136b. If yes in Q.136a, Was it a...? (READ CATEGORIES AND MARK (X) ALL THAT APPLY.)	1___ Hospital based detox 2___ Other inpatient detox 3___ Hospital based inpatient other than detox 4___ Jail or prison program 5___ Therapeutic community 6___ Halfway House 7___ Juvenile Treatment Program 8___ Other short-term residential 9___ Other long-term residential 10___ Other (SPECIFY: _____) 11___ Does not recall type of treatment 12___ Don't know 13___ Refused
137. How long ago was the last of these inpatient treatments (including detox) for alcohol problems?	1___ Within the past month 2___ At least 1 month but less than 6 months ago 3___ At least 6 months but less than 12 months ago 4___ At least 1 year but less than 2 years ago 5___ At least 2 years ago 6___ Don't know 7___ Refused

138a. Have you ever received OUTPATIENT treatment for problems with alcohol?	1___ Yes 2___ No 3___ Don't know 4___ Refused --------> (SKIP TO Q.140)
138b. If yes in Q.138a, Was it a ...? (Read ALL categories and mark (X) all that apply.)	1___ Outpatient detoxification 2___ Outpatient alcohol free 3___ Employee assistance program 4___ Individual counselor, psychologist, or psychiatrist 5___ Alcoholic Anonymous 6___ Other self-help group 7___ Other (SPECIFY_____) 8___ Does not recall type of treatment 9___ Don't know 10___ Refused
139. How long ago was the last of these outpatient treatments (including detox) for alcohol problems?	1___ Within the past month 2___ At least 1 month but less than 6 months ago 3___ At least 6 months but less than 12 months ago 4___ At least 1 year but less than 2 years ago 5___ At least 2 years ago 6___ Don't know 7___ Refused

140a. During your lifetime, have there been times when you used (name drug) regularly? (Regular use is a frequency of 3 or more times per week.)	140b. If all NO in Q.140a, End interview and thank respondent. If YES in Q.140a ask, When was the most recent time you used (name drug) regularly? Use codes below to answer Q.140b. 1 = Within the past 30 days 2 = 1–6 months ago 3 = 7–12 months ago 4 = 13–24 months ago 5 = 25–48 months ago (3–4 years) 6 = 4 or more years 7 = Don't know 99 = Refused	140c. If NO drugs marked code 1 in Q.140b, skip to Q.144. (For each drug with code 1, in Q.140b, ask), In the past 30 days, on how many days did you use...?

	Yes	No	Code	Number of days
– Marijuana (pot/grass/ reefer/THC)				
– Inhalants (glue, amyl nitrite, poppers aerosol sprays)				
– Crack				
– Cocaine (other than crack)				
– Heroin				
– Methadone				
– Stimulants (amphetamines, Preludin, methamphetamines, uppers, speed)				
– Other opiates/analgesics (Darvon, Demerol, Talwin, Talacen)				
– Barbiturates (downers)				
– Other sedatives (sleeping pills, Seconal)				
– Hypnotics/tranquilizers (Librium, Valium, benzodiazepine)				
– Hallucinogens (LSD, PCP, peyote, mescaliane, ecstasy)				
– Any drug, not including alcohol as a drug				

141. In the past 30 days, on how many days did you experience drug problems, including cravings for drugs, adverse effects from drugs, withdrawal symptoms from drugs, or the desire but inability to stop taking drugs (do not include inability to find drugs)?	1___ Not at all 2___ Slightly (a little) 3___ Moderately 4___ Considerably 5___ Extremely 6___ Don't know 7___ Refused
142. (SHOW FLASHCARD) In the past 30 days, how troubled or bothered were you by drug problems?	1___ Not at all 2___ Slightly (a little) 3___ Moderately 4___ Considerably 5___ Extremely 6___ Don't know 7___ Refused
143. (SHOW FLASHCARD) How important to you is treatment for drug problems that you are not now getting? (need for drug–related treatment, not general therapy.)	1___ Not at all 2___ Slightly (a little) 3___ Moderately 4___ Considerably 5___ Extremely 6___ Don't know 7___ Refused

144. In your lifetime:	Yes	No	Don't Know	Refused
a. Have you abused more than one drug at a time?	1___	2___	3___	4___
b. Have you had "blackouts" or "flashbacks" as a result of drug use?	1___	2___	3___	4___
c. Do your friends or relatives know or suspect you abuse drugs?	1___	2___	3___	4___
d. Have you ever lost friends because of your use of drugs?	1___	2___	3___	4___
e. Have you ever neglected your family or missed work because of your use of drugs?	1___	2___	3___	4___
f. Have you engaged in illegal activities in order to obtain drugs?	1___	2___	3___	4___
g. Have you ever experienced withdrawal symptoms as a result of heavy drug intake?	1___	2___	3___	4___
h. Have you had medical problems as a result of your drug use (e.g., memory loss, hepatitis, convulsions, bleeding, etc.)?	1___	2___	3___	4___

145. How old were you when you first started doing drugs heavily?	1___ Age 2___ Never used drugs heavily 3___ Don't know 4___ Refused
146. In your lifetime, how many times have you been treated for drug abuse? (If treated for both alcohol and drug problems during the same treatment, count it twice, in both places.)	1___ Never ---> (END INTERVIEW AND THANK RESPONDENT) 2___ Number of times 3___ Too many to remember 4___ Don't know 5___ Refused
147a. Have you ever received INPATIENT treatment, (including detox) for problems with drugs?	1___ Yes 2___ No 3___ Don't know -------- (SKIP TO Q. 149a.) 4___ Refused
147b. If yes in Q.147a, Was it a...? (READ CATEGORIES AND MARK (X) ALL THAT APPLY.)	1___ Hospital based detox 2___ Other inpatient detox 3___ Hospital based inpatient other than detox 4___ Jail or prison program 5___ Therapeutic community 6___ Halfway House 7___ Juvenile Treatment Program 8___ Other short-term residential 9___ Other long-term residential 10___ Other (SPECIFY: _____) 11___ Does not recall type of treatment 12___ Don't know 13___ Refused
148. How long ago was the last of these inpatient treatments (including detox) for drug problems?	1___ Within the past month 2___ At least 1 month but less than 6 months ago 3___ At least 6 months but less than 12 months ago 4___ At least 1 year but less than 2 years ago 5___ At least 2 years ago 6___ Don't know 7___ Refused

149a. Have you ever received OUTPATIENT treatment for problems with drugs?	1___ Yes 2___ No 3___ Don't know 4___ Refused Skip to Q. 151a.
149b. If yes in Q.149a, Was it a...? (READ CATEGORIES AND MARK (X) ALL THAT APPLY.)	1___ Outpatient detoxification 2___ Methadone detoxification 3___ Methadone maintenance 4___ Other outpatient detoxification 5___ Outpatient drug free program 6___ Employee assistance program 7___ Individual counselor, psychologist, or psychiatrist 8___ Narcotics Anonymous 9___ Other self-help group 10___ Other (SPECIFY: _____) 11___ Does not recall type of treatment 12___ Don't know 13___ Refused
150. How long ago was the last of these outpatient treatments (including detox) for drug problems?	1___ Within the past month 2___ At least 1 month but less than 6 months ago 3___ At least 6 months but less than 12 months ago 4___ at least 1 year but less than 2 years ago 5___ At least 2 years ago 6___ Don't know 7___ Refused

151a. Can you tell us any general thoughts or comments on the availability and quality of services in your area?

_____
_____
_____
_____
_____

151b. Are there programs of services that you think need to be changed?

_____ no

_____ yes, Generally speaking, what changes do you think are needed?_____
_____
_____
_____

END OF INTERVIEW

SECTION 14: INTERVIEWER OBSERVATIONS

151. Please assess the overall ability of the respondent to answer these questions.	
152. Did respondent appear to be (MARK (X) ALL THAT APPLY.)	1___ Drunk 2___ Under the influence of drugs 3___ Physically ill 4___ Confused 5___ Incoherent 6___ Dirty and unwashed 7___ Shabbily dressed 8___ Carrying packages with personal belongings 9___ Lucid and alert 10___ Other (SPECIFY:_____)
153. Where was interview conducted?	1___ Shelter 2___ Meal provider (no shelter), Soup Kitchen 3___ Sidewalk, street, or alley 4___ Park 5___ In public access building (e.g. bus or train station, lobby of apartment, bar, theatre, etc.) 6___ Parking lot 7___ Other (SPECIFY:_____)
154. Interviewer comments.	
155. For incompletes or refusals, indicate why the respondent stopped the interview or refused to participate.	
156. If age not reported on cover page, estimate respondent's approximate age?	1___ Under 18 years 2___ 18 to 30 years 3___ 31 to 50 years 4___ 51 to 65 years 5___ 65 years and over 6___ Don't know

DRAFT **Attachment I**

AGREEMENT BETWEEN _____ AND THE
(Provider Facility Name)

UNITED STATES BUREAU OF THE CENSUS

TEST SURVEY OF HOMELESS PERSONS WHO USE SERVICES

Background

The United States Bureau of the Census (Census Bureau) plans to conduct a survey of homeless persons who use the services of the (_____), hereinafter
(Provider Facility Name)
called the Provider during April 1-15, 1995, and will interview users at the Provider's location(s). The Provider will furnish the Census Bureau with interviewing space and assist in the distribution of payments to interviewees.

Terms

The Provider and the CENSUS BUREAU AGREE that:

1. The Provider will meet with Census Bureau Regional staff at least (7) days prior to initiation of the survey to discuss and agree upon arrangements for conduction interviews. The arrangements will include items such as, the number of days that the Census Bureau survey staff will visit the Provider's facilities, and the schedule of interview times.

2. The Provider will have its facility(ies) open and available to the Census Bureau survey staff during the scheduled interview times and have a Provider staff member present during those times.

3. The Provider will furnish the specified accommodations for conducting interviews. These include a separate room, (6) chairs, (3) tables, and sufficient lighting suitable for reading. These accommodations may be revised if other suitable arrangements can be provided.

4. Interviewees will receive a one-time $10.00 payment. The Provider agrees to pay the interviewees upon completion of the interviews, and upon presentation of payment slips as provided to the interviewee by the interviewer. The Provider further agrees to collect and return all payment slips to the designated Census Regional office.

5. If the Provider operates any outreach program(s) and the Census Bureau decides to conduct interviews at those locations, the Provider will furnish at least one staff member to accompany the Census Bureau survey staff, and pay each interviewee at, or near, the completion of the interview.

6. Any Provider staff members assisting with this survey, or otherwise involved with this project, shall be sworn to maintain census confidentiality.

7. After completion of all interviews at the Provider's facility(ies) and outreach locations operated by the Provider, and after all payment slips are returned and/or accounted for, the Census Bureau shall pay the fixed price of $100.00 for the use of their facility(ies), plus $10.00 for each returned payment slip.

_____	UNITED STATES CENSUS BUREAU
(PROVIDER NAME)	
by:_____	by:_____
(Signature, Mgr., or Person in Charge)	(Signature, RO Supv.)
_____	_____
(Print Name)	(Print Name)
_____	
Title)	
Date:_____	Date:_____

ATTACHMENT J

Title 12

§ 1701z-1. Research and demonstrations; authorization of appropriations; continuing availability of funds

The Secretary of Housing and Urban Development is authorized and directed to undertake such programs of research, studies, testing, and demonstration relating to the mission and programs of the Department as he determines to be necessary and appropriate. There are authorized to be appropriated to carry out this title [12 U.S.C. 1701z-1 et seq.] $17,000,000 for fiscal year 1988, and $18,000,000 for fiscal year 1989. All funds so appropriated shall remain available until expended unless specifically limited.

§ 1701z-2. Advanced technologies, methods, and materials for housing construction, rehabilitation, and maintenance

(a) General acceptance; costs, reduction; health and safety restrictions on expanded housing production

The Secretary shall require, to the greatest extent feasible, the employment of new and improved technologies, methods, and materials in housing construction, rehabilitation, and maintenance under programs administered by him with a view to reducing costs, and shall encourage and promote the acceptance and application of such advanced technology, methods, and materials by all segments of the housing industry, communities, industries engaged in urban development activities, and the general public. To the extent feasible, in connection with the construction, major rehabilitation, or maintenance of any housing assisted under section 1701z-1 of this title, the Secretary shall assure that there is no restraint by contract, building code, zoning ordinance, or practice against the employment of new or improved technologies, techniques, materials, and methods or of preassembled products which may reduce the cost or improve the quality of such construction, rehabilitation, and maintenance, and therefore stimulate expanded production of housing, except where such restraint is necessary to insure safe and healthful working and living conditions.

(b) Experimental construction under approved housing plans on Federal or other lands with view toward ultimate mass housing production; use of section 1701z-1 funds and authority

To encourage large-scale experimentation in the sue of new technologies, methods, and materials, with a view toward the ultimate mass production of housing and related facilities, the Secretary shall wherever feasible conduct programs under section 1701z-1 of this title in which qualified organizations, public or private, will submit plans for development and production of housing and related facilities using such new advances on Federal land which has been made available or acquired by the Secretary for the purpose of this subsection or on other lands where (1) local building regulations permit such experimental construction, or (2) necessary variances from building regulations can be granted. The Secretary may utilize the funds and authority available to him under the provisions of section 1701z-1 of this title to assist in the implementation of plans which he approves.

(c) Acquisition, use, and disposal of property; transfer of excess property

Notwithstanding any other provision of law, the Secretary is authorized, in connection with projects under this title [12 U.S.C. 1701z-1 et seq.], to acquire, use and dispose of any land and other property required for the project as he deems necessary. Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949 [40 U.S.C. 471 et seq.], any

land which is excess property within the meaning of such Act and which is determined by the Secretary to be suitable in furtherance of the purposes of subsection (b) of this section may be transferred to the Secretary upon his request.

(d) Technical assistance; reports; general dissemination and form of reports, data, and information

In order to effectively carry out his activities under section 1701z-1 of this title, the Secretary is authorized to provide such advice and technical assistance as may be required and to pay for the cost of writing and publishing reports on activities and undertakings financed under section 17012-1 of this title, as well as reports on similar activities and undertakings, not so financed, which are of significant value in furthering the purposes of that section. He may disseminate (without regard to the provisions of section 3204 of title 39 or section 4154 of such title with respect to any period before the effective date of such section 3204 as provided in section 15(a) of the Postal Reorganization Act) any reports, data, or information acquired or held under this title [12 U.S.C. 1701z-1 et seq.], including related data and information otherwise available to the Secretary through the operation of the programs and activities of the Department of Housing and Urban Development, in such form as he determines to be most useful to departments, establishments, and agencies of Federal, State, and local governments, to industry, and to the general public.

(e) Contracts or grants; authority; advance and progress payments; work limitation

The Secretary is authorized to carry out the functions authorized in section 1701z-1 of this title either directly or, without regard to section 5 of title 41, by contract or by grant. Advance and progress payment may be made under such contracts or grants without regard to the provisions of subsections (a) and (b) of section 3324 of title 31 and such contracts or grants may be made for work to continue for not more than four years from the date thereof.

(f) Utilization of facilities of other agencies; working agreements, cooperative agreements, contract authority, receipt of funds, and exercise of section 1701c(c) powers

In carrying out activities under section 1701z-1 of this title, the Secretary shall utilize to the fullest extent feasible the available facilities of other Federal departments and agencies, and shall consult with, and make recommendations to, such departments and agencies. The Secretary may enter into working agreements with such departments and agencies and contract or make grants on their behalf or have such departments and agencies contract or make grants on his behalf and such departments and agencies are hereby authorized to execute such contracts and grants. The Secretary is authorized to make or accept reimbursement for the cost of such activities. The Secretary is further authorized to undertake activities under this title [12 U.S.C. 17012-1 et seq.] under cooperative agreements with industry and labor, agencies of State or local governments, education institutions, and other organizations. He may enter into contracts with and receive funds from such agencies, institutions, and organizations, and may exercise any of the other powers vested in him by section 1701c(c) of this title.

(g) Information and data; restriction on use or identification

The Secretary is authorized to request and receive such information or data as he deems appropriate from private individuals and organizations, and from public agencies. Any such information or data shall be used only for the purposes for which it is supplied, and no publication shall be made by the Secretary whereby the information or data furnished by any particular person or establishment can be identified, except with the consent of such person or establishment.

ATTACHMENT L

Form HPWUS-L1

January 11, 1995.

The Interagency Council on the Homeless is planning a national survey of the characteristics of homeless persons who use services. The last year a national survey was undertaken was 1987. This national survey will provide the Interagaency Council and its member agencies with new information about characteristics of today's homeless population who use services and how this population has changed. The Bureau of the Census will conduct the survey.

Specifically, the survey will:

1. Provide national information on the types of services available to homeless persons in both urban and rural communities.

2. Provide information information not addressed by the last survey in 1987 such as, but not limited to: triggering events that precipitate homelessness; pre-homeless living arrangements; HIV/AIDS prevalence; differences between rural, urban and suburban homelessness; as well as demographic data.

The survey will be conducted in two phases. Phase one is the development of a comprehensive list of services. The second phase will interview a sample of persons at those programs specifically targeted at addressing homelessness (e.g shelters, drop-in centers, soup kitchens) as well as other mainstream programs which serve at risk and vulnerable populations (e.g. mental health and substance abuse programs.)

In order to develop a comprehensive list of programs and services for homeless persons, we need your help. Please take a few moments to

(1) review the enclosed list of service providers for your county, and

(2) answer the questionnaire about programs and services that you offer.

Please refer to the enclosure for a detailed description of types of service providers to include (e.g. emergency shelters, hotels and motels that house homeless families, transitional housing, soup kitchens, outreach programs and other programs which provide services to homeless people.)

Your cooperation is very important in making this survey a success.

Completing the Questionnaire

The questionnaire is organized by types of programs to make it easier and faster for you to complete. 19 programs are listed. You only need to provide information on the programs (and services available at the program) that you offer. For example, if you run an emergency shelter and an outreach program you will only provide information for those two programs. The other sections of the questionnaire would not be completed. If you operate an emergency shelter and also provide outreach (but not as a discrete program), you would complete the emergency shelter section only.

Reviewing the Attached List of Service Providers

Also attached is a preliminary list of service providers and homeless organizations which provide assistance to homeless persons. As you review the list, if there are names and addresses for providers of services that are not listed, please add them to the attached list. Our list may not include homeless mental health and health care programs, runaway and homeless youth shelters, domestic violence shelters, transitional housing and/or programs issuing vouchers for homeless persons. If you know the names of providers of these services, please add their names and addresses also. It is very important to include all available homeless assistance programs and services in your county. Identification of all service providers in your county is very important to the success of this effort. We have provided a summary of the steps to follow in reviewing the list of service providers.

Thank you for your time and effort in helping with the survey. If you have any questions concerning any information sent to you, please contact _____ at_____.

Sincerely,

SURVEY AUTHORITY AND CONFIDENTIALITY

Title 12, United States Code, Section 1701Z-1, authorizes the Department of Housing and Urban Development (HUD) to collect data for the pretest. Title 15 enables the Bureau of the Census to act as the collecting agent for HUD. Both the Bureau of the Census and HUD will treat the information collected as confidential. Your participation in this pretest is voluntary and there are no penalties for refusing to provide the information. Your cooperation is extremely important to the success of this pretest.

LENGTH OF TIME TO PARTICIPATE AND WHO TO CONTACT WITH COMMENTS

We estimate that it will take 55 to 65 minutes to participate in this pretest, with 60 minutes being the average time. If you have any comments regarding these estimates or any other aspect of this pretest, send them to James Hoben, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; and to the Office of Management and Budget, Paperwork Reduction Project (xxxx-xxxx) Washington, DC 20503.

ENCLOSURE

DESCRIPTION OF THE TYPES OF SERVICE PROVIDERS

We are trying to develop a comprehensive list of service facilities in your jurisdiction. We need your assistance. Please provide a list of service facilities within your jurisdiction. Listed below are detailed descriptions of the types of service providers to include in your listing.

A. **Regularly Scheduled Outreach Programs** for the homeless which, on a regular schedule, visit designated street locations offering homeless people food, blankets or other necessities.

B. **Drop-in Centers** that provide daytime services primarily for the homeless (other than facilities serving meals that have already been included under section D), etc.

C. **Emergency Shelters** which operate on a first come first served basis where people must leave in the morning and have no guaranteed bed for the next night or where people know that they have a bed for a specified period of time (even if they leave the building every day). Shelters include facilities which provide temporary shelter during extremely cold weather (such as churches) and may provide emergency shelter for runaway or neglected children and youth, or for battered or abused women.

D. **Transitional Housing** (maximum stay up to two years) which offer augmented services to promote self-sufficiency and to gain permanent housing.

E. **Permanent Housing** for homeless people with support services may include Section 8 vouchers, PHA units, SROs, and other long-term housing assistance.

F. **Voucher Arrangements** for hotels, motels, or other facilities (other than shelters) for which vouchers are given out of which operate under contract to provide shelter to homeless people.

G. **Soup Kitchen or Meal Distribution** include soup kitchens food lines, and programs distributing prepared breakfasts, lunches or dinners for homeless or needy people. These programs may be organized as food service lines, bag or box lunches, tables where people are seated and then served by program personnel, etc. These programs may or may not have a place to all and eat the meal.

H. **Food Pantry** distributes uncooked food in boxes or bags.

I. **Health Care Providers** provide health care services to homeless people. This includes medical, dental, and other health problems.

J. **Mental Health Programs** for homelessness persons not mentioned previously.

K. **Alcohol or other Drug Programs** for homeless persons not mentioned previously.

L. **HIV/AIDS Programs** for homeless persons not mentioned previously.

M. **Migrant Housing** for homeless persons in the off season.

N. **Other Facilities** which provide services for the homeless, such as clothing distribution centers, education and/or employment skills training.

STEPS FOR REVIEWING THE LIST OF SERVICE PROVIDERS AND KNOWLEDGEABLE PERSONS AND ORGANIZATIONS IN YOUR COUNTY

To help with the survey, we are requesting you:

1. Look over the list of service providers and knowledgeable persons or organizations.

2. Add any service providers, local knowledgeable persons or organizations not included on the list to the HPWUS-L1A form included with this package.

3. Mark the box for "No new names to add.", if you have no additional persons to add to the list.

4. Write any corrected name and/or address information to the right of the old information on the list, if you know anyone on the list who has changed names and/or addresses.

5. Return the list of local service providers, HPWUS-L1A form, and your completed questionnaire on programs and services to our regional Bureau of the Census office in the self-addressed enveloped included in this package.

Service providers, local knowledgeable persons, or organizations providing services. (Make up to five entries.) If more than five providers, send a printed listing.

[] No new names to add.

Facility (Provider, Local konwledgeable person, or organizations providing services) Name (List all names known by.)	Address	Physical Location (List cross streets, etc.)	Telephone Number

Name of Contact	Title

Facility Control Number

Thank you for your help in developing a complete list of ~~service providers~~ programs + services for the homeless in your area. Our goal is to put together the most complete list of service providers possible.

[FR Doc. 95–2380 Filed 1–31–95; 8:45 am]
BILLING CODE 4210–62–C

DEPARTMENT OF INTERIOR

Office of the Secretary

[WO–330–05–1020–00]

Grazing Administration—Exclusive of Alaska; Grazing Fee for the 1995 Grazing Year

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of establishment of grazing fee for the 1995 grazing year.

SUMMARY: The Secretary of the Interior hereby announces that the fee for livestock grazing for the 1995 grazing year is $1.61 per animal unit month on public lands administered by the Bureau of Land Management.

EFFECTIVE DATE: March 1, 1995, through February 29, 1996.

ADDRESSES: Any inquiries should be sent to: Director (330), Bureau of Land Management, Main Interior Bldg., rm. 5650, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Donald D. Waite, 202–452–7752.

SUPPLEMENTARY INFORMATION: Grazing fees for the use of public rangelands are established and collected under the authority of Section 3 of the Taylor Grazing Act of 1934, as amended (43 U.S.C. 315, *et seq.*). The grazing fees are computed by the formula established in 43 CFR 4130.7–1.

Dated: January 26, 1995.

Sylvia V. Baca,

Acting Assistant Secretary, Land and Minerals Management.

[FR Doc. 95–2487 Filed 1–31–95; 8:45 am]

BILLING CODE 4310–84–M

Bureau of Land Management

[OR–092–05–1430–01: GP5–066; OR 48830]

Realty Action: Modified Competitive Sale of Public Lands; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; modified competitive sale of public lands in Lane County, Oregon.

SUMMARY: The following land has been found suitable for sale by modified competitive sale procedures under Sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713 and 1719), at not less than the appraised fair market value (FMV) of $19,000.00. The land will not be offered for sale for at least 60 days after publication of this notice:

Willamette Meridian, Oregon

T.18 S., R. 1 W.

Section 26: Lots 7, 8, 9, and 10

Containing 2.89 acres

The above described land is hereby segregated from appropriation under the public land laws, including the mining laws, but not from sale under the above cited statute, for 270 days from the date of publication of this notice in the **Federal Register** or until title transfer is completed or the segregation is terminated by publication in the **Federal Register**, whichever occurs first.

This land is difficult and uneconomic to manage as part of the public lands and is not suitable for management by other Federal agencies. No significant resource values will be affected by this disposal. The sale is consistent with BLM's planning for the land involved and the public interest will be served by the sale.

Purchasers must be U.S. citizens, 18 years of age or older, a state or state instrumentality authorized to hold property, or a corporation authorized to own real estate in the state in which the land is located.

The land will be offered for sale at public auction using modified bidding procedures authorized under 43 CFR 2711.3–2. Bidding for this parcel is open to all qualified bidders; however, the following adjacent land owners (designated bidders) will be given the opportunity to meet the highest bid received at the sale: Nancy L. Beplat, William F. Cooper, Gerald and Shirley Dilley, Thomas J. Donnelly, Katherine and Rodger Fair, Angela Gomes, Gavin McComas, Weyerhaeuser Company, Nadine Wilkins.

The land will be offered for sale at public auction beginning at 10 a.m., PST on April 21, 1995, at 2890 Chad Drive, Eugene, Oregon 97401–9336. Sale will be by sealed bid only. All sealed bids must be received by the BLM's Eugene District Office at 2890 Chad Drive, Eugene, Oregon 97401–9336, prior to 10 a.m. on the date of the sale, April 21, 1995. Bid envelopes must be marked on the lower left front corner, ''Sale OR 48830''. Bids must be for not less than the appraised FMV specified in this notice. Each sealed bid shall be accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Department of Interior, BLM for not less than 10 percent of the amount bid.

Under modified competitive sale procedures the written sealed bids will be opened and an apparent high bid will be declared at the sale. The apparent high bidder and the designated bidders will be notified. The designated bidders will be given 30 days from the date of the sale to exercise the preference consideration given to meet the high bid. Should the designated bidders fail to submit a written bid that matches the apparent high bid within the specified time period, the apparent high bidder shall be declared high bidder. In case of a tie of bids submitted by the designated bidders, the interested bidders would be given an opportunity to submit a written agreement as to the division of the lands, or an additional sealed bid, meeting the above stated requirements, within 30 days of notification of eligibility. At that time the high bidder would be awarded the property. The total purchase price for the land shall be paid within 180 days of the date of this sale.

The terms and conditions applicable to the sale are as follows:

1. A right-of-way for ditches and canals will be reserved to the United States under the authority of the Act of August 30, 1890 (26 Stat. 291; 43 U.S.C. 945).

2. The mineral interest being offered for conveyance have no known mineral value. A bid submitted will constitute an application for conveyance of the mineral estate in accordance with Section 209 of the Federal Land Policy and Management Act. All qualified bidders must include with their bid deposit a non refundable $50.00 filing fee for the conveyance of the mineral estate.

3. The patent will be issued subject to all valid existing rights and reservations of record.

DATES: For a period of 45 days from February 1, 1995, interested parties may submit comments to the District Manager, Bureau of Land Management, 2890 Chad Drive, Eugene, Oregon 97401–9336. Objections would be reviewed by the State Director who may sustain, vacate, or modify this realty action. In absence of any objections, this realty action will become the final determination of the Department of the Interior.

ADDRESSES: Detailed information concerning the sale, including the reservations, procedures for and conditions of sale, and planning and environmental documents, is available at the Eugene District Office, Bureau of Land Management, 2890 Chad Drive, Eugene, Oregon 97401–9336.

FOR FURTHER INFORMATION CONTACT: Steve Madsen, Realty Specialist, Eugene District Office, at (503) 683–6948.

Date of Issue: January 24, 1995.

Polly Elliott,

Eugene Dist. Manager, Acting.

[FR Doc. 95–2461 Filed 1–31–95; 8:45 am]

BILLING CODE 4310–33–P

[AZ–942–05–1420–00]

Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, Arizona; Notice of Filing of Plats of Survey

January 24, 1995.

1. The plats of survey of the following described lands were officially filed in the Arizona State Office, Phoenix, Arizona, on the dates indicated:

A plat, in 5 sheets, representing the dependent resurvey of the south boundary, portions of the east boundary, subdivisional lines and subdivision of sections 26 and 27, and certain record meanders in sections 26 and 27; and the survey of a portion of the east boundary, the north boundary, and portions of the subdivisional lines and subdivision of section 27, and a metes-and-bounds survey in section 26, Township 27 North, Range 26 East, Gila and Salt River Meridian, Arizona, was accepted October 4, 1994, and was officially filed October 14, 1994.

A plat representing the survey of the east boundary and the subdivisional lines of Township 28 North, Range 26 East, Gila and Salt River Meridian, Arizona, was accepted October 4, 1994, and was officially filed October 14, 1994.

A plat, in 2 sheets, representing the survey of the east and north boundaries and the subdivisional lines of Township 31 North, Range 26 East, Gila and Salt River Meridian, Arizona, was accepted October 24, 1994, and was officially filed November 2, 1994.

A plat, in 3 sheets, representing the survey of the east boundary, sectional guide meridians, auxiliary bases and remaining subdivisional lines of Township 32 North, Range 26 East, Gila and Salt River Meridian, Arizona, was accepted November 28, 1994, and was officially filed December 7, 1994.

These plats were prepared at the request of the Bureau of Indian Affairs, Navajo Area Office.

A plat representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of section 22 and a metes-and-bounds survey, in Township 4 North, Range 19 West, Gila and Salt River Meridian, Arizona, was accepted November 30, 1994, and was officially filed December 7, 1994.

This plat was prepared at the request of the Bureau of Land Management, Yuma Resource Area Manager.

A plat representing the dependent resurvey of portions of the north and west boundaries, and a portion of the subdivisional lines; and the subdivision of section 6, and a metes-and-bounds survey in section 6, Township 24 South, Range 14 East, Gila and Salt River Meridian, Arizona, was accepted October 17, 1994, and was officially filed October 20, 1994.

This plat was prepared at the request of the Bureau of Land Management, Phoenix District Office.

A plat representing a dependent resurvey of a portion of the subdivisional lines, and a metes-and-bounds survey in Township 6 South, Range 17 East, Gila and Salt River Meridian, Arizona, was accepted December 22, 1994, and was officially filed December 22, 1994.

This plat was prepared at the request of the Bureau of Land Management, Arizona State Office.

2. These plats will immediately become the basic records for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

3. All inquiries relating to these lands should be sent to the Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

Dennis K. McKay,

Acting Chief Cadastral, Surveyor of Arizona.

[FR Doc. 95–2379 Filed 1–31–95; 8:45 am]

BILLING CODE 4310–01–M

Fish and Wildlife Service

Migratory Bird Hunting and Conservation Stamp (Duck Stamp) Contest

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service announces the dates and locations of the 1995 Federal Duck Stamp Contest, and the public is invited to attend.

DATES: 1. This action is effective July 1, 1995, the beginning of the 1995–1996 contest.

2. The public may view the 1995 Federal Duck Stamp Contest entries on Monday, November 6, 1995, from 10:00 a.m. to 2:00 p.m., in the Department of the Interior Auditorium.

3. This year's judging will be held from November 7–8, 1995, beginning at 10:30 a.m. on Tuesday, November 7, and continuing at 9:00 a.m. on Wednesday, November 8.

4. Persons wishing to enter this year's contest may submit entries anytime after Saturday, July 1, but all must be postmarked no later than midnight Friday, September 15.

ADDRESSES: Requests for complete copies of the regulations, reproduction rights and the display and participation agreements should be addressed to: Federal Duck Stamp Contest, U.S. Fish and Wildlife Service, Department of the Interior, 1849 C Street NW., Suite 2058, Washington, DC 20240.

LOCATION OF CONTEST: Department of the Interior Building Auditorium (C Street Entrance), 1849 C Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Lita F. Poole, Federal Duck Stamp Program, U.S. Fish and Wildlife Service, Washington, DC 20240, Telephone: (202) 208–4354.

SUPPLEMENTARY INFORMATION: The following *four* eligible species for the 1995–1996 duck stamp contest are listed below:

(1) Barrow's Goldeneye
(2) Black Scoter
(3) Mottled Duck
(4) Surf Scoter

The primary author of this document is Lita F. Poole, U.S. Fish and Wildlife Service.

Dated: January 25, 1995.

John G. Rogers,

Acting Director.

[FR Doc. 95–2369 Filed 1–31–95; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Request for Comments Concerning the Effects of Removing Oil and Gas Platforms and Structures in the Outer Continental shelf (OCS)

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice.

SUMMARY: The MMS is assessing oil and gas platform and structure removal techniques. The assessment will focus on safety and environmental issues. This document requests comments regarding the effects of using various removal techniques.

DATES: The MMS must receive comments to this notice on or before March 3, 1995.

ADDRESSES: Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; MS–4700; 381 Elden Street; Herndon, Virginia 22070–4817; Attention: Acting Chief, Technology Assessment and Research Branch.

FOR FURTHER INFORMATION CONTACT: Charles E. Smith, Acting Chief, Technology Assessment and Research Branch, telephone (703) 787–1559.

SUPPLEMENTARY INFORMATION: At the request of MMS, the Marine Board of

the National Research Council (NRC) is assessing techniques for removing fixed offshore structures. The assessment will determine the occupational hazards and environmental effects of removal processes, determine techniques to mitigate undesirable effects, and appraise current regulations governing the removal of platforms and structures located in the OCS. The study will evaluate both explosive and nonexplosive removal techniques. The MMS is seeking comments concerning methods for removing offshore structures, their hazards and effects, and mitigating strategies. The MMS offers the following information and questions to assist you in your response to this notice.

Requirements for Removal

1. Current regulations require that lessees remove all structures to a depth of 15 feet below the mud line. The MMS is inviting the public, including other users of ocean space (boaters, fishers, conservationists, etc.) to comment on the need for this requirement and to bring to the attention of the NRC committee any information that MMS should consider in assessing and updating this requirement.

Status of Technology

2. What are the alternatives to the removal of offshore structures?

3. What new approaches or improvements to existing techniques for removing offshore structures are in development?

4. What are the requirements and/or limitations of the existing or new techniques relative to different water depths or soil types?

Economic Costs

5. What are the comparative costs of explosive versus nonexplosive techniques for removing offshore structures?

6. Are new technologies in development likely to alter the comparative economics of alternative approaches?

Hazards

7. What are the environmental hazards of explosive and nonexplosive removal techniques?

8. What are the occupational hazards of explosive and nonexplosive removal techniques?

Impacts

9. What are the direct and indirect impacts on living marine resources (fish, marine mammals, sea turtles, etc.) from explosive removal of offshore structures (for example: direct=mortality, injury, indirect=damage to habitats, damage to overall health and survivability, etc.)?

10. What are the direct and indirect impacts of living marine resources from nonexplosive removal of offshore structures?

11. How do alternative removal techniques affect other users of the marine environment (fishers, recreational boaters, ship operators, others)?

Regulations

12, Do other users of the marine environment have needs that MMS should take into account in regulations for full or partial platform removal and for site clearance?

13. Are existing MMS regulations and operating rules governing the removal of offshore structures adequate?

Dated: January 25, 1995.

Thomas M. Gernhofer,

Associate Director for Offshore Minerals Management.

[FR Doc. 95–2376 Filed 1–31–95; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

FES 95–1

Environmental Statements Availability; Mississippi National River and Recreation Area

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of Final Comprehensive Management Plan/Final Environmental Impact Statement for the Mississippi National River and Recreation Area.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (P.L. 91–190, as amended), the National Park Service, Department of the Interior, has prepared a Final Comprehensive Management Plan/Final Environmental Impact Statement (FCMP/FEIS) that describes and analyzes a proposed action and three alternatives for the future management and use of the Mississippi National River and Recreation Area, Minnesota.

The Draft Comprehensive Management Plan/Draft Environmental Impact Statement was released for public review on July 5, 1993 (58 FR 32546), and the public comment period closed October 11, 1993. During this period, four public hearings were held; written comments also were received. The FCMP/FEIS contains responses to the comments received and modifications to the text as needed in response to the comments.

The proposed action and alternatives all have been designed to preserve, protect, and enhance the significant values of the waters and land of the Mississippi River corridor within the Saint Paul-Minneapolis metropolitan area. They differ primarily in approach to overall management emphasis and level of federal involvement.

The proposed action provides a framework to balance and coordinate natural, cultural, and economic resource protection, visitor use, and sustainable development activities. It minimizes adverse effects on the river corridor and conflicts between users while providing for a broad spectrum of land and water uses and managed growth. Corridor management policies would be applied in a practical manner, with individual communities retaining flexibility to respond to unusual situations in special ways, providing that the resources identified in Public Law 100–696, the unit's enabling legislation, are protected. The proposed action emphasizes the importance of biological diversity in the corridor. It also recognizes the importance of economic activities and provides for the commercial use of the corridor consistent with P.L. 100–696. Commercial navigation activities would be continued. A wide range of visitor use activities would be encouraged. The National Park Service would have a lead role in coordinating interpretation for the corridor.

Alternative A (no action) would continue existing resource protection activities, land and water management, and visitor use programs. No overall comprehensive plan would be adopted. Local communities would continue to manage the river with minimal coordination and cooperation. Political boundaries would continue to delineate different management regulations, and the 72-mile segment of the Mississippi River would be managed according to different plans.

Alternative B would place a greater emphasis on resource protection, more restrictive land management, and passive recreation activities. Efforts for resource protection would be coordinated between the National Park Service and existing state, federal, and local programs, with the National Park Service taking the lead on protection of natural and cultural resources.

Alternative C would place greater emphasis on the use and development potential of the corridor; increased tourism and new commercial and industrial development would be encouraged to a greater degree. There would be less land management activity in alternative C, and visitor activities

would emphasize more active recreation. Nationally significant resources would be protected under existing laws, regulations, and policies, and they would be marketed more intensively to stimulate visitation.

Major impact topics assessed for the proposed action and alternatives include cultural resources, economic environment, commercial navigation, water resources, air quality, soil and vegetation, threatened and endangered species, and recreational use.

FOR FURTHER INFORMATION CONTACT: Superintendent, Mississippi National River and Recreation Area, 175 East Fifth Street, Suite 418, Saint Paul, Minnesota 55101; (612) 290–4160

SUPPLEMENTARY INFORMATION: Copies of the FCMP/FEIS will be available at the Mississippi National River and Recreation Area headquarters at the above address. In addition, public reading copies of the FCMP/FEIS will be available for inspection at libraries located in the Twin Cities metropolitan area; the Department of the Interior Library; the National Park Service Public Affairs Office, 1849 C Street NW., Washington, DC 20240; and at the Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, NE 68102. In addition, all Federal Repository libraries will receive copies.

The 30-day no action period will end on February 20, 1995. A record of decision will follow the 30-day no action period.

Dated: January 13, 1995.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 95–2375 Filed 1–31–95; 8:45 am]

BILLING CODE 4310–70–P

Acadia National Park Bar Harbor, Maine; Acadia National Park Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770, 5 U.S.C. Ap. 1, Sec. 10), that the Acadia National Park Advisory Commission will hold a meeting on Monday, February 27, 1995.

The Commission was established pursuant to Public Law 99–420, Sec. 103. The purpose of the commission is to consult with the Secretary of the Interior, or his designee, on matters relating to the management and development of the park, including but not limited to the acquisition of lands and interests in lands (including conservation easements on islands) and termination of rights of use and occupancy.

The meeting will convene park headquarters, Acadia National Park, Rt. 233, Bar Harbor, Maine, at 1:00 p.m. to consider the following agenda:

1. Review and approval of minutes from the meeting held December 12, 1994.
2. Report of the Conservation Easement Subcommittee.
3. Report of the Acquisition Subcommittee.
4. Superintendent's report.
5. Public comments.
6. Proposed agenda and date of next Commission meeting.

The meeting is open to the public. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from the Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, tel: (207) 288–3338.

Dated: January 24, 1995.

Chrysandra L. Walter,

Deputy Regional Director.

[FR Doc. 95–2372 Filed 1–31–95; 8:45 am]

BILLING CODE 4310–70–P

Niobrara Scenic River Advisory Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Niobrara Scenic River Advisory Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

MEETING DATE AND TIME: Thursday, March 2, 1995; 1:00 p.m.

ADDRESSES: Cherry County Court House, Valentine, Nebraska.

Agenda topics include: Follow up discussion of commission from the land protection workshop held in December; update by the National Park Service on the General Management Plan; Advisory Commission review of the summary of comments from the June, 1994 newsletter; Advisory Commission review of the Research Summary of the ''Characteristics, use patterns, and perception of floaters on the Niobrara National Scenic River: Selected findings of a 1993 study''; progress of zoning in the four counties; reports from counties; proposed agenda, date, time, and location of the next Commission meeting, and the opportunity for public comment.

The meeting is open to the public. Interested persons may make oral/written presentation to the Commission or file written statements. Requests for time for making presentations may be made to the Superintendent prior to the meeting or to the Chair at the beginning of the meeting. In order to accomplish the agenda for the meeting, the Chair may want to limit or schedule public presentations.

The meeting will be recorded for documentation and a summary in the form of minutes will be transcribed for dissemination. Minutes of the meeting will be made available to the public after approval by the Commission members. Copies of the minutes may be requested by contacting the Superintendent. An audio tape of the meeting will be available at the headquarters office of the Niobrara/Missouri National Scenic Riverways in O'Neill, NE.

SUPPLEMENTAL INFORMATION: The Commission was established pursuant to Public Law 102–50, section 5. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, on matters pertaining to the development of a management plan, and on the management and operation of the 40 mile and 30 mile segments of the Niobrara River designated by section 2 of Public Law 102–50 which lie outside the boundary of the Fort Niobrara National Wildlife Refuge and that segment of the Niobrara River from its confluence with Chimney Creek to its confluence with Rock Creek.

FOR FURTHER INFORMATION CONTACT: Warren Hill, Superintendent, Niobrara/Missouri National Scenic Riverways, P.O. Box 591, O'Neill, Nebraska 68763–0591, (402) 336–3970, or the Chairman, Robert Hilske, 526 E. 1st. Street, Valentine, NE 69201, (402) 336–3119.

Dated: January 18, 1995.

William W. Schenk,

Regional Director.

[FR Doc. 95–2373 Filed 1–31–95; 8:45 am]

BILLING CODE 4310–70–P

Bureau of Reclamation

Quarterly Status Report of Water Service and Repayment; Contract Negotiations

AGENCY: Bureau of Reclamation, Interior.

AGENCY: Notice.

SUMMARY: Notice is hereby given of proposed contractual actions pending through December 31, 1995, and contract actions that have been

completed or discontinued since the last publication of this notice on October 19, 1994. From the date of this publication, future quarterly notices during this calendar year will be limited to modified, new, completed or discontinued contract actions. This annual notice should be used as a point of reference to identify changes in future notices. This notice is one of a variety of means used to inform the public about proposed contractual actions for capital recovery and management of project resources and facilities. Additional Bureau of Reclamation (Reclamation) announcements of individual contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action. Announcements may be in the form of new releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation procedures do not apply to proposed contracts for sale of surplus or interim irrigation water for a term of 1 year or less. Either of the contracting parties may invite the public to observe contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act.

ADDRESSES: The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the supplementary information.

FOR FURTHER INFORMATION CONTACT: Alonzo Knapp, Manager, Reclamation Law, Contracts, and Repayment Office, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225–0007; telephone 303–236–1061 extension 224.

SUPPLEMENTARY INFORMATION: Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273) and 43 CFR 426.20 of the rules and regulation published in 52 FR 11954, Apr. 13, 1987, Reclamation will publish notice of proposed or amendatory contract actions for any contract for the delivery of project water for authorized uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Pursuant to the ''Final Revised Public Participation Procedures'' for water resource-related contract negotiations, published in 47 FR 7763, Feb. 22, 1982, a tabulation is provided of all proposed contractual actions in each of the five Reclamation regions. Each proposed action is, or is expected to be, in some stage of the contract negotiation process in 1995. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary of the Interior, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the regional directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation.

3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

4. Written comments on a proposed contract or contract action must be submitted to the appropriate regional officials at the locations and within the time limits set forth in the advance public notices.

5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate regional director or his designated public contact as they become available for review and comment.

7. In the event modifications are made in the form of a proposed contract, the appropriate regional director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to: (i) the significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. As a minimum, the regional director shall furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Acronym Definitions Used Herein

(BCP) Boulder Canyon Project
(CAP) Central Arizona Project
(CUP) Central Utah Project
(CVP) Central Valley Project
(CRSP) Colorado River Storage Project
(D&MC) Drainage and Minor Construction
(FR) **Federal Register**
(IDD) Irrigation and Drainage District
(ID) Irrigation District
(M&I) Municipal and Industrial
(O&M) Operation and Maintenance
(P–SMBP) Pick-Sloan Missouri Basin Program
(R&B) Rehabilitation and Betterment
(SRPA) Small Reclamation Projects Act
(WCUA) Water Conservation and Utilization Act
(WD) Water District

Pacific Northwest Region: Bureau of Reclamation, 1150 North Curtis Road, Boise, Idaho 83706–1234, telephone 208–378–5346.

1. Irrigation, M&I, and Miscellaneous Water Users; Columbia Basin, Crooked River, Deschutes, Minidoka, Rathdrum Prairie, Rogue River Basin, and Umatilla Projects; Idaho, Oregon, and Washington: Temporary or interim repayment and water service contracts for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. Rogue River Basin Water Users, Rogue River Project, Oregon: Water service contracts.

3. Willamette Basin Water Users, Willamette Basin Project, Oregon: Water service contract; $8 per acre-foot per annum.

4. American Falls Reservoir District Number 2, Burgess Canal Company, Clark and Edwards Canal and Irrigation Company, Craig-Mattson Canal Company, Danskin Ditch Company, Enterprise Canal Company, Ltd., Farmers Friend Irrigation Company, Ltd., Lenroot Canal Company, Liberty Park Canal Company, Long Island Irrigation Company, Parks and Lewisville Irrigation Company, Ltd., Parsons Ditch Company, Peoples Canal and Irrigation Company, Poplar ID, Rigby Canal and Irrigating Company, Rudy Irrigation Canal Company, Ltd., Wearyrick Ditch Company, all in the Minidoka Project, Idaho; Juniper Flat ID, Wapinitia Project, Oregon; Roza ID, Yakima Project, Washington; Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

5. Willow Creek Water Users, Willow Creek Project, Oregon: Repayment or water service contracts for a total of up to 3,500 acre-feet of storage space in Willow Creek Reservoir.

6. Bridgeport ID, Chief Joseph Dam Project, Washington: Warren Act contract for the use of an irrigation outlet in Chief Joseph Dam.

7. Hermiston ID, Umatilla Project, Oregon: Repayment contract for reimbursable cost of dam safety repairs to Cold Springs Dam.

8. Ochoco ID and Various Individual Spaceholders, Crooked River Project, Oregon: Repayment contract for reimbursable cost of dam safety repairs to Arthur R. Bowman and Ochoco Dams.

9. The Dalles ID, The Dalles Project, Oregon: SRPA loan repayment contract; proposed loan obligation of approximately $2,000,000.

10. Sidney Irrigation Cooperative, Willamette Basin Project, Oregon: Irrigation water service contract for approximately 2,300 acre-feet.

11. Douglas County, Milltown Hill Project, Oregon: SRPA loan repayment contract; proposed loan obligation of approximately $24.5 million and grant of approximately $5.8 million.

12. Palmer Creek Water District Improvement Company, Willamette Basin Project, Oregon: Irrigation water service contract for approximately 13,000 acre-feet.

13. U.S. Fish and Wildlife Service, Boise Project, Idaho: Irrigation water service contract for the use of approximately 200 acre-feet of storage space annually in Anderson Ranch Reservoir. Water to be used on crops for wildlife mitigation purposes.

14. City of Madra, Deschutes Project, Oregon: Renewal or replacement of municipal water service contract for approximately 125 acre-feet annually from the project water supply.

15. Willamette Basin water users, Willamette Basin Project, Oregon: Two water service contracts for the exchange of up to 225 acre-feet of water for diversion above project reservoirs.

16. Lewiston Orchards ID, Lewiston Orchards Project, Idaho: Repayment contract for reimbursable cost of dam safety repairs to Reservoir ''A.''

17. North Unit ID, Deschutes Project, Oregon: Repayment contract for reimbursable cost of dam safety repairs to Wickiup Dam.

18. Umatilla Project Irrigation Districts, Oregon: Temporary contracts with Hermiston, Stanfield, Westland, and West Extension Irrigation Districts to provide water service for 1995 to lands lying outside of their boundaries, with possible renewal for a additional year of water service.

Mid-Pacific Region: Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone 916–979–2401.

1. Tuolumne Utility District (formerly Tuolumne Regional WD), CVP, California: Water service contract for up to 9,000 acre-feet from New Melones Reservoir.

2. Irrigation water districts, individual irrigators, M&I and miscellaneous water users, California, Oregon, and Nevada: Temporary (interim) water service contracts for available project water for irrigation, M&I, or fish and wildlife purposes providing up to 10,000 acre-feet of water annually for terms up to 5 years; temporary Warren Act contracts for use of project facilities for terms up to 1 year; long-term contracts for similar service for up to 1,000 acre-feet annually.

Note. Copies of the standard forms of temporary water service contracts for the various types of service are available upon written request from the Regional Director at the address shown above.

3. Contractors from the American River Division, Buchanan Division, Cross Valley Canal, Delta Division, Friant Division, Hidden Division, Sacramento River Division, Shasta Division, and Trinity River Division, CVP, California: Renewal of existing long-term water service contracts with contractors whose contracts expire in December 1994 and 1995; water quantities in existing contracts range from 400 to 175,440 acre-feet. These contract actions will be accomplished through interim renewal contracts pursuant to Public Law 102–575.

4. Redwood Valley County WD, SRPA, California: District is considering restructuring the repayment schedule pursuant to Public Law 100–516 or initiating new legislation to prepay the loan at a discounted rate. Prepayment option under Public Law 102–575 has expired.

5. Truckee Carson ID, Newlands Project, Nevada: New repayment contract for the unpaid construction cost repayment obligation from the original contract, which was terminated on August 17, 1983, by the U.S. District Court in Nevada.

6. San Luis WD, CVP, California: Amendatory water service contract to provide that the District pay the full O&M rate for all deliveries resulting from the Azhderian Pumping Plant enlargement and the cost of service rate for such deliveries beginning in 1996 and each year thereafter.

7. City of Redding, CVP, California: Amendment to Contract No. 14–06–200–5272A to add a point of diversion at the turnout, Spring Creek Power Conduit, to facilitate proposed water treatment plant for Buckeye service area. This amendment will also conform the contract to current Reclamation policies, including the water ratesetting policy, and Pub. L. 102–575.
ACTION: Amendatory Contract No. 14–06–200–5272A executed November 22, 1994.

8. Sacramento River water rights settlement contractors, CVP, California: Contract amendment for assignment under voluntary land ownership transfers to provide for the current CVP water rates and update standard contract articles.

9. Naval Air Station and Truckee Carson ID, Newlands Project, Nevada: Amend water service Agreement No. 14–06–400–1024 for the use of project water on Naval Air Station land.

10. El Dorado County Water Agency, San Juan Suburban WD, and Sacramento County Water Agency, CVP, California: M&I water service contract to supplement existing water supply: 15,000 acre-feet for El Dorado County Water Agency, 13,000 acre-feet for San Juan Suburban WD, and 22,000 acre-feet for Sacramento County Water Agency, authorized by Pub. L. 101–514.

11. Sacramento Area Flood Control Agency, CVP, California: Agreement for the Folsom Dam and Reservoir reoperation.

12. Central Coast Water Authority, Cachuma Project, California: Long-term Warren Act contract for use of Cachuma Project facilities when excess capacity exists. Approximately 13,750 acre-feet of water per year from the California State Water Project will be made available under a Warren Act contract to users along the South Coast of California.

13. California Department of Fish and Game, CVP, California: Renewal of existing long-term agreement for furnishing water for fish hatchery purposes.

14. Widren WD, CVP, California: Amend water service Contract No. 14–06–200–8018 to include M&I use, conform to Pub. L. 102–575, and assign water supply to City of Tracy.

15. Del Puerto WD, CVP, California: Assignment of 12 Delta-Mendota Canal water service contracts to Del Puerto WD for administrative and operational purposes. Change in water district name.

16. U.S. Fish and Wildlife Service, California Department of Fish and Game, Grassland WD; CVP; California: Water service contracts to provide water supplies for refuges within the CVP pursuant to Federal Reclamation Laws;

exchange agreements and wheeling contracts to deliver some of the increased refuge water supplies; quantity to be contracted for is approximately 450,000 acre-feet.

17. Monterey County Water Resources Agency, Castroville Irrigation Water Supply Project, SRPA, California: Loan repayment contract in the amount of $32,600,000 to construct an irrigation distribution system to reduce seawater intrusion in the ground-water aquifers.

18. Monterey Regional Water Pollution Control Agency, Water Reclamation Facility for Crop Irrigation Project, SRPA, California: Loan repayment contract in the amount of $20,544,400 to reduce seawater intrusion in the ground-water aquifers.

19. Santa Barbara County Water Agency, Cachuma Project, California: Renewal of existing long-term water service contract which expires May 14, 1995; water quantity in existing contract 32,000 acre-feet.

20. United Water Conservation District, SRPA, California: District can prepay the loan at a discounted rate pursuant to Public Law 102–575. ACTION: District did not pursue prepayment option provided in Pub. L. 102–575. Prepayment option has expired.

21. San Juan Suburban WD and the Placer County Water Agency, CVP, California: Renewal of existing long-term wheeling contract allowing the Agency to use CVP facilities to deliver its water to the District for use on District land within Placer County.

22. Mountain Gate CSD, CVP, California: Amendment of existing long-term water service contract to include right to renew. This amendment will also conform the contract to current Reclamation law, including Public Law 102–575.

23. Glide WD, CVP, California: Assignment of Tehama WD's water service contract to Glide WD, ACTION: Request withdrawn. Tehama WD dissolved.

24. Glide WD and Orland-Artois WD, CVP, California: Assignment of Elder Creek WD water service contract to Glide WD and Orland-Artois WD.

25. Pershing County WD, Nevada: Repayment contract for Safety of Dams work on Rye Patch Dam.

Lower Colorado Region: Bureau of Reclamation, P.O. Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone 702–293–8536.

1. Agricultural and M&I water users, CAP, Arizona: Water service subcontracts for percentages of available supply reallocated in 1992 for irrigation entities and up to 640,000 acre-feet per year allocated in 1983 for M&I use.

2. Milton and Jean Phillips, Kenneth or Ann Easterday, Robert E. Harp, Cameron Brothers Construction Co., Ogram Farms, Bruce Church, Inc., Stephen Sturges, Sunkist Growers, Inc., Clayton Farms, BCP, Arizona: Water service contracts, as recommended by Arizona Department of Water Resources, with agricultural entities located near the Colorado River for up to an additional 15,557 acre-feet per year total.

3. Arizona State Land Department, State of Arizona, BCP, Arizona: Contract for 6,607 acre-feet per year of Colorado River water for agricultural use and related purposes on State-owned land. This contract action reflects an increase in a prior contract recommendation in the amount of 6,292 acre-feet per year.

4. Armon Curtis, Arlin Dulin, Jacy Rayner, Glen Curtis, Jamar Produce Corporation, and Ansel T. Hall, BCP, Arizona: Water service contracts: purpose is to amend their contracts to exempt them from the Reclamation Reform Act of 1982 (Pub. L. 97–293).

5. Indian and non-Indian agricultural and M&I water users, CAP, Arizona: New and amendatory contracts for repayment of Federal expenditures for construction of distribution systems.

6. Cibola Valley IDD, BCP, Arizona: Cibola Valley IDD is looking at the possibility of transferring, leasing, selling, or banking its entitlement of 22,560 acre-feet, for use in Arizona, California, and Nevada.

7. Ft. Yuma Indian Reservation (Quechan Indian Reservation) and Bard ID, Yuma Project, Arizona and California: Surplus Water Contract to receive Colorado River water in the states of Arizona and California.

8. Imperial ID, Lower Colorado Water Supply Project, California: Contract providing for administration, operation, maintenance, and replacement of the project well field.

9. Lower Colorado Water Supply Project, California: Water service and repayment contracts with nonagricultural users in California adjacent to the Colorado River for an aggregate consumptive use of up to 10,000 acre-feet of Colorado River water per year in exchange for an equivalent amount of water to be pumped into the All-American Canal from a well field to be constructed adjacent to the canal.

10. County of San Bernardino, San Sevaine Creek Water Project, SRPA, California: Contract for repayment of a $17.9 million loan and grant of $34 million.

11. Tohono O'odham Nation, SRPA, Arizona: Repayment contract for a $47.3 million loan for the Schuk Toak District.

12. Consolidated Water Co., Lake Havasu City, Havasu Water Co., Quartzsite, McAllister Subdivision, City of Parker, Marble Canyon, and Arizona State Land Department, BCP, Arizona: Contracts for additional M&I allocations of Colorado River water to entities located along the Colorado River in Arizona for up to 8.126 acre-feet per year as recommended by the Arizona Department of Water Resources.

13. National Park Service for Lake Mead National Recreation Area, Supreme Court Decree in Arizona v. California, and BCP in Arizona and Nevada: Memorandum of Understanding for delivery of Colorado River water for the National Park Service's Federal Establishment present perfected right of 500 acre-feet of diversions annually, and the National Park Service's Federal Establishment perfected right pursuant to Executive Order No. 5125 (April 25, 1930).

14. Imperial ID/Coachella Valley WD and/or The Metropolitan WD of Southern California, BCP, California: Contract to fund the Department of the Interior's expenses to conserve All-American Canal seepage water in accordance with Title II of the San Luis Rey Indian Water Rights Settlement Act, dated November 17, 1988.

15. Coachella Valley WD and/or The Metropolitan WD of Southern California, BCP, California: Contract to fund the Department of the Interior's expenses to conserve seepage water from the Coachella Branch of the All-American Canal in accordance with Title II of the San Luis Rey Indian Water Rights Settlement Act, dated November 17, 1988.

16. Elsinore Valley Municipal WD, Temescal Valley Project, SRPA, California: Repayment contract for a $22.3 million loan.

17. Mohave Valley ID, BCP, Arizona: Amendment of current contract for additional Colorado River water, change in service areas, diversion points, and RRA exemption.

18. Miscellaneous present perfected rights (PPR) entitlement holders, BCP, Arizona and California: New contracts for entitlements to Colorado River water as decreed by the U.S. Supreme Court in *Arizona* v. *California*, as supplemented or amended, and as required by section 5 of the BCP. Miscellaneous present perfected rights holders are listed in the *Arizona* v. *California* Supplemental Decree, January 9, 1979.

19. Federal Establishment present perfected rights entitlement holders:

Individual contracts for administration of Colorado River water entitlements of the Colorado River, Fort Mojave, Quechan, Chemehuevi, and Cocopah Indian Tribes.

20. United States facilities, BCP: Reservation of Colorado River water for use at Federal facilities administered by Bureau of Reclamation in Arizona, California, and Nevada.

21. City of Yuma, BCP, Arizona: Amendment to Contract No. 14–06–W–106, for additional points of diversion.

22. Imperial ID and The Metropolitan WD of Southern California, BCP, California: Temporary contract to store approximately 200,000 acre-feet of water that is expected to be saved over a 2-year period under a test water savings program that involves land fallowing and a modified irrigation plan for alfalfa.

23. Crystal Beach Water Conservation District, BCP, Arizona: Contract for delivery of 132 acre-feet per year of Colorado River water for domestic use, as recommended by the Arizona Department of Water Resources.

24. Robert B. Griffith Water Project, BCP, Nevada: Revision of water delivery contract to amend points of diversion.

25. United States Navy, BCP, California: Contract for 22 acre-feet of surplus Colorado River water through the Coachella Canal.

26. Santa Ana Watershed Project Authority, SRPA, California: Chino Basin Desalination Program, environmental cleanup to remove salt from ground water, $32 million loan.

27. Gila River Indian Community/Gila River Farms, CAP, Arizona: Repayment/deferment/O&M contract for distribution system not to exceed $4 million. Execution of this contract facilitates construction under Public Law 93–638 funding and work performance contract.

28. Gila River Farms, SRPA, Arizona: Amendatory contract to reschedule payments due in 1991, 1992, and subsequent years in line with payment capacity.

29. Bureau of Land Management, BCP, Arizona: Contract for 1,176 acre-feet per year, for agricultural use, of Arizona's Colorado River water that is not used by higher priority Arizona entitlement holders.

30. Curtis Family Trust et al., BCP, Arizona: Contract for 2,100 acre-feet per year of Colorado River water for agricultural water.

31. Beattie Farms SW, BCP, Arizona: Contract for 1,890 acre-feet per year of unused Arizona entitlement for agricultural use.

32. Section 10 Backwater, BCP, Arizona: Contract for 250 acre-feet per year of unused Arizona entitlement for environmental use until a permanent water supply can be obtained.

33. Central Arizona Water Conservation District (CAWCD), CAP, Arizona: Amend or supplement the master repayment contract between the United States and CAWCD to reflect a pending settlement of certain CAP financial and ancillary issues.

34. Mohave County, BCP, Arizona: Assignment, transfer, or reallocation of 18,500 acre-feet of water from the City of Kingman to a new water authority being formed to serve Mohave County. The new authority expect to make portions of its entitlement available to Bullhead City, Lake Havasu City, Mohave Water Conservation District and environmental purposes yet to be determined.

35. Yuma Mesa Irrigation and Drainage District, Gila Project, Arizona: Amendment to provide for increase in domestic water allocation (from 10,000 to 20,000 acre-feet) within its overall use in the district.

36. Yuma County Water Users Association (YCWUA) and City of Yuma, Yuma Project, Arizona: Supplementary Agreement and Delivery Agent contract to convert an undetermined amount of YCWUA's Present Perfected Rights irrigation water to municipal and industrial water for distribution by the city of Yuma.

37. U.S. Fish and Wildlife Service, Lower Colorado River Refuge Complex, BCP, Yuma, Arizona: Proposed agreement to pool existing Arizona refuge water rights, resolve water rights coordination issues, and to provide for nonconsumptive use flow through water.

38. Colorado River Commission of Nevada, Robert E. Griffith Project, Nevada: Amendatory or supplemental contract action to provide for the expansion and upgrading of diversion and conveyance facilities at non-Federal expense.

39. Southern Nevada Water Authority, BCP, Nevada: Contract to use Federal facilities and land to divert water from Lake Mead at non-Federal expense.

40. Central Arizona Water Conservation District and the Metropolitan Water District of Southern California, CAP/BCP, Arizona/California: Amendatory Agreement for a demonstration project on underground storage of Colorado River Water in Arizona to increase the project from up to 100,000 acre-feet to 300,000 acre-feet.

The following contract actions have been completed in the Lower Colorado Region since this notice was last published on October 19, 1994:

1. (12) Bullhead City: Contract for additional M&I allocations of Colorado River water to entities located along the Colorado River in Arizona. Contract for Bullhead City was executed on November 9, 1994.

2. (25) Southern Nevada Water Authority, BCP, Nevada: Assignment or transfer of 14,550 acre-feet of Basic Management, Incorporated's water entitlement to the Southern Nevada Water Authority as a result of Basic Management, Inc.'s water conservation efforts. This assignment and related contract actions were completed on November 17, 1994.

Upper Colorado Region: Bureau of Reclamation, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1102, telephone 801–524–4419.

1. Individual irrigators, M&I, and miscellaneous water users, Utah, Wyoming, Colorado, and New Mexico: Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 10 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

(a) The Benevolent and Protective Order of the Elks, Lodge No. 1747, Farmington, New Mexico: Navajo Reservoir water service contract; 20 acre-feet per year for municipal use.

2. Southern Ute Indian Tribe, Animas-La Plata Project, Colorado: Repayment contract for 26,500 acre-feet per year for M&I use and 2,600 acre-feet per year for irrigation use in Phase One and 700 acre-feet in Phase Two; contract terms to be consistent with binding cost sharing agreement and water rights settlement agreement.

3. Ute Mountain Ute Tribe, Animas-La Plata Project, Colorado and New Mexico: Repayment contract 6,000 acre-feet per year for M&I use in Colorado; 26,400 acre-feet per year for irrigation use in Colorado; 900 acre-feet per year for irrigation use in New Mexico; contract terms to be consistent with binding cost sharing agreement and water rights settlement agreement.

4. Navajo Indian Tribe, Animas-La Plata Project, New Mexico: Repayment contract for 7,600 acre-feet per year for M&I use.

5. La Plata Conservancy District, Animas-La Plata Project, New Mexico: Repayment contract for 9,900 acre-feet per year for irrigation use.

6. Vermejo Conservancy District, Vermejo Project, New Mexico: Amend contract pursuant to Pub. L. 96–550 to relieve the district of the requirement to make annual payments until the Secretary of the Interior determines that

further payments are feasible; the current obligation exceeds $2 million.

7. San Juan Pueblo, San Juan-Chama Project, New Mexico: Repayment contract for up to 2,000 acre-feet of project water for irrigation purposes.

8. City of El Paso, Rio Grande Project, Texas and New Mexico: Amendment to the 1941 and 1962 contracts to expand acreage owned by the City to 3,000 acres; extend terms of water rights assignments; and allow assignments outside City limits under authority of the Public Service Board.

9. The National Park Service, Bureau of Land Management, Colorado Water Conservation Board, Wayne N. Aspinall Unit, CRSP, Colorado: Contract for between 180,000 to 740,000 acre-feet of project water to provide specific river flow patterns in the Gunnison River through the Black Canyon of the Gunnison National Monument.

10. Upper Gunnison River Water Conservancy District, Wayne N. Aspinall Unit, CRSP, Colorado: Water service contract for 500 acre-feet for 1 year for municipal and domestic use.

11. Upper Gunnison River Water Conservancy District, Wayne N. Aspinall Unit, CRSP, Colorado: Substitute supply plan for the administration of the Gunnison River.

12. Collbran Conservancy District, Collbran Project, Colorado: Amendatory contract defining priority of use of project water.

13. U.S. Fish and Wildlife Service, North Fork Water Conservancy District, Paonia Project, Colorado: Contract for releases to support endangered fish in the Gunnison and Colorado Rivers; water available for releases will come from reserve capacity held by Reclamation as a sediment pool, estimated to be 1,800 acre-feet annually; contract will define the terms and conditions associated with delivery of this water.

14. Rio Grande Water Conservation District, Closed Basin Division, San Luis Valley Project, Colorado: Water service contract for furnishing priority 4 water to third parties; contract will allow District to market priority water, when available, for agricultural, municipal and/or industrial use.

15. Uncompahgre Valley Water Users Association, Upper Gunnison River Water Conservancy District, Colorado River Water Conservation District, Uncompahgre Project, Colorado: Water management agreement for water stored at Taylor Park Reservoir and the Wayne N. Aspinall Storage Units to improve water management.

16. Florida Water Conservancy District, Florida Project, Colorado: Water service contract to market for municipal and industrial use 114 acre-feet of water rights held by the United States.

Great Plains Region: Bureau of Reclamation, P.O. Box 36900, Federal Building, 316 North 26th Street, Billings, Montana 59107–6900, telephone 406–657–6413.

1. Individual irrigators, M&I, and miscellaneous water users: Montana, Wyoming, North Dakota, South Dakota, Colorado, Kansas, Nebraska, Oklahoma, and Texas: Temporary (interim) water service contracts for the conveyance, storage, and exchange of surplus project water and nonproject water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5-years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. Green Mountain Reservoir, Colorado-Big Thompson Project, Colorado; Water service contracts for irrigation, municipal, and industrial; contract negotiations for sale of water from the marketable yield to water users within the Colorado River Basin of Western Colorado.

3. Ruedi Reservoir, Fryingpan-Arkansas Project, Colorado; Repayment contracts; second round contract negotiations for municipal, domestic, and industrial water from the regulatory capacity of Ruedi Reservoir.

4. Cedar Bluff Irrigation District No. 6, Cedar Bluff Unit, P–SMBP, Kansas: In accordance with Section 901 of Public Law 102–575, 106 Stat. 4600, terminate the Cedar Bluff Irrigation District's repayment contract and transfer use of the District's portion of the reservoir storage capacity to the State of Kansas for fish, wildlife, recreation, and other purposes.

5. Garrison Diversion Unit, P–SMBP, North Dakota: Renegotiation of the master repayment contract with Garrison Diversion Conservancy District to conform with the Garrison Diversion Unit Reformulation Act of 1986; negotiation of repayment contracts with irrigators and M&I users.

6. Corn Creek Irrigation District, Glendo Unit, P–SMBP, Wyoming: Repayment contract for 10,350 acre-feet of supplemental irrigation water from Glendo Reservoir pending completion of NEPA review.

7. Foss Reservoir Master Conservancy District, Washita Basin Project, Oklahoma; Amendatory repayment contract for remedial work.

8. Arbuckle Master Conservancy District, Arbuckle Project, Oklahoma: Contract for the repayment of costs of the construction of the Sulphur, Oklahoma, pipeline and pumping plant (if constructed).

9. Chinook Water Users Association, Milk River Project, Montana: SRPA contract for loan of up to $6,000,000 for improvements to the Association's water conveyance system.

10. Midvale Irrigation District, Riverton Unit, P–SMBP, Wyoming: Long-term contract for water service from Boysen Reservoir.

11. Tom Green County Water Control and Improvement District No. 1, San Angelo Project, Texas: Pursuant to Section 501 of Pub. L. 101–434, negotiate amendatory contract to increase irrigable acreage within the project.

12. Canadian River Municipal Water Authority, Canadian River Project, Texas: Issue of credit for transferred lands under review.

13. Lakeview Irrigation District, Shoshone Project, Wyoming: New long-term water service contract for up to 3,200 acre-feet of firm water supply annually and up to 11,800 acre-feet of interim water from Buffalo Bill Reservoir.

14. Hidalgo County Irrigation District No. 6, Texas: SRPA contract for a 20-year loan for up to $5,712,900 to rehabilitate the District's irrigation facilities pending appropriation of funds.

15. City of Rapid City and Rapid Valley Water Conservancy District, Rapid Valley Unit, P–SMBP, South Dakota: Contract renewal for up to 55,000 acre-feet of storage capacity in Pactola Reservoir.

16. Thirty Mile Canal Company, Nebraska: SRPA contract for a loan of $2,264,000 to reline the main canal, replace open laterals with buried pipe, and replace bridges pending appropriation of funds.

17. Belle Fourche Irrigation District, Belle Fourche Unit, P–SMBP, South Dakota: Amendment to Contract No. 5–07–60–WR170. The amendment will initiate repayment period June 30, 1996. The amendment will also provide an additional $10.5 million for additional rehabilitation and betterment work.

18. North Platte Project and Glendo Unit, P–SMBP, Wyoming and Nebraska contractors: Repayment contracts under the Safety of Dams Program for the modifications of Pathfinder, Guernsey, and Glendo Dams.

19. State of Colorado, Armel Unit, P–SMBP, Colorado: Repayment contract under the Safety of Dams Program for the modification of Bonny Dam.

20. Bostwick Irrigation District in Nebraska and Kansas-Bostwick Irrigation District, Ainsworth Irrigation District, Farwell Irrigation and Sargent Irrigation District, Frenchman-Cambridge Irrigation District,

Frenchman Valley Irrigation District, Almena Irrigation District, Webster Irrigation District, and Kirwin Irrigation District, P–SMBP, Kansas and Nebraska: Renewal of existing water service and repayment contracts for irrigation water supplies, pending completion of NEPA review.

21. Mountain Park Master Conservancy District, Mountain Park Project, Oklahoma: Pending revision of Section 3102 of Pub. L. 102–575, (106 Stat. 4600) amend the District's contract to either reflect a discounted prepayment of the City of Frederick's obligation for the reimbursable costs of its M&I water supply or to reschedule its payments based on ability to pay.

22. Northern Cheyenne Indian Reservation, Montana: In accordance with Section 9 of the Northern Cheyenne Reserved Water Rights Settlement Act of 1992, the United States and the Northern Cheyenne Indian Tribe are proposing to contract for 30,000 acre-feet per year of stored water from Bighorn Reservoir, Yellowtail Unit, Lower Bighorn Division, P–SMBP, in Montana. The Tribe will pay the United States both capital and O&M costs associated with each acre-foot of water the Tribe sells from this storage for M&I purposes.

23. Canadian River Municipal Water Authority, Canadian River Project, Texas: Contract for the United States to pay up to 33 percent of the costs of the salinity control project. These costs are to be used for the design and construction management of the project facilities.

24. Mid-Dakota Rural Water System, Inc., South Dakota: Pursuant to the Reclamation Projects Authorization and Adjustment Act of 1992, The Secretary of the Interior is authorized to make grants and loans to Mid-Dakota Rural Water System, Inc., a nonprofit corporation for the planning and construction of a rural water supply system.

25. Angostura Irrigation District, Angostura Unit, P–SMBP: The District's current contract for water services expires on January 1, 1995. The current contract also provides for the District to operate and maintain the dam and reservoir. The proposed contract would provide a continued water supply for the District and the District's continued operation and maintenance of the facility.

26. West River Conservancy Sub-District, Shadehill Unit, P–SMBP, South Dakota: Water service contract expires June 10, 1995. The proposed contract would provide irrigation water to the District pursuant to terms acceptable to both the United States and the District.

Dated: January 24, 1995.

Wayne O. Deason,

Assistant Director, Program Analysis.

[FR Doc. 95–2402 Filed 1–31–95; 8:45 am]

BILLING CODE 4310–94–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–700 (Final)]

Disposable Lighters from the People's Republic of China

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731–TA–700 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China (China) of disposable pocket lighters, provided for in subheadings 9613.10.00 and 9613.20.00 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: December 13, 1994.

FOR FURTHER INFORMATION CONTACT: Tedford Briggs (202–205–3181), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of disposable pocket lighters from China are being sold in the United States at less than fair value (LTFV) within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on May 9, 1994, by the BIC Corporation, Milford, CT.

Participation in the Investigation and Public Service List

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in this investigation will be placed in the nonpublic record on March 1, 1995, and a public version will be issued thereafter, pursuant to section 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on March 14, 1995, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 3, 1995. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference

to be held at 9:30 a.m. on March 8, 1995, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony *in camera*.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.22 of the Commission's rules; the deadline for filing is March 8, 1995. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.24 of the Commission's rules. The deadline for filing posthearing briefs is March 22, 1995; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before March 22, 1995. Parties may also file a supplemental brief on or before May 5, 1995, relating to the Department of Commerce's final LTFV determination on China. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules.

By order of the Commission.

Donna R. Koehnke,

Secretary.

Issued: January 25, 1995.

[FR Doc. 95–2438 Filed 1–31–95; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 731–TA–706 (Final)]

Canned Pineapple Fruit From Thailand

AGENCY: International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731–TA–706 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Thailand of canned pineapple fruit,[1] provided for in subheading 2008.20.00 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: January 9, 1995.

FOR FURTHER INFORMATION CONTACT: Brad Hudgens (202–205–3189), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of canned pineapple fruit from Thailand are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. § 1673b). The investigation was requested in a petition filed on June 8, 1994, by Maui Pineapple Company, Ltd., Kahului, HI, and the International Longshoremen's and Warehousemen's Union.

Participation in the Investigation and Public Service List

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in this investigation will be placed in the nonpublic record on May 18, 1995, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on June 1, 1995, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before May 19, 1995. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on May 23, 1995, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are

[1] For purposes of this investigation, canned pineapple fruit is defined as pineapple prepared into various product forms, including rings, pieces, chunks, tidbits, and crushed pineapple, that is packed and cooked in metal cans with either pineapple juice or sugar (heavy) syrup added.

strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony in camera.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the deadline for filing is May 25, 1995. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs is June 9, 1995; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before June 9, 1995. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other 4 parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules.

By order of the Commission.

Issued: January 23, 1995.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–2439 Filed 1–31–95; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 731–TA–680 (Final)]

Stainless Steel Bar From Italy

AGENCY: International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: On December 28, 1994, the U.S. Department of Commerce published notice in the **Federal Register** of a negative final determination of sales at less than fair value in connection with the subject investigation.[1] Accordingly, pursuant to 19 U.S.C. § 1673d(c)(2) and § 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR § 207.40(a)), the antidumping investigation concerning stainless steel bar[2] from Italy (investigation No. 731–TA–680 (Final)) is terminated.[3]

EFFECTIVE DATE: January 23, 1995.

FOR FURTHER INFORMATION CONTACT: Jim McClure (202–205–3191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

Authority: This investigation is being terminated under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 201.10 of the Commission's rules (19 CFR 201.10).

Issued: January 23, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–2440 Filed 1–31–95; 8:45 am]

BILLING CODE 7020–02–P

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[1] 55 FR 66921.

[2] The imported stainless steel bar covered by these investigations comprises articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled, or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Except as specified above, the term does not include stainless steel semifinished products, cut-to-length flat-rolled products (*i.e.*, cut-to-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (i.e., cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes, or sections. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process. Stainless steel bar is provided for in subheadings 7222.10.00, 7222.20.00, and 7222.30.00 of the Harmonized Tariff Schedule of the United States.

[3] The Commission instituted this investigation on August 29, 1994 (59 FR 46448, Sept. 8, 1994).

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–101 (Sub-No. 11X)]

Duluth, Missabe and Iron Range Railway Company—Abandonment Exemption—St. Louis County, MN

Duluth, Missabe and Iron Range Railway Company (DM&IR) has filed a verified notice under 49 CFR Part 1152 Subpart F—Exempt Abandonments to abandon the 1.22-mile Superior Branch of the Missabe Division between milepost H15.58, at or near Ruby Junction, and the end of the line at milepost H16.61, at or near Hibbing, MN, in St. Louis County, MN.

DM&IR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in complainant's favor within the last 2 years; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 and 1152.50(d)(1) (notice to government agencies), and 49 CFR 1105.12 (newspaper publication) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether employees are adequately protected, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

This exemption will be effective March 3, 1995, unless stayed or a statement of intent to file an offer of financial assistance (OFA) is filed. Petitions to stay that do not involve environmental issues,[1] statements of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must

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[1] The Commission will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Commission in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Commission may take appropriate action before the exemption's effective date.

[2] See *Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

[3] The Commission will accept late-filed trail use requests so long as the abandonment has not been

Continued

be filed by February 13, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by February 21, 1995. An original and 10 copies of any such filing must be sent to the Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423. In addition, one copy must be served on Robert J. Koch, P.O. Box 68, 135 Jamison Lane, Monroeville, PA 15146.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

DM&IR has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Commission's Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by February 6, 1995. A copy of the EA may be obtained by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: January 23, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–2451 Filed 1–31–95; 8:45 am]

BILLING CODE 7035–01–P

consummated and the abandoning railroad is willing to negotiate an agreement.

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental Policy, 28 C.F.R. § 50.7, 38 Fed. Reg. 19029, and 42 U.S.C. § 7413(g) notice is hereby given that on January 10, 1995, a proposed Consent Decree in *United States* v. *Borden, Inc.,* Civil Action No. 95–10054REK, was lodged with the United States district Court for the District of Massachusetts resolving the matters alleged in the United States' complaint file on that date. The proposed Consent Decree represents a settlement of the United States' claims against Borden under the Clean Air Act and the Massachusetts SIP for emissions of violative organic compounds (''VOCs'') in excess of the emission limit provided in 310 CMR § 7.18(16), from the vinyl coating lines at Borden's Vernon Plastics Division (the ''Vernon facility'') located on Shelley Road in Haverhill, Massachusetts.

Under the proposed Consent Decree the Defendant shall pay to the United States a civil penalty in the amount of eighty-two thousand, two hundred and seventy eight dollars ($82.278), plus interest, within fifteen (15) days of entry of the Consent Decree. The proposed Consent Decree also requires that Borden shall (1) comply with the VOC emissions limitations for vinyl surface coating contained in the Massachusetts federally approved SIP, 310 CMR § 7.18(16), including any amendments thereto; (2) provide written certification to EPA throughout the period the Consent Decree remains in effect that documents the emissions capture, enclosure, and/or incinerator devices are performing adequately; and (3) submit protocols for emissions and performance testing and perform any emissions and performance testing within thirty days of receipt of notification from EPA of a testing requirement.

The Department of Justice will receive, for thirty (30) days from the date of publication of this notice, written comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Borden, Inc.,* D.O.J. Ref. No. 90–5–2–1–1525.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the District of Massachusetts, 1107 J.W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109; at the Region I Office of the Environmental Protection Agency, JFK Federal Building, Boston, Massachusetts, 02203; and at the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, D.C., 20005, (202)–624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, D.C., 20005. In requesting a copy, please enclose a check in the amount of $3.72 (25 cents per page reproduction charge) payable to Consent Decree Library.

Bruce S. Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–2462 Filed 1–31–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Under Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, notice is hereby given that on January 17, 1995, a proposed Consent Decree in *United States* v. *Container Corporation of America,* Civil Action No. C–3–91–469 (S.D. Ohio) was lodged with the United States District Court for the Southern District of Ohio. The proposed Consent Decree concerns the hazardous waste site known as the Miami County Incinerator and Landfill Site near Troy, Miami County, Ohio. Under the proposed decree, CCA will pay $3.1 million to the Hazardous Substances Superfund to resolve claims for past response costs and future oversight costs under Section 107 of CERCLA, 42 U.S.C. 9607. The Decree reserves the right of the United States to assert claims against CCA for all other matters, including liability for future response costs other than oversight costs and liability to perform response actions at the Site pursuant to Section 106 of CERCLA.

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, Environmental Enforcement Section, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20530, and should refer to *United States* v. *Container Corporation of America,* Civil Action No. C–3–91–469 (S.D. Ohio) and D.J. reference No. 90–11–3–759. The proposed Consent Decree may be examined at the office of the United States Attorney, Southern District of Ohio, 602 Federal Building 200 West Second Street, Dayton, Ohio 45402; at the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. Copies of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting copies, please enclose a check in the amount of $3.75

(25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–2463 Filed 1–31–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree for Claims Under the Federal Insecticide, Fungicide, and Rodenticide Act

Notice is hereby given that on January 20, 1995, a proposed Consent Decree between the United States, Michael J. Levine and MIBAR, Inc. in *United States* v. *Levine, et al.,* Civil Action Nos. 89–M–42 and 96–M–1074, was lodged with the United States District Court for the District of Colorado. The Complaint in this case was brought for violations of a prior administrative settlement between the United States, Michael J. Levine and MIBAR, Inc. which resolved claims for multiple violations of the Federal Insecticide, Fungicide, and Rodenticide Act (Act), 7 U.S.C. 136, *et seq.* The United States' Complaint in this action sought recovery of the full amount of the civil penalty which was agreed to by settling defendants in the administrative settlement between Michael J. Levine, MIBAR, Inc. and the Environmental Protection Agency.

The proposed decree provides that defendants will pay $10,000 in satisfaction of the violations addressed in the prior administrative settlement. The decree also enjoins the settling defendants either individually, or as a business enterprise or participant therein, from any conduct or business regulated under the Act, the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.,* the Federal Water Pollution and Control Act, 33 U.S.C. *seq.,* the Federal Water Pollution and Control Act, 33 U.S.C. 1251, *et seq.,* the Public Health Service Act, 42 U.S.C. 300f *et seq.,* the Solid Waste Disposal Act, 42 U.S.C. 6901 *et seq.,* the Clean Air Act, 42.U.S.C. 7401 *et seq.,* and the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et seq.*

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, P.O. Box 7611, Washington, DC 20044, and should refer to *United States* v. *Levine, et al.,* DJ# 1–13–34B.

The proposed Consent Decree may be examined at the Environment and Natural Resources Division, Department of Justice Field Office, Suite 945, 999 18th Street—North Tower; and at the Region VIII Office of the Environmental Protection Agency, 999 18th Street, Suite 500, Denver, Colorado 80202. A copy of the proposed Consent Decree may also be examined at or obtained 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 $2.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–2464 Filed 1–31–95; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—AWSC Consortium

Notice is hereby given that, on December 20, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the American Waterways Shipyard Conference Consortium (''AWSC Consortium'') filed notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Bender Shipbuilding and Repair Company, Inc., Mobile, AL; Trinity Marine Group, Gulfport, MS; McDermott Shipbuilding, Inc., New Orleans, LA; Steiner Shipyard, Inc., Bayou La Batre, AL; Bird-Johnson Company, Inc., Walpole, MA; and Wartsila Diesel, Inc., Annapolis, MD. The objectives of the AWSC Consortium are to engage in a collaborative research effort of limited duration to gain further knowledge and understanding of the technologies, market strategies, and financing options for the construction of small ships for the export commerce. The Advanced Research Projects Agency (''ARPA'') of the Department of Defense has awarded a MARITECH grant to the Consortium to assist in this effort. The Consortium has entered into a collaboration agreement among the parties effective October 13, 1994. Actual collaboration will not begin until the final award of the MARITECH grant to the Consortium by ARPA.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–2465 Filed 1–31–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Automotive Emissions Cooperative Research Venture

Notice is hereby given that, on December 22, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Automotive Emissions Cooperative Research Venture (known as the Auto/Oil Air Quality Improvement Research Program) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing that the agreement establishing the venture was amended, effective as of December 9, 1994, to extend its term for an additional two years, to December 31, 1996, in order to permit the completion of ongoing work which had been the subject of prior notifications under the Act. 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.

No other changes have been made in either the membership or planned activity of the Auto/Oil Air Quality Improvement Research Program.

On October 18, 1989, Auto/Oil Air Quality Improvement Research Program filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 29, 1989, (54 FR 49122).

The last notification was filed with the Department on July 6, 1992. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 20, 1992, (57 FR 37840).

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 95–2466 Filed 1–31–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Collaboration Agreement Between Bruker Analytical Systems Inc.; Collaborative Research, Inc. (Division of Genome Therapeutics Corp.); and Northeastern University

Notice is hereby given that, on December 21, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Bruker Analytical Systems, Inc. has filed written notifications of the formation of a collaboration on behalf of Bruker Analytical Systems Inc.; Collaborative Research, Inc. (Division of Genome Therapeutics Corp.); and Northeastern University simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Bruker Analytical Systems Inc., Billerica, MA; Collaborative Research, Inc. (Division of Genome Therapeutics Corp.), Waltham, MA; and Northeastern University, Boston, MA.

The general area of planned activity is to develop and demonstrate Diagnostic Laser Desorption Mass Spectrometry Detection of Multiplex Electrophore Tagged DNA.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–2467 Filed 1–31–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—the Frame Relay Forum

Notice is hereby given that, on September 21, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The Frame Relay Forum (''FRF'') 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 identities of the additional members of FRF are: General Datacom, Inc., Middlebury, CT; EMI Communications, East Syracuse, NY; Indiana University, Bloomington, IN; Scitec Communications Systems Ltd., Lane Cove, NSW, Australia; and UUNET Technologies, Inc., Falls Church, VA. The following companies have changed their names: Advanced Computer Communications is now ACC; and Advanced Compression Technology is now ACT Networks, Inc. The following companies are no longer members of FRF: Primary Access; Norwegian Telecom: Telecom Finland; Telefonica de Espana; and Ungermann-Bass.

No other changes have been made in either the membership or planned activities of FRF. Membership remains open, and FRF intends to file additional written notifications disclosing all changes in membership.

On April 10, 1992, FRF 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 July 2, 1992 (57 FR 29537).

The last notification was filed with the Department on June 23, 1994. This notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 95–2468 Filed 1–31–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Industrial Information Infrastructure Protocol Consortium

Notice is hereby given that, on September 16, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Industrial Information Infrastructure Protocol Consortium (''NIIIP'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are; STEP Tools, Inc., Troy, NY; Enterprise Integration Technologies, Palo Alto, CA; UES, Inc., Dublin, OH; University of Florida, Gainesville, FL; Texas Instruments Incorporated, Dallas, TX; Rensselaer Polytechnic Institute, Troy, NY; Digital Equipment Corp., Nashua, NH; Lockheed Aeronautical Systems Company, Marietta, GA; MESC Electronic Systems, Inc., Fort Wayne, IN; International TechneGroup Inc., Milford, OH; Taligent, Cupertino, CA; CAD Framework Initiative, Austin, TX; General Dynamics, Electric Boat Division, Groton, CT; and IBM Corporation, Stamford, CT.

NIIIP's area of planned activity is development of open industry software protocols that will integrate computing environments across the U.S. manufacturing base.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–2469 Filed 1–31–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993 Automatic Transmission Efficiency Evaluation Program

Notice is hereby given that, on November 4, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute (''SwRI'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Chrysler Corporation, Auburn Hills, MI; Ford Motor Company, Livonia, MI; and General Motors, GM Powertrain Division, Detroit, MI. Activities planned are to conduct efficiency testing of four (4) unique automatic transmissions and transaxles and to determine the torque losses associated with transmission pumps, torque converters and gearboxes. For comparative purposes, mathematical models of the transmission components are created.

Membership in the program remains open, and SwRI intends to file additional written notifications disclosing all changes in the membership or planned activities.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–2471 Filed 1–31–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993 Gas-Fueled Railway Research Program Demonstration Project

Notice is hereby given that, on September 19, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute (''SwRI'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in its membership status. There has been an extension of the period of performance of its cooperative research project entitled ''Gas-Fueled Railway Research Demonstration Project''. 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, SwRI advised that the participants agreed to extend the period of performance and to revise the project completion date to December 31, 1994.

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 SwRI intends to file additional written notification disclosing all changes in membership.

On December 30, 1993, SwRI filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 24, 1994, 59 FR 3566. The last notification was filed with the Department on March 22, 1994. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 20, 1994, 59 FR 18831.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–2472 Filed 1–31–95; 8:45 am]

BILLING CODE 4410–01–M

National Cooperative Research Notification Southwest Research Institute; Correction

In notice document 94–27418 appearing on page 55489 in the issue of Monday, November 7, 1994, in the third column, in the first paragraph, in the thirty-second (32) line, ''engine'' should read ''engines'', and in the thirty-third (33) line, ''interaction'' should read ''interactions.''

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–2473 Filed 1–31–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Interconnection Technology Research Institute (''ITRI'')

Notice is hereby given that, on December 19, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Interconnection Technology Research Institute (''ITRI''), for itself and on behalf of its members, has filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking that Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Advanced Controls, Inc, Irvine, CA; Advanced Flex, Mennetonka, MN; Allied Signal, Kansas City, MO; Alpha Metals, Inc., Jersey City, NJ; Altron Incorporated, Wilmington, MA; AT&T, Richmond, VA; Celestica, Inc. (IBM Canada), North York, ONT; Century Laminators, Inc., Anaheim, CA; Circuit Center Inc., Dayton, OH; Cuplex, Inc., Garland, TX; Diceon Electronics, Inc., Irvine, CA; DYNACO, Tempe, AZ; E.I. duPont de Nemours, Research Triangle Park, NC; Electronic Industries Holding, Inc., Vadnais Heights, MN; Enthone-OMI, Inc., New Haven, CT; Excellon Automation, Torrance, CA; Gould Electronics, Inc., Eastlake, OH; H.R. Industries, Inc., Richardson, TX; H-Technologies Group, Inc., Cleveland OH; HADCO Corp., Salem, NH; Hallmark Circuits, Inc., San Diego, CA; I-CON Industries, Inc., Euless, TX; IBM-Austin, Austin, TX; IBM-Endicott, Endicott, NY; ITRI, Austin, TX; IPC, Lincolnwood, IL; Les Hymes Associates, Menomonee Falls, WI; Litton Systems, Inc., Springfield, MO; MacDermid, Inc., Waterbury, CT; McCurdy Circuits, Inc., Orange, CA; Merix, Forest Grove, OR; Methode Electronics, Willingboro, NJ; Morton Electronic Materials, Tustin, CA; Nelco International Corp., Tempe, AZ; NEMPC/EMPF, Indianapolis, IN; Orbotech, Inc., Santa Ana, CA; Precision Diversified Industries, Plymouth, MN; Printed Circuit Corporation, Woburn, MA; SAS Circuits, Littleton, CO; Sheldahl, Inc., Northfield, MN; Shipley Company, Marlborough, MA; Tessera, San Jose, CA; Triangle Circuits, Inc., Oakmont, PA; University of South Florida, Tampa, FL; Velie Circuits, Inc., Costa Mesa, CA; West Coast Circuits, Inc., Watsonville, CA; Xetel Corporation, Austin, TX. The project's general areas of planned activities include, but are not limited to, joint research projects by ITRI and its members to advance inter-connection technology for electronic circuits, which projects involve the education and training of, and exchange of information between, members of the electronic interconnection industry, government and academia to enable and facilitate innovative solutions to future requirements through the improvement of existing technology and development of advanced technology projects that also are environmentally responsible.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–2489 Filed 1–31–95; 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 No. 93–02

Notice is hereby given that, on November 8, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), participants in the Petroleum Environmental Research Forum Project No. 93–02 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, Chevron Research and Technology, Richmond, CA and Phillips Petroleum Company, Bartlesville, OK, have become participants in the project.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the participants in the Environmental Research Forum Project No. 93–02 intend to file additional written notification disclosing all changes in membership. Information about participating in Project No. 93–02 may be obtained by contacting: Mr. James H. Higinbotham, Exxon Research and

Engineering Company, P.O. Box 101, Florham Park, NJ 07932.

On August 17, 1993, participants in the Petroleum Environmental Forum Project No. 93–02 filed their 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 September 23, 1993, 58 FR 49530. Additionally, a correction notice was published in the **Federal Register** on January 14, 1994, 59 FR 2439.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–2488 Filed 1–31–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary

All Items Consumer Price Index for all Urban Consumers United States City Average

Pursuant to Section 604(c) of the Motor Vehicle Information and Cost Savings Act, which was added to the Motor Vehicle Theft Law Enforcement Act of 1984, and the delegation of the Secretary of Transportation's responsibilities under that Act to the Administrator of the Federal Highway Administration (49 C.F.R., Section 501.2(f)), the Secretary of Labor has certified to the Administrator and published this notice in the Federal Register that the United States City Average All Items Consumer Price Index for All Urban Consumers (1967=100) increased 42.7 percent from its 1984 base period annual average of 311.1 to its 1994 annual average of 444.0.

Signed at Washington, D.C., on the 25th day of January 1995.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 95–2453 Filed 1–31–95; 8:45 am]

BILLING CODE 4510–24–M

NATIONAL SCIENCE FOUNDATION

Conservation Act of 1978; Notice of Permit Modification

AGENCY: National Science Foundation.

SUMMARY: The Foundation modified a permit to conduct activities regulated under the Antarctic Conservation Act of 1978 (Public Law 95–541; Code of Federal Regulations Title 45, Part 670).

FOR FURTHER INFORMATION CONTACT: Peter Karasik, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

DESCRIPTION OF PERMIT AND MODIFICATION: On September 7, 1994, the National Science Foundation issued a permit to Dr. Wayne Z. Trivelpiece after posting a notice in the August 8, 1994 **Federal Register**. Public comments were not received. A request to modify the permit was posed in the **Federal Register** on December 21, 1994. No public comments were received. The modification, issued by the Foundation on January 23, 1995, allows for the collection of 1 ml blood samples from 20 Adelie penguins breeding at Copacabana Station on King George Island and from 20 Adelie penguins breeding at Palmer Station on Anvers Island. All birds will be released after capture and collection of the blood samples.

LOCATION: SSSI#8—Western Shore Admiralty Bay, King George Island and Palmer Station vicinity, Anvers Island.

DATES: January 23, 1995—April 15, 1995.

Guy G. Guthridge,

Permit Office.

[FR Doc. 95–2474 Filed 1–31–95; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from January 5, 1995, through January 20, 1995. The last biweekly notice was published on January 18, 1995 (60 FR 3669).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO FACILITY OPERATING LICENSES, PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m.

Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By March 3, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to *(Project Director)*: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: November 22, 1994.

Description of amendment request: The proposed amendment would increase the current Emergency Diesel Generator (EDG) allowed out-of-service time in Specification 3.5.F from 72 hours to 7 days, deletes the daily testing of the operable diesel generator in Specification 4.5.F.1, when it is determined that the other diesel generator is inoperable, and revises specification 3.9.B.1 and 2 for EDG operability.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed amendment does not involve a significant increase in the probability of consequences of an accident previously evaluated.

Operation of PNPS [Pilgrim Nuclear Power Station] in accordance with the proposed license amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Implementation of the proposed change is expected to result in an increase in the probability of core damage, from 5.85E–5/year (this is the PNPS IPE [individual plant examination] core damage frequency) to 5.88E–5/year. This increase is less than one percent and is considered to be insignificant relative to the underlying uncertainties involved with probabilistic risk assessments.

Deleting the testing requirement for an EDG when the other EDG is in repair does not increase the probability or consequences of an accident previously evaluated because the reliability program and Technical Specification required surveillances continue to provide the added assurance sought by the testing. The elimination of this testing might improve the overall reliability of the EDGs.

(2) The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Operation of PNPS in accordance with the proposed license amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated. No change is being made in the manner in which the EDG's provide plant protection. No new modes of plant operation are involved. Extending the EDG OOS [out of service] and, deleting the testing requirement for one EDG when the other EDG is in repair does not necessitate physical alteration of the plant or changes in plant operational limits.

3. The proposed amendment does not involve a significant reduction in a margin of safety.

Operation of PNPS in accordance with the proposed license amendment will not involve a significant reduction in a margin of safety. [***], incorporation of the proposed change involves an insignificant reduction in the margin of safety.

As previously stated, implementation of the proposed changes is expected to result in an insignificant increase in: (1) power unavailability to the emergency buses (given that a loss of offsite power has occurred), and (2) core damage frequency. EDG reliability improvement is expected due to increased quality and thoroughness of EDG maintenance. Implementation of the proposed changes does not increase the consequences of a previously analyzed accident nor significantly reduce a margin of safety. Functioning of the EDGs and the manner in which limiting condition of operability are established are unaffected.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W.S. Stowe, Esquire, Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Project Director: Walter R. Butler.

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: December 27, 1994.

Description of amendment request: The requested Technical Specifications (TS) change relocates the turbine rotor inspection requirement, TS 4.1–3, Item 13, to the Updated Final Safety Analysis Report (UFSAR), Section 10.2. This TS requires a turbine inspection, including visual, magnaflux, and dye petrant inspections on a frequency of every five years with a maximum time between tests of six years.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The requested change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The requested change relocates the turbine inspection requirement from the TS to the UFSAR. Turbine inspections will continue to be controlled and performed such that the low turbine missile generation probability will be maintained. The consequences of missile generation are unchanged since this change does not involve the addition or modification of plant equipment, nor does it alter the design or operation of plant systems. Therefore, there would be no increase in the probability or consequences of an accident previously evaluated.

2. The requested change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The requested change relocates the turbine inspection requirement from the TS to the UFSAR. Turbine inspections will continue to be controlled and performed such that the low turbine missile generation probability will be maintained. This change does not involve the addition or modification of plant equipment, nor does it alter the design or operation of plant systems. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The requested change does not involve a significant reduction in the margin of safety. The requested change relocates the turbine inspection requirement from the TS to the UFSAR. Turbine inspections will continue to be controlled and performed such that the low turbine missile generation probability will be maintained. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: William H. Bateman.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: December 19, 1994.

Description of amendment request: The proposed one-time schedular extension would allow the third test of the first 10-year service period to be performed during refueling outage no. 7, at approximately a 54 month interval instead of the current maximum Technical Specification interval of 50 months, and coincident with the 10-year service period to be performed during refueling outage no. 7 and the 10-year inservice inspection,

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This [extension] request applies to the ILRT [integrated leak rate testing] and does not affect the local leak rate testing of containment penetrations and isolation valves where the majority of the leakage occurs. The allowable containment leakage used in the accident analysis for offsite doses, L_a, is 0.1 [weight percent per day] and for conservatism the leakage is limited to 75 percent L_a at startup to account for the possible degradation of containment leakage barriers between two ILRT tests. Based on the ''as left'' leakage data for the past two ILRTs, the additional time period added to the testing interval would not adversely impact the containment leakage barriers to the extent

that degradation would cause leakage to exceed that assumed in the accident analysis.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The change to the Surveillance Requirement is a one time [extension] to extend the surveillance interval from the maximum of 50 months to approximately 54 months for performance of the third ILRT in the first service period. There are no design changes being made that would create a new type of accident or malfunction and the method and manner of plant operation remain unchanged. Extension of the surveillance interval for performing the ILRT does not adversely impact the surveillances ability to show that containment integrity is maintained.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

There are no changes being made to the safety limits or safety system settings that would adversely impact plant safety. The change is a one time [extension] to extend the time interval for performing an ILRT approximately four months beyond the current maximum interval. In addition to the indication of continued containment integrity provided by the Local Leak Rate Testing program, the surveillance test data from the first and second ILRTs illustrates that there is sufficient leakage margin to remain well below the allowable leakage rate of L_a. The as-left leakage rate for the last ILRT was 0.0614 [weight percent per day], which is well below the 0.075 [weight percent per day] allowed by the T.S., and therefore provides margin for degradation that is greater than the minimum provided by the Technical Specifications. Therefore, this change does not significantly reduce the margin of safety for Technical Specification 3.6.1.2.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: William H. Bateman.

Consumers Power Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: December 29, 1994.

Description of amendment request: The proposed amendment would affect the method of controlling the pH of the post-LOCA containment sump solution by allowing the replacement of the existing operator actuated Iodine Removal System with a passive system of baskets of Trisodium Phosphate (TSP) in the lower regions of the containment. The current Iodine Removal System provides sodium hydroxide (NaOH) for injection into the containment spray to maintain pH of the sump solution.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The following evaluation supports the finding that operation of the facility in accordance with the proposed change from NaOH to TSP requirements would not:

1. *Involve a significant increase in the probability or consequences of an accident previously evaluated.*

The substitution of TSP baskets for the NaOH addition equipment would not cause any changes to the capability, settings, or operation of the plant systems (other than the Iodine Removal System itself) and would not, therefore, have any effect on the probability of occurrence of an accident.

The substitution of TSP baskets for the NaOH addition equipment has the effect of providing more immediate control of post-LOCA sump pH, thereby increasing the assurance that iodine will remain in solution throughout a postulated event. The consequences of accidents evaluated in the FSAR [Final Safety Analysis Report] will not be increased by this increased assurance.

2. *Create the possibility of a new or different kind of accident from any previously evaluated.*

The TSP baskets are passive components which have no interaction with plant equipment unless flooding occurs in the containment. They are designed and located such that they will not interact with any plant safety equipment during a seismic event. The NaOH equipment, which will be replaced by the TSP baskets, has no function or effect on other equipment except during accident conditions. Therefore, the substitution of TSP baskets for NaOH addition equipment cannot create the possibility of a new or different kind of accident from any previously evaluated.

3. *Involve a significant reduction in a margin of safety.*

The substitution of TSP baskets for the NaOH addition equipment would assure that the sump pH at the initiation of RAS [recirculation actuation signal] is between 7.0 and 8.0 as assumed in the MHA [maximum hypothetical accident] analysis. Therefore, this change would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Van Wylen Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: John N. Hannon.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: December 7, 1994.

Description of amendment request: The amendments revise the Technical Specification action statement to allow the Control Room Air Intake to remain open when radiation monitors (EMF–43A and EMF–43B) are inoperable. Immediate action to return the monitors to service would be required.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment would not involve a significant increase in the probability or consequences of any accident previously evaluated in the FSAR [Final Safety Analysis Report].

The amendment change will ensure correct Control Room Ventilation system alignment in order to mitigate the consequence of a Design Basis LOCA as described in FSAR Section 15.6.5.3, Environmental Consequences of a Loss of-Coolant Accidents, Control Room Operator Dose.

The amendment change will permit the intake to remain open and will specify that action to repair the affected monitor shall be taken immediately. The change itself is not considered to be an initiator of any previously evaluated accident. Maintaining the VC intake open with an inoperable monitor will not result in any accidents that have not been previously evaluated. The implementation of immediate actions to repair the inoperable monitor does not in itself represent any accidents that have not been previously evaluated. Therefore, the proposed Technical Specification change does not increase the occurrence probability of previously evaluated accidents.

The change to permit maintenance of open intakes will not increase the consequences of any previously evaluated accidents. The proposed amendment change is consistent with the original Safety Analysis concerning the Dose to the Operators.

The analysis determined that the Doses to the Operators were within acceptable ranges given the assumptions that the intakes would

remain open and the contaminated air was processed through a Safety Related filter train prior to introduction into the Control Room. The proposed change remains consistent with this analysis and does not change the assumptions or methodology utilized to assess the Doses to the Operators for a hypothesized DBA; therefore, the proposed amendment change will not increase the consequences of any previously evaluated accident.

2. The proposed amendment would not create the possibility of a new or different kind of accident not previously evaluated.

The proposed change will not modify, delete, or add any systems or components; therefore, no new failure modes or accidents scenarios will be created.

No test or experiments will be revised; therefore, no new initiating events or unanalyzed condition will be created. Administrative changes to surveillance procedures will be minor and will not create a safety concern.

3. No significant reduction in a margin of safety will occur.

The proposed amendment change requiring immediate action to initiate repairs to an inoperable monitor does not impact existing Safety Margins. Since requirements for immediate corrective action does not currently exist within the Specification, the changes will enhance the availability of the subject monitors.

The proposed amendment does not change/impact any assumption or methods utilized to assess the doses to the operators for a hypothetical worst case DBA. Accordingly, the proposed amendment does not reduce any safety margins.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: Herbert N. Berkow.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: December 9, 1994.

Description of amendment request: The proposed amendment would revise the technical specifications (TSs) by revising the allowable opening tolerances on the Pressurizer Code Safety Valves and the Main Steam Line Code Safety Valves from plus or minus 1% to plus or minus 3%. This request is submitted as a result of an effort to improve valve performance and to ensure that the TS limits are consistent with expected valve performance capabilities.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve any change to the physical characteristics of the PSVs [pressurizer safety valves] and MSSVs [main steam safety valves] and will have no impact on the PSVs and MSSVs as-left setting. This change only allows for a larger (plus or minus 3% versus plus or minus 1%) as-found setpoint tolerance. Therefore, this change has no impact on the probability of occurrence of any accident previously evaluated. The impact of this change on the FSAR [final safety analyses report] analyses has been evaluated and the results of the impacted events have been found to be within the acceptable limits.

Therefore, revising the PSV and MSSV as-found opening setpoint tolerance from plus or minus 1% to plus or minus 3% does not increase the probability or consequences of an accident previously evaluated.

2. The proposed changes to the PSVs and MSSVs as-found opening setpoint tolerance do not modify equipment or change the manner in which the plant will be operated. The safety valves will continue to function per their design. Since no hardware modifications or changes in operation procedures will be made, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The impact of the proposed changes on the Waterford 3 FSAR analyses have been evaluated. The evaluation demonstrates that the results of the impacted events remained within the acceptable limits. The system capabilities to mitigate and/or prevent accidents will be the same as they were prior to these changes. Therefore, the proposed changes do not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Attorney for licensee: N.S. Reynolds, Esq., Winston & Strawn 1400 L Street N.W., Washington, D.C. 20005–3502.

NRC Project Director: William D. Beckner.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: December 9, 1994.

Description of amendment request: The proposed amendment would revise the technical specifications (TSs) by revising a plant protection system (PPS) trip setpoint and several allowable values such that they will be consistent with the current setpoint/uncertainty methodology being implemented at Waterford 3.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Implementing the proposed change will not affect any design basis accident. The revised Trip Setpoint and Allowable Values are based upon the same Analytical Limits that form the basis for the current Trip Setpoints and Allowable Values. The design basis for each Trip Setpoint was verified to be consistent with the appropriate accident analyses as part of the process of revising the PPS setpoint analysis. The proposed change would implement a new Trip Setpoint for the Reactor Coolant (RC) System Low Flow Reactor trip and new Allowable Values for RC Low Flow, HI Log Power, HI Steam Generator Water Level, HI Containment Pressure, Low Pressurizer Pressure, Low Steam Generator Pressure, Low Steam Generator Water Level, and Low RWSP [refueling water storage pool] Level, based on the results of calculation EC-I92–019. The revised Low RC Flow Trip Setpoint is based on the same analytical limit as the current setpoint. The revised calculation uses the same design inputs with a similarly based methodology to calculate a smaller loop uncertainty. This results in a revised RC Low Flow Trip Setpoint that retains the original analysis limit. Therefore, the proposed change will not involve a significant increase in the probability or consequences of any previously analyzed accident.

Plant operation and the manner in which the plant is operated will not be altered as a result of implementing the proposed change since no new system or design change is being implemented. The proposed Setpoint and Allowable Value changes do not create any new system interactions or interfaces. All information used to calculate the new Trip Setpoint is consistent with that of the existing accident analyses, and no new system interfaces/interactions are created. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed setpoint change revised the point at which the RCS Low Flow reactor trip initiates a reactor trip. The Trip Setpoint is based on the same Analytical Limit used to determine the current setpoint. In addition, the same basic setpoint determination

methodology is employed. That is, the Trip Setpoint is the Analytical Limit plus or minus the Total Loop Uncertainty [TLU]. The Allowable Value is the Trip Setpoint plus or minus the Periodic Test Error [PTE]. The change in the setpoint and allowable values are [sic] due to a change in calculated TLU and PTE. The proposed Trip Setpoint and Allowable Values are based on the same Analytical Limits for the affected parameters and are determined using approved methodology. Therefore, the proposed change will not involve a significant reduction in margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Attorney for licensee: N.S. Reynolds, Esq., Winston & Strawn 1400 L Street N.W., Washington, D.C. 20005–3502.

NRC Project Director: William D. Beckner.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: December 27, 1994.

Description of amendment request: The proposed amendments would revise the period for conducting leak testing of containment purge valves to every refueling outage.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change to the Technical Specifications does not involve a significant increase in the probability or consequences of an accident previously evaluated because the [test] results have demonstrated that the resilient seat material does not degrade and cause containment isolation valves to leak. Therefore the valves will perform as assumed in the accident analyses.

2. The proposed change to the Technical Specifications does not create the possibility of a new or different kind of accident from any accident previously evaluated because it does not require the valves to function in any manner other than that which is currently required.

3. The proposed addition to the Technical Specifications does not involve a significant reduction in a margin of safety because it only affects the frequency of the test and does not change the leakage acceptance criteria. Since sufficient data has been collected to demonstrate that the resilient seals do not degrade, testing at the same frequency as other containment isolation valves will not reduce the margin of safety provided by the Technical Specifications.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308.

NRC Project Director: Herbert N. Berkow.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: December 29, 1994.

Description of amendment request: This request withdraws a similar request dated January 22, 1993, as supplemented August 8, 1993, and submits a new one in its place. The proposed amendments would revise the Technical Specifications (TS) to add the automatic load sequencer specification to TS Section 3/4.3, Instrumentation, and associated Bases, and TS Section 3/4.8, Electrical Power Systems.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change to the Technical Specifications does not involve a significant increase in the probability or consequences of an accident previously evaluated because the action to be taken when an automatic load sequencer is inoperable is consistent with that of a more stringent condition already specified, namely, the loss of an entire train of emergency power during Modes 1–4, and for Modes 5 and 6 adding specific actions which previously had never been addressed in TS.

2. The proposed change to the Technical Specifications does not create the possibility of a new or different kind of accident from any accident previously evaluated because it does not involve any change to the design, operation, or performance of the automatic load sequencer. It only serves to clearly identify the appropriate conservative response to an inoperable automatic load sequencer applicable to the plant mode of operation.

3. The proposed change to the Technical Specifications does not involve a significant reduction in a margin of safety because the proposed actions to take when an automatic load sequencer is inoperable [are] the same as the action already required by the Technical Specifications when no power is available to the entire emergency bus during Modes 1–4 and by adding requirements during Modes 5 and 6, which had previously never been addressed.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308.

NRC Project Director: Herbert N. Berkow.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: January 3, 1995.

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) with editorial changes to the Action Statements of TS Sections 3.8.1.1 and 3.8.1.2 in order to reflect the availability of a third offsite ac electrical source. Surveillance Requirement 4.8.1.1.1 is being clarified to distinguish that the offsite ac circuits which are connected to the onsite Class 1E distribution system are required to be verified OPERABLE. The amendments also modify the Technical Specifications with the addition of a footnote to TS Section 3.8.3.1, to allow the connection of the third offsite ac source to the onsite busses.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Based on the considerations regarding the addition of a footnote for proper bus alignment during operating conditions, the licensee submitted the following analysis in accordance with 10 CFR 50.92.

1. The proposed change to the Technical Specifications does not involve a significant increase in the probability or consequences of an accident previously evaluated because the probability of an LOSP or an SBO is not increased by the allowance of having both redundant emergency busses of 4160 volt switchgear connected to one offsite source (RAT). The probability of having an LOSP is not increased since the TS currently allow for a 72 hour LCO for one offsite power source and the time the two redundant 4160 volt safety busses will be temporarily aligned to one RAT is well within this time frame. During this time the busses are interconnected, each bus is provided adequate protection and separation by having separate and redundant Class 1E circuit breakers, one per bus. The probability of an SBO is not increased since neither bus' EDG will be affected during this operation, and since this is a proceduralized manual alignment, the interconnection to one RAT will not be initiated if either EDG were inoperable. Also, the addition of the new ''swing'' offsite power source (SAT), increases availability and flexibility of the VEGP response to either an LOSP or SBO.

2. The proposed change to the Technical Specifications does not create the possibility of a new or different kind of accident from any accident previously evaluated because the only postulated adverse consequences of tying both redundant 4160 volt safety busses together to one RAT is an LOSP. An LOSP is a design basis event which has already been analyzed for VEGP. In response to an LOSP, both EDGs remain capable of carrying the required loads to mitigate the consequences of any postulated design basis accident during or coincident with an LOSP.

3. The proposed addition to the Technical Specifications does not involve a significant reduction in a margin of safety because the only accident mitigating equipment and/or power sources which will be unavailable during the transfer of offsite power sources is the offsite power source being removed from service, allowed by existing TS LCO 3.8.1.1(a). The 13.8 kV loads associated with the RAT being removed from service and all of the 4160 volt non-Class 1E loads fed from either RAT will be unavailable during this temporary alignment. All of these loads are nonsafety related and therefore are enveloped by the existing LOSP analysis.

Based on the considerations regarding clarification of SAT Use and Expanded Bases, the licensee submitted the following analysis in accordance with 10 CFR 50.92.

1. The proposed change to the TS does not involve a significant increase in the probability or consequences of an accident previously evaluated because only clarifications to existing TS action statements and an additional expanded bases are being made. No changes to the existing TS requirements for A.C. sources are being made. The safety function of the offsite power source is unchanged by the addition of the SAT and the probability of an LOSP or SBO is not increased. In actuality, the addition of the SAT increases the availability and flexibility of VEGP responses to either an LOSP or SBO.

2. The proposed change to the TS does not create the possibility of a new or different kind of accident from any accident previously evaluated because the loss of the SAT while being utilized to meet TS offsite power source requirements is enveloped by existing LOSP analysis.

3. The proposed change does not involve a significant reduction in a margin of safety because although the SAT has no 13.8 kV secondary winding, nor the same capacity as a RAT for accepting 4.16 kV non Class 1E loads, these loads are nonsafety related and therefore enveloped by existing analysis. If a unit trip were to occur while one 4.16 kV safety bus is being powered from the SAT, the effect is a loss of the 13.8 kV and non Class 1E 4.16 kV loads associated with the out of service RAT. This scenario is enveloped by existing LOSP analysis.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308

NRC Project Director: Herbert N. Berkow.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment requests: August 12, 1992 and supplemented April 12, 1993.

Description of amendment requests: The proposed amendments would change the minimum channels operable for the pressurizer safety valve position indicator acoustic monitor to two out of three total from one per valve. The amendments also delete footnotes which are no longer applicable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

We [the licensee] have evaluated the proposed T/Ss exemption and have determined that it should not require a significant hazards consideration based on the criteria established in 10CFR50.92(c). Operation of the Cook Nuclear Plant in accordance with the proposed amendment will not:

(1) *Involve a significant increase in the probability or consequences of an accident previously evaluated.*

Although the proposed exemption results in the operator having one less source of information on plant status, it does not create a significant increase in the probability or consequences of an accident previously evaluated. The acoustic monitors do not perform a function vital to safe shutdown or to the isolation of the reactor, or the reactor coolant system pressure boundary, nor is there a mechanism involving an operable or inoperable pressurizer safety valve acoustic monitor which would initiate an accident. These monitors were added to meet the requirements of NUREG–0578 and NUREG–0737. During normal operations, other instrumentation exists that provides the operator with indication of safety valve actuation. The acoustic monitors are not necessary to and are not used in the emergency operating procedures. In addition, the acoustic monitors being inoperable will not result in an uncontrolled release of radiation to the environment and will not initiate an accident. Finally, although the operator may have one less channel operable, the operator receives no less information than if all three channels are operable because one valve opening causes all operable channels to actuate. Therefore, we conclude that the proposed T/Ss changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) *Create the possibility of a new or different kind of accident from any previously analyzed.*

As previously stated, the purpose of the acoustic monitor is to provide the operator with information regarding safety valve position that may assist in the mitigation of the consequences of an accident. Specifically, it provides information that a safety valve has lifted. However, the operator has other mechanisms for obtaining equivalent information. In addition, the signals generated by an acoustic monitor do not initiate any other equipment actuation, nor will the inoperability of an acoustic monitor initiate any accident. Consequently, the proposed T/Ss changes do not create the possibility of a new or different kind of accident from any previously analyzed.

(3) *Involve a significant reduction in a margin of safety.*

The proposed T/Ss changes result in the operator potentially having one less source of information on plant status. However, we believe the margin of safety is not reduced for several reasons. First, the operator is provided with other viable flow detection devices to determine pressurizer safety valve position, i.e., the temperature sensor on the discharge line associated with the inoperable acoustic monitor, and pressurizer relief tank level (NLA–351), temperature (NTA–351)

and pressure (NPA–351) indications. Also, the acoustic monitors are not used by the operators in an emergency situation, as the operator relies on other indications of loss of reactor coolant inventory per the emergency operating procedures. In addition, previous experience with the pressurizer safety valve position indicator acoustic monitoring system has shown that, when any one of the pressurizer safety valves opens, all three safety valve position indicator acoustic monitors are actuated. Because of this, the operator receives no less information regardless if only two or three channels are operable.

Based on the above, we believe that having an acoustic monitor inoperable does not warrant reactor and plant shutdown. As the T/Ss are currently stated, should one pressurizer safety valve position indicator acoustic monitor become inoperable, it must be restored to operable status within thirty days or the unit must be in hot shutdown within the subsequent twelve hours. Thermal cycling from unwarranted plant shutdowns increases the likelihood of reactor vessel embrittlement and unnecessarily challenges the safety systems. Because a signal from the pressurizer safety valve position indicator acoustic monitors is not necessary nor used to ensure the safe shutdown of the unit even if a pressurizer safety valve is opened or stuck open during an emergency situation, we believe that a plant shutdown due to an inoperable acoustic monitor would be unwarranted.

We believe that the unit can be operated safely and that we would still meet the intent of NUREG–0538 and NUREG–0737 with only two out of three pressurizer safety valve position indicator acoustic monitors operable.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Project Director: John N. Hannon.

Maine Yankee Atomic Power Company, Docket No. 50–309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of amendment request: November 18, 1994.

Description of amendment request: The proposed amendment would change the title of certain Plant Operation Review Committee (PORC) members to reflect recent Maine Yankee organizational changes; update training requirements to comply with 10 CFR 50.120, Training and qualification of nuclear power plant personnel; and reporting frequency requirements for the Radioactive Effluent Release and Estimated Dose and Meteorological Summary Reports.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). A summary of the licensee's analysis is presented below:

1. The proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The changes proposed by this amendment request are administrative in nature. Because the proposed changes do not involve any physical alterations to plant equipment, operating setpoints, parameters or conditions, the plant's response to previously evaluated accidents is not affected.

The licensee therefore concludes that implementation of the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The administrative nature of the proposed changes does not affect the design, operation, maintenance or testing of the plant. Thus, no new modes of failure are created.

The licensee therefore concludes that implementation of the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment would not involve a significant reduction in a margin of safety.

The proposed change reflects an organizational change that does not modify the qualification requirements or competence of the members of the PORC. Thus, the capability of PORC to meet its responsibilities in accordance with the plant Technical Specifications is unchanged.

Deleting the current training requirement for Shift Technical Advisors eliminates duplicative training requirements and represents conformance to 10 CFR 50.120, Training and qualification of nuclear power plant personnel.

Elevating the responsibility for training the plant staff from the Manager, Operations Department, to the Vice President of Operations, does not represent a reduction in a margin of safety.

The proposed change to the Radioactive Effluent Release and Estimated Dose and Meteorological Summary Reports is related to the submittal schedule for statistical data and is administrative in nature. The change in submittal frequency provides consistency between the various required reports and also is administrative in nature.

The licensee therefore concludes that implementation of the proposed change would not involve a significant reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578.

Attorney for licensee: Mary Ann Lynch, Esquire, Maine Yankee Atomic Power Company, 329 Bath Road, Brunswick, Maine 04011.

NRC Project Director: Walter R. Butler.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: December 16, 1994.

Description of amendment request: The proposed change to the Technical Specifications would require the wind direction and wind speed sensors at the 142 foot elevation to identify the data to determine action required to preclude flood damage to the Service Water Pumps. Also, the proposed change would correct a typographical error in the location of the sensors at the 374 foot elevation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

* * * The proposed changes do not involve a significant hazards consideration because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

NNECO [Northeast Nuclear Energy Company] is proposing to revise LCOs [Limiting Conditions for Operation] 3.7.5.1.b.3 and 3.7.5.1.b.4 and Table 3.3–8 of the Millstone Unit No. 2 Technical

Specifications by changing the elevation that the average wind speed and average wind direction are measured and by correcting a typographical error, respectively. The proposed changes have no effect on any of the accidents analyzed in Chapter 14 of the Millstone Unit No. 2 FSAR [Final Safety Analysis Report]. Site flooding is considered in Section 2.5.4.2.1 of the FSAR. Utilizing the wind speed indicator at the 142-foot elevation, in lieu of the indicator on the 374-foot elevation will not significantly change the ability of personnel to predict the potential for a major storm with flooding.

The proposed changes do not alter the intent of the surveillances, do not involve any physical changes to the plant, do not alter the way any structure, system, or component functions, and do not modify the manner in which the plant is operated.

Based on the above, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously analyzed.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

NNECO is proposing to revise LCOs 3.7.5.1.b.3 and 3.7.5.1.b.4 and Table 3.3–8 of the Millstone Unit No. 2 Technical Specifications by changing the elevation that the average wind speed and average wind direction are measured and by correcting a typographical error, respectively. The proposed changes do not alter the intent of the surveillances, do not involve any physical changes to the plant, do not alter the way any structure, system, or component functions, and do not modify the manner in which the plant is operated.

While the proposed changes to LCOs 3.7.5.1.b.3 and 3.7.5.1.b.4 do change the measurement location stipulated by the technical specifications, this change is insignificant. Utilizing the wind speed indicator at the 142-foot elevation, in lieu of the indicator on the 374-foot elevation will not significantly change the ability of personnel to predict the potential for a major storm with flooding.

Based on the above, the proposed changes do not create the possibility of a new or different kind of accident from any previously analyzed.

3. Involve a significant reduction in a margin of safety.

NNECO is proposing to revise LCOs 3.7.5.1.b.3 and 3.7.5.1.b.4 and Table 3.3–8 of the Millstone Unit No. 2 Technical Specifications by changing the elevation that the average wind speed and average wind direction are measured and by correcting a typographical error, respectively. The proposed changes will have no impact on the physical protective boundaries (fuel matrix/cladding, reactor coolant system pressure boundary, and containment). The proposed changes do not alter the intent of the surveillances, do not involve any physical changes to the plant, do not alter the way any structure, system, or component functions, and do not modify the manner in which the plant is operated.

While the proposed changes to LCOs 3.7.5.1.b.3 and 3.7.5.1.b.4 do change the manner in which potential flooding is predicted, this change is insignificant. Utilizing the wind speed and direction indicators at the 142-foot elevation, in lieu of the indicators at the 374-foot elevation will not significantly change the ability of personnel to predict the potential for a major storm with flooding.

Based on the above, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local public document room location: Learning Resource Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, CT 06360.

Attorney for licensee: Ms. L. M. Cuoco, Senior Nuclear Counsel, Northeast Utilities Service Company, Post Office Box 270, Hartford, CT 06141–0270.

NRC Project Director: Phillip F. McKee.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: December 21, 1994.

Description of amendment request: Proposed revision to License Condition and Technical Specifications to relocate the Fire Protection Requirements from the Technical Specifications to another controlled document, the technical requirements manual (TRM).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

* * * The proposed changes do not involve a significant hazards consideration because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes relocates the provisions of the Fire Protection Program that are contained in the Technical Specifications and places them in the TRM. No current requirements are being added or deleted aside from removal of the special reports section. Review of the Fire Protection Program and its revisions will be the responsibility of the PORC [Plant Operations Review Committee] and SORC [Station Operations Review Committee], just as it has always been the responsibility of these groups to review changes to the fire protection Limiting Condition for Operation and Surveillance Requirements when they were part of the Technical Specifications. In addition, no design basis accidents are affected by this change, nor are safety systems adversely affected by the changes. Therefore, there is no impact on the probability of occurrence or the consequences of any design basis accidents.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes relocate the provisions of the Fire Protection Program that are contained in the Technical Specifications and places them in the TRM. No current requirements are being added or deleted aside from removal of the special report section. There are no new failure modes associated with the proposed changes. Since the plant will continue to operate as designed, the proposed changes will not modify the plant response to the point where it can be considered a new accident.

3. Involve a significant reduction in a margin of safety.

No change is being proposed for the Fire Protection Program requirements themselves. The relevant Technical Specifications are being relocated, and the requirements contained therein are being incorporated into the TRM. Plant procedures will continue to provide the specific instructions necessary for the implementation of the requirements, just as when the requirements resided in the Technical Specifications. Fire Protection Program changes will be governed by the provisions of 10 CFR 50.59 and the current fire protection license condition. As such, the changes do not directly affect any protective boundaries nor does it impact the safety limits for the boundary. Thus, there are no adverse impacts on the protective boundaries, safety limits, or margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resource Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, CT 06360.

Attorney for licensee: Ms. L. M. Cuoco, Senior Nuclear Counsel, Northeast Utilities Service Company, Post Office Box 270, Hartford, CT 06141–0270.

NRC Project Director: Phillip F. McKee.

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: December 2, 1994.

Description of amendment request: The proposed amendment modifies the

surveillance requirements for the power range neutron flux instrumentation to permit entering reactor operating modes 1 and 2 to perform necessary test for power range detectors.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration (SHC), which is presented below:

* * * The proposed changes do not involve an SHC because the changes would not:

1. Involve a significant increase in the probability or consequence of an accident previously analyzed.

NNECO is proposing to modify Table 4.3–1 by adding Note 5 to Functional Units 2b, 3, and 4. This note provides an exception from the provisions of Technical Specification 4.0.4. Entry into Mode 2 or Mode 1, as appropriate, would allow for appropriate test conditions to complete the channel calibration of power range neutron detectors (i.e., Functional Units 2b, 3, and 4 of Table 4.3–1). This will improve plant safety by performing tests at proper conditions. The acceptance criteria, such as response times, test frequency, or test methods, are not revised. Therefore, the power range neutron detectors will perform their intended function when called upon. Additionally, the proposed changes are consistent with the new, improved STS for the Westinghouse plants (NUREG–1431).

Based on the above, the proposed changes to Functional Units 2b, 3, and 4 of Table 4.3–1 of the Millstone Unit No. 3 Technical Specifications do not involve a significant increase in the probability or consequences of an accident previously analyzed.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed changes to Functional Units 2b, 3, and 4 of Table 4.3–1 do not make any physical or operational changes to existing plant structures, systems, or components. The proposed changes do not introduce any new failure mode. They simply allow tests to be performed at appropriate conditions (e.g., Mode 2 or Mode 1 rather than Mode 4 or Mode 3).

Additionally, the proposed changes do not modify the acceptance criteria for the tests. The purpose of the tests is to ensure that the power range neutron detectors can perform their intended function.

Thus, the proposed changes do not create the possibility of a new or different kind of accident from any previously analyzed.

3. Involve a significant reduction in the margin of safety.

The proposed changes to Functional Units 2b, 3, and 4 of Table 4.3–1 do not have any adverse impact on the design basis accident analyses. The applicable acceptance criteria for the power range neutron detectors will not be modified by the proposed changes. The proposed changes will permit the tests to be conducted under the proper conditions, so that the ability of the power range neutron detectors to perform their intended safety function can be confirmed.

Based on the above, there is no significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resource Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, CT 06360.

Attorney for licensee: Ms. L. M. Cuoco, Senior Nuclear Counsel, Northeast Utilities Service Company, Post Office Box 270, Hartford, CT 06141–0270.

NRC Project Director: Phillip F. McKee.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of amendment requests: August 30, 1994.

Description of amendment requests: The proposed amendments would revise the Technical Specifications (TS) for Prairie Island Nuclear Generating Plant as recommended by Generic Letter (GL) 93–05, ''Line-Item Technical Specification Improvements to Reduce Surveillance Requirements for Testing During Power Operation.'' The proposed amendments would also revise testing and calibration requirements associated with the containment hydrogen recombiners. The proposed TS changes are as follows:

(1) TS Table 4.1–1C, ''Miscellaneous Instrumentation Surveillance Requirements.'' Delete Item 14, ''Accumulator Level and Pressure'' and corresponding frequency interval designations.

(2) TS Table 4.1–2A, ''Minimum Frequencies For Equipment Tests,'' Item 2. Revise the frequency for partial movement of all control rod assemblies from every 2 weeks to once per quarter.

(3) TS 4.3, ''Primary Coolant System Pressure Isolation Values.'' Under Specification heading, extend the amount of time the plant can be shut down before pressure isolation valve testing will be required from 72 hours to 7 days.

(4) TS SR 4.4.I, 4.4.I.a, 4.4.I.b, 4.4.I.b.1, 4.4.I.b.2, and 4.4.I.b.3, ''Electrical Hydrogen Recombiners.'' Revise the containment hydrogen recombiner testing surveillance frequency from every 6 months to every refueling interval. Delete the specific requirement to perform CHANNEL CALIBRATION of recombiner instruments and control circuits. Delete the requirement to sequentially perform the resistance to ground test following the functional test.

(5) TS SR 4.5.A.2.b, ''Containment Spray System.'' Revise the containment spray system nozzle testing surveillance frequency from once every 5 years to once every 10 years.

(6) TS SR 4.8.A.1, 4.8.A.2, and Footnote, ''Auxiliary Feedwater System.'' Revise the testing frequency for the auxiliary feedwater pumps from intervals of 1 month to semi-quarterly on a staggered test basis.

(7) BASES 4.8, ''Steam And Power Conversion Systems.'' Revise the Bases to include testing frequency for the auxiliary feedwater pumps from intervals of 1 month to semi-quarterly on a staggered test basis.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment[s] will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Except for hydrogen recombiner changes to conform to Standard Technical Specifications, the requested changes were extensively reviewed by the NRC during the preparation of NUREG–1366 and Generic Letter 93–05. For the sake of clarity each proposed change is discussed separately in the order appearing in the Prairie Island Technical Specifications.

A. This Technical Specification amendment removes the accumulator water level and pressure channel surveillance from the Technical Specifications and places them into a licensee controlled test procedure. These changes are consistent with industry recognition that accumulator instrumentation operability is not directly related to the capability of the accumulators to perform their safety function.

Relocating the instrumentation surveillance requirements is an administrative change which will not affect equipment testing, availability, or operation. Therefore, it will not have an effect on the probability or consequences of an accident.

B. This Technical Specification amendment changes control rod movement from every two weeks to once every quarter. Control rod movement testing is performed to determine if the control rods are immovable. Control rods may be electrically stuck due to a problem in the control rod drive circuitry or mechanically stuck. Electrical problems with the control rod drive system, in general, do not prevent insertion of a control rod into

the core when the reactor trip breakers are opened.

NUREG–1366 determined that control rod movement testing is not effective in determining immovable control rods. Most of the mechanically immovable control rods are discovered during plant startup during initial pulling of the rods or during rod drop testing. Extending the surveillance interval will not affect this failure discovery method.

The accident analyses assume that the single highest worth rod is struck while fully withdrawn and will not insert. One immovable control rod will still bound this accident analysis. For these reasons, the extension of the surveillance frequency from once every two weeks to once every quarter will not involve a significant increase in the probability or consequences of a previously evaluated accident.

C. This Technical Specification amendment will require Reactor Coolant Systems Pressure Isolation Valves (PIV) to be surveillance tested after seven days at cold shutdown instead of after three days at cold shutdown.

The PIVs are important in preventing over pressurization and rupture of the Emergency Core Cooling System low pressure piping which could result in a LOCA [loss-of-coolant accident] that bypasses containment. Allowable leakage from any PIV is sufficiently low to ensure early detection of possible in-series check valve failure. This change will not change the refueling outage surveillance, nor will it change the required testing to be performed after maintenance, repair, or replacement. The proposed level of surveillance is appropriate for these valves.

These valves have had very good operating performance and should continue to have the same performance record with continuation of the same maintenance and testing program. Furthermore, these valves are backed by motor or air-operated valves which have performed reliably.

For these reasons, the extension of the amount of time from three days to seven days before pressure isolation valve testing is required will not result in a significant increase in the probability or consequences of a previously evaluated accident.

D. This Technical Specification amendment will revise the containment hydrogen recombiner testing surveillance from every six months to every refueling interval.

The two independent containment hydrogen recombiners provide post-accident hydrogen control of the containment atmosphere. The recombiners are designed to be passive until an accident occurs.

Industry experience and in particular, Prairie Island experience has demonstrated that this equipment is highly reliable. Since the recombiners are not required until after an accident, there would likely be time to effect accessible repairs if the equipment were not operable.

Relocation of the recombiner calibration is an administrative change which will not affect recombiner operability. Deletion of specific testing sequence will not affect the performance of recombiner testing.

Equipment redundancy, reliability and time for repairs ensures post-accident control. For these reasons, these changes will not result in a significant increase in the probability or consequences of a previously evaluated accident.

E. This Technical Specification amendment will revise the containment spray system nozzle testing surveillance from once every five years to once every ten years.

Two independent containment spray systems provide post-accident cooling of the containment atmosphere and provide a mechanism for removing iodine from the containment atmosphere. This surveillance test verifies by air flow test that the spray nozzles are unobstructed. The extension of the surveillance frequency does not affect administrative controls that preclude entry of foreign material into the nozzles.

At Prairie Island the piping headers and nozzles are fabricated from austenitic stainless steel. There have been no reported in-service problems noted with spray nozzle testing from plants with stainless steel headers and nozzles and there is no indication that the lines would corrode and become obstructed.

For these reasons, this change will not result in a significant increase in the probability or consequences of a previously evaluated accident.

F. This Technical Specification amendment will revise the frequency for testing the Auxiliary Feedwater Pumps (AFWP) from monthly to semi-quarterly on a STAGGERED TEST BASIS.

Two 100% redundant, diverse pumps provide an emergency source of feedwater to the steam generators. The Prairie Island AFWPs have performed reliably. However, frequent testing of the pumps and associated equipment wears out the equipment resulting in equipment unavailability. AFWP availability will be increased by semi-quarterly surveillance testing on a STAGGERED TEST BASIS.

For these reasons, this change will not result in a significant increase in the probability or consequences of previously evaluated accident.

Therefore, the probability or consequences of an accident previously evaluated are not affected by any of the proposed amendments.

2. The proposed amendment[s] will not create the possibility of a new or different kind of accident from any accident previously analyzed.

The extension of facility surveillance intervals as discussed previously will not result in changes in plant configuration or operation. The changes in recombiner calibration and testing will not result in changes in plant configuration or operation. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated would not be created.

3. The proposed amendment[s] will not involve a significant reduction in the margin of safety.

The amendments proposed in this License Amendment Request do not reduce the ability of any system or component to perform its safety related function. The basis of NUREG–1366, Generic Letter 93–05, and the analysis performed in support of this License Amendment Request is that the reduction in surveillance testing can improve safety by reducing challenges to plant systems, personnel exposure, and equipment wear or degradation. The proposed changes to surveillance frequencies do not change the method of performing any surveillance. The operation of systems and equipment remains unchanged. Therefore, a significant reduction in the margin of safety would not be involved.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Project Director: John N. Hannon.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of amendment requests: December 5, 1994.

Description of amendment requests: The proposed amendments would revise Technical Specification 3.8 to allow containment airlock doors to remain open during core alterations provided certain conditions are met. This request is similar to the amendment for Calvert Cliffs Nuclear Power Plant which the NRC approved on August 30, 1994. In addition, these amendments would allow containment penetrations to remain open during core alterations provided certain conditions are met.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed containment refueling integrity amendments do not affect the probability of a fuel handling accident, they only deal with the containment systems.

The containment is provided for the purpose of mitigating the consequences of postulated accidents. For the fuel handling accident in containment, the licensing basis analyses, including the NRC safety

evaluation report transmitted February 2, 1982, assumed that containment was completely abrogated and all radioactive materials released from the containment refueling pool are assumed to be released to the outside atmosphere. The requested amendments to Technical Specification 3.8.A.1.a modify the use of containment to mitigate the consequences of a fuel handling accident in containment, however, since instantaneous offsite release of all fuel handling accident materials released to containment has already been considered, the probability and consequences of a loss of containment accident are not increased.

Therefore, the probability or consequences of an accident previously evaluated are not affected by any of the proposed amendments.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

The requested amendments to Technical Specification 3.8.A.1.a modify the use of containment to mitigate the consequences of a fuel handling accident in containment. There are no new failure modes or mechanisms associated with the proposed changes, nor do the proposed changes involve any modification of plant equipment or changes in plant operational limits. Previous analyses, including the NRC fuel handling accident safety evaluation for Prairie Island, have already assumed the containment is abrogated. The proposed license amendments may affect the release path for fission products released during a fuel handling accident in containment, but no new or different kind of accident will result.

Therefore, the possibility of a new or different kind of accident from any accident previously evaluated would not be created.

3. The proposed amendment will not involve a significant reduction in the margin of safety

The margin of safety as defined by the licensing bases fuel handling accident analyses is not reduced. The previous analyses are very conservative, assuming all radioactive material released from [containment] by the fuel handling accident is immediately released to the outside atmosphere, and bound any changes introduced by these requested amendments.

Technical Specification 3.8.A.1.a exists to minimize the consequences of a fuel handling accident in containment. However, with the current Technical Specification 3.8.A.1.a, there will still be releases due to the necessity to open the containment airlocks to evacuate personnel. With implementation of this amendment, the ability of the closed airlocks to contain the accident releases may improve.

Some radioactive material could be released through containment penetrations that are open at the time of the accident. Since it is not likely that containment will be pressurized by a fuel handling accident, the releases are expected to be minimal. This amendment will maintain containment post-fuel handling accident offsite releases well within the limits of 10CFR100 and the current license basis releases.

Therefore, a significant reduction in the margin of safety would not be involved.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Project Director: John N. Hannon.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of amendment requests: January 9, 1995.

Description of amendment requests: The proposed amendments would revise Prairie Island Nuclear Generating Plant Technical Specification (TS) 4.12, ''Steam Generator Tube Surveillance,'' to incorporate revised acceptance criteria for steam generator tubes with degradation in the tubesheet roll expansion region. These criteria for steam generator tube acceptance were developed by Westinghouse Electric Corporation and are known as F* (''F-Star'') and L* (''L-Star''). These criteria would be utilized to avoid unnecessary plugging and sleeving of steam generator tubes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *The proposed amendment[s] will not involve a significant increase in the probability or consequences of an accident previously evaluated.*

The supporting technical and safety evaluations of the subject criterion demonstrate that the presence of the tubesheet will enhance the tube integrity in the region of the hardroll by precluding tube deformation beyond its initial expanded outside diameter. The resistance to both tube rupture and tube collapse is strengthened by the presence of the tubesheet in that region. The results of hardrolling of the tube into the tubesheet is an interference fit between the tube and the tubesheet. Tube rupture cannot occur because the contact between the tube and tubesheet does not permit sufficient movement of tube material. The radial preload developed by the rolling process will secure a postulated separated tube end within the tubesheet during all plant conditions. In a similar manner, the tubesheet does not permit sufficient movement of tube material to permit buckling collapse of the tube during postulated LOCA loadings.

The F* length of roll expansion is sufficient to preclude tube pullout from tube degradation located below the F* distance, regardless of the extent of the tube degradation. The existing Technical Specification leakage rate requirements and accident analysis assumptions remain unchanged in the unlikely event that significant leakage from this region does occur. As noted above, tube rupture and pullout is not expected for tubes using the F* criterion. Any leakage out of the tube from within the tubesheet at any elevation in the tubesheet is fully bounded by the existing steam generator tube rupture analysis included in the Prairie Island Plant USAR [Updated Safety Analysis Report]. For plants with partial depth roll expansion like Prairie Island, a postulated tube separation within the tube near the top of the roll expansion (with subsequent limited tube axial displacement) would not be expected to result in coolant release rates equal to those assumed in the USAR for a steam generator tube rupture event due to the limited gap between the tube and tubesheet. The proposed plugging criterion does not adversely impact any other previously evaluated design basis accident.

Leakage testing of roll expanded tubes indicates that for roll lengths approximately equal to the F* distance, any postulated faulted condition primary to secondary leakage from F* tubes would be insignificant.

2. *The proposed amendment[s] will not create the possibility of a new or different kind of accident from any accident previously analyzed.*

Implementation of the proposed F* criterion does not introduce any significant changes to the plant design basis. Use of the criterion does not provide a mechanism to initiate an accident outside of the region of the expanded portion of the tube. Any hypothetical accident as a result of any tube degradation in the expanded portion of the tube would be bounded by the existing tube rupture accident analysis. Tube bundle structural integrity will be maintained. Tube bundle leaktightness will be maintained such that any postulated accident leakage from F* tubes will be negligible with regards to offsite doses.

3. *The proposed amendment[s] will not involve a significant reduction in the margin of safety.*

The use of the F* criterion has been demonstrated to maintain the integrity of the tube bundle commensurate with the requirements of Reg Guide 1.121 [''Bases for Plugging Degraded PWR Steam Generator Tubes''] (intended for indications in the free span of tubes) and the primary to secondary pressure boundary under normal and postulated accident conditions. Acceptable tube degradation for the F* criterion is any degradation indication in the tubesheet region, more than the F* distance below the bottom of the transition between the roll

expansion and the unexpanded tube. The safety factors used in the verification of the strength of the degraded tube are consistent with the safety factors in the ASME Boiler and Pressure Vessel Code used in steam generator design. The F* distance has been verified by testing to be greater than the length of roll expansion required to preclude both tube pullout and significant leakage during normal and postulated accident conditions. Resistance to tube pullout is based upon the primary to secondary pressure differential as it acts on the surface area of the tube, which includes the tube wall cross-section, in addition to the inner diameter based area of the tube. The leak testing acceptance criteria are based on the primary to secondary leakage limit in the Technical Specifications and the leakage assumptions used in the USAR accident analysis.

Implementation of the tubesheet plugging criterion will decrease the number of tubes which must be taken out of service with tube plugs or repaired with sleeves. Both plugs and sleeves reduce the RCS (reactor coolant system) flow margin; thus, implementation of the F* criterion will maintain the margin of flow that would otherwise be reduced in the event of increased plugging or sleeving.

Based on the above, it is concluded that the proposed change does not result in a significant reduction in margin with respect to plant safety as defined in the USAR or the Technical Specification Bases.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Project Director: John N. Hannon.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of amendment requests: January 13, 1995.

Description of amendment requests: The proposed amendments would revise Prairie Island Nuclear Generating Plant Technical Specification 4.4.D.1 to change the interval for the performance of the Residual Heat Removal (RHR) System leakage test from once every 12 months to perform the test during each refueling shutdown.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *The proposed amendment[s] will not involve a significant increase in the probability or consequences of an accident previously evaluated.*

The proposed changes to the RHR system leakage test interval only involve the leak-tightness of the RHR system for postaccident operation. As such, the proposed changes will have no impact on the probability of an accident previously evaluated.

The extension of the RHR system leakage test interval could increase the possibility of undetected RHR system leakage outside the containment during post accident conditions. However, the possible consequences of leakage from the RHR system outside containment are minor relative to those of the design basis accident. Therefore, because leakage from the RHR system has a minor effect on offsite dose, and since previous testing on a 12 month interval has not found significant RHR system leakage, the extension of the test interval to refueling is not expected to significantly impact the offsite dose consequences of an accident. In addition, it is probable that RHR system leakage would be identified during the normal quarterly functional testing and inspection of the RHR system.

Therefore, for the reasons discussed above, the proposed changes will not significantly affect the probability or consequences of an accident previously evaluated.

2. *The proposed amendment[s] will not create the possibility of a new or different kind of accident from any accident previously analyzed.*

There are no new failure modes or mechanisms associated with the proposed changes. The proposed changes do not involve any modification of the plant equipment or any changes in operational limits. The proposed changes only modify the interval for the performance of the RHR system leakage test. The performance of the RHR system leakage test on a refueling basis instead of every 12 months cannot create a new or different kind of accident.

Therefore, for the reasons discussed above, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated, and the accident analyses presented in the Updated Safety Analysis Report [USAR] will remain bounding.

3. *The proposed amendment[s] will not involve a significant reduction in the margin of safety.*

The performance of the RHR system leakage test at power is more complex than performing the test during refueling shutdown. It is preferable, from an RHR system reliability and plant safety standpoint, to perform the test during refueling shutdown when the RHR system is already operating and when no changes to the RHR system configuration are required. Any possible increase in the risk to the public health and safety incurred by extending the RHR leak test interval from 12 months to refueling shutdown will be off-set by the reduction in risk obtained by not performing the RHR system leakage test during power operation.

The extension of the test interval would mean that possible RHR leakage could exist undetected for a longer period than allowed by the current Technical Specifications. However, the possible consequences of leakage from the RHR system outside containment are minor relative to those of the design basis accident. In addition, it is probable that RHR system leakage would be identified during the normal quarterly functional testing and inspection of the RHR system.

Based on the above, it is concluded that the proposed change does not result in a significant reduction in margin with respect to plant safety as defined in the USAR or the Technical Specification Bases.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Project Director: John N. Hannon.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: December 23, 1994.

Description of amendment request: The proposed amendment to the Technical Specifications revises the surveillance requirement to perform a visual inspection of containment areas affected by containment entry when containment integrity is established. It is consistent with Item 7.5 of Generic Letter 93–05, ''Line-Item Technical Specifications Improvements to Reduce Surveillance Requirements for Testing During Power Operation.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change does not alter the assumptions, design parameters or results of Updated Final Safety Analysis Report (UFSAR) accidents analyzed. The proposed change does not involve a hardware change, a change to the operation of any systems or components, or a change to any existing structures. The proposed change leads to a reduction in radiation exposure to plant personnel and the elimination of an unnecessary burden on plant staff. The revised visual inspection practice will not increase the probability or consequences of an accident previously evaluated.

2. Does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change does not modify equipment, affect system design bases or operability. This change does not alter parameters utilized in the analyzed accident scenarios. The proposed change in surveillance frequency is consistent with the guidance provided in GL 93–05. The performance of a visual inspection of containment areas affected by multiple containment entries on a daily bases [basis] and at the completion of the final entry when containment integrity is established will not create the possibility of a new or different kind of accident from those previously evaluated.

3. Does not involve a significant reduction in a margin of safety.

The proposed change only involves a decrease in surveillance frequency when multiple entries are made in a single day and does not alter the performance of the surveillance itself. System equipment and operation remains unchanged. Operability and reliability is still maintained by the required inspection. The adaptation of the proposed surveillance frequency does not involve a significant reduction in the margins of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW, Washington, DC 20005–3502.

NRC Project Director: John F. Stolz.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee.

Date of amendment request: December 16, 1994 (TS 94–06).

Description of amendment request: The proposed change would revise the auxiliary feedwater system technical specifications and associated Bases by incorporating the Westinghouse Standard Technical Specification limits and format, extending the limiting condition for operation to Mode 4, relaxing the achievement of hot shutdown from 6 hours to 12 hours, relaxing the verification of valve position surveillance frequency from 7 days to 31 days, and verifying the position of automatic valves every 31 days in lieu of valve manipulation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

TVA has evaluated the proposed technical specification (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS change replaces SQN's auxiliary feedwater (AFW) system specification and the associated bases section with improved requirements that are modeled after the Westinghouse Standard (NUREG–1431) Technical Specification (STS). The proposed change is consistent with the STS for ensuring that three trains of AFW remain operable in Modes 1, 2, and 3. In addition, the proposed change provides a TS improvement by extending the limiting condition for operation (LCO) applicability to Mode 4. This LCO requirement for Mode 4 ensures that at least one motor-driven AFW pump remains operable when steam generators are being used for decay heat removal. The proposed 72 hour allowed outage time (for one inoperable train of AFW) is consistent with the STS and remains unchanged from SQN's current allowed outage time. One proposed change to relax shutdown requirements from 6 hours to 12 hours for achieving hot shutdown is considered to be acceptable. This relaxation is based on shutdown times contained in the STS and the operating experience to reach thus condition from full power in an orderly manner without challenging plant systems. The proposed surveillance requirements (SRs) provide test frequencies that are consistent with the STS and are based on operating experience and the design reliability of the equipment. The proposed relaxation in surveillance frequency from 7 days to 31 days for verifying valve position in the AFW flow path is considered acceptable based on existing procedural controls for valve configuration. The proposed change to include a STS SR for verifying automatic valves in the flow path are in their correct position every 31 days (in lieu of valve manipulation) is considered acceptable based on existing surveillance that verify proper actuation of SQN's automatic AFW valves.

The proposed changes provide TS improvements for SQN's AFW system that ensure the system operates within the bounds of SQN's AFW accident analysis as contained in the Final Safety Analysis Report (FSAR). This change does not involve a physical modification to SQN's AFW system. Accordingly, the proposed changes do not involve an increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed TS change incorporates requirements that bound the limiting design-basis accidents (DBAs) evaluated in SQN's FSAR. The TS bases have been revised to reflect the limiting DBAs and provide clarification with regard to the assumptions used in SQN's AFW accident analysis. No new event initiator has been created, not [sic] has any hardware been changed. This change does not involve a physical change to SQN's AFW system or any other system. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any previously analyzed.

3. Involve a significant reduction in a margin of safety.

TVA's proposed change replaces SQN's AFW system TS requirements with TS requirements adopted from the Westinghouse STS. Because the overall similarity in the requirements between SQN's current AFW specification and the STS version, the TS requirements remain essentially unchanged. The proposed 72-hour allowed outage time (for one inoperable train of AFW) is consistent with the STS and remains unchanged from SQN's current allowed outage time. One proposed change to relax shutdown requirements from 6 hours to 12 hours for achieving hot shutdown is considered to be acceptable. This relaxation is based on shutdown times contained in the STS and the operating experience to reach this condition from full power in an orderly manner without challenging plant systems. The proposed SRs provide test frequencies that are consistent with the STS and are based on operating experience and the design reliability of the equipment. The proposed relaxation in surveillance frequency from 7 days to 31 days for verifying valve position in the AFW flow path is considered acceptable based on existing procedural controls for valve configuration. The proposed relaxation in surveillance frequency from 7 days to 31 days for verifying valve position in the AFW flow path is considered acceptable based on existing procedural controls for valve configuration. The proposed change to include a STS SR for verifying automatic valves in the flow path are in their correct position every 31 days (in lieu of valve manipulation) is considered acceptable based on other existing surveillances that verify proper actuation of SQN's automatic AFW valves.

The proposed changes provide TS improvements for SQN's AFW System that ensure the system operates within the bounds of SQN's AFW accident analysis as contained in the FSAR. This change does not

involve a physical modification to SQN AFW system. Accordingly, the margin of safety has not been reduced.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: December 16, 1994.

Description of amendment request: The proposed license amendment would revise Technical Specification 6.3, ''Unit Staff Qualifications.'' Currently, the Technical Specifications require that the Operations Manager obtain a senior reactor operator (SRO) license by August 1995. A change is proposed to relieve the requirement for the Operations Manager to hold a Perry Nuclear Power Plant (PNPP) SRO license if an Operations section middle manager holds a PNPP SRO license.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change affects an administrative control, which was based on the guidance of ANSI N18.1–1971, ''Selection and Training of Nuclear Power Plant Personnel.'' ANSI N18.1–1971 recommended that the Operations Manager hold a senior reactor operator (SRO) license. The current guidance in Section 4.2.2 of ANSI/ANS–3.1–1993, ''American National Standard for Selection, Qualification, and Testing of Personnel for Nuclear Power Plants'' recommends, as one alternative, that the Operations Manager have plant operational knowledge consistent with the requirements of the Operations Manager's position, providing an Operations middle manager holds an SRO license. This individual (currently designated as the Operations Superintendent) would be required to meet the criteria for, and would have responsibilities as recommended in, ANSI/ANS–3.1–1993 for the Operations Middle Manager position. The proposed change is consistent with the recommendations of ANSI/ANS–3.1–1993.

The proposed change does not alter the design of any system, structure or component, nor does it change the way plant systems are operated. It does not reduce the knowledge, qualifications, or skills of licensed operators, and does not affect the way the Operations Section is managed by the Operations Manager. The Operations Manager will continue to maintain the effective performance of section personnel and ensure the plant is operated safely and in accordance with the requirements of the operating license. Additionally, the control room operators will continue to be supervised by the licensed senior operators such as the Unit Supervisors and the Shift Supervisors. For those areas of knowledge that require an SRO license, the Operations Superintendent will provide the appropriate technical guidance to the control room staff.

In summary, the proposed change does not affect the ability of the Operations Manager to provide the plant oversight required of the position. Thus, it does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change to Technical Specification 6.3.1 does not affect the design or function of any plant system, structure, or component, nor does it change the way plant systems are operated. It does not affect the performance of NRC licensed operators. Operation of the plant in conformance with the Technical Specifications and other license requirements will continue to be supervised by personnel who hold an NRC SRO license. The proposed change to Technical Specifications 6.3.1 ensures that either the Operations Manager or Operations Superintendent will be a knowledgeable and qualified individual by requiring one of the individuals to hold an SRO license for PNPP. Based on the above, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not result in a significant reduction in the margin of safety.

The proposed change involves an administrative control which is not related to the margin of safety as defined in the Technical Specifications. The proposed change provides an alternative which ensures that the level of knowledge and experience required of an individual who fills the Operations Manager position is acceptable. The proposed change does not affect the conservative manner in which the plant is operated. The control room operators will continue to be supervised by personnel who hold an SRO license. Thus, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Leif J. Norrholm.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: December 21, 1994.

Description of amendment request: The proposed license amendment would revise Technical Specification 3/4.3.7.7, ''Traversing In-Core Probe System,'' and its Bases to allow the use of substitute data generated from the process computer, normalized with available operating measurements, to replace data from inoperable local power range monitor (LPRM) strings for up to 10 LPRM strings.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The TIP [traversing in-core probe] system is not used to prevent or mitigate the consequences of any previously analyzed accident or transient. No assumptions are made in any accident analysis relative to the operation of the TIP system. No other safety related system is affected by this change.

The use of substitute values from calculations performed by the on-line computer core monitoring system does not affect the consequences of plant transients previously evaluated in the USAR [Updated Safety Analysis Report] because the total core TIP reading (nodal power) uncertainty remains less than 8.7%. Thus, the MCPR [minimum critical power ratio] safety limit is not affected.

2. The proposed change does not create the possibility of a new or different kind of

accident from any accident previously evaluated.

The proposed change does not involve the installation of any new equipment or the modification of any equipment designed to prevent or mitigate the consequences of accidents or transients. Therefore, the change has no effect on any accident initiator, and no new or different type of accidents are postulated to occur.

3. The proposed change does not result in a significant reduction in the margin of safety.

The total core TIP reading uncertainties will remain within the assumptions of the licensing basis; thus, the margin of safety to the MCPR safety limits is not reduced. The ability of the computer to accurately represent nodal powers in the reactor core is not compromised. The ability of the computer to accurately predict the LHGR [linear heat generation rate], APLHGR [average planar linear heat generation rate], MCPR, and its ability to provide for LPRM calibration, are not compromised. Therefore, the margin of safety is not significantly reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Leif J. Norrholm.

TU Electric Company, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: December 6, 1994.

Brief description of amendments: The proposed amendment would revise Technical Specifications to allow appropriate remedial action for high particulate levels in the diesel generator fuel oil inventory and other out-of-limit properties in new diesel generator fuel oil that has been added to the existing diesel generator fuel oil storage inventory.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes allow 7 days to correct particulate contamination in the stored fuel oil for the diesel generators and 30 days to confirm or restore the adequacy of the stored fuel oil if certain properties of new fuel that has been added to the fuel oil storage inventory have been discovered to exceed the specified values. These changes do not affect plant operations and the only equipment affected are the diesel generators. The ability of the diesel generators to provide electrical power when needed is directly dependent upon, in part, having fuel oil of adequate quality. The only accident which is potentially initiated by a diesel generator failure is the station blackout event. The mitigation of many accidents is dependent upon the availability of at least one train of electrical power from an emergency diesel generator (EDG). With the proposed changes, the fuel oil should continue to have sufficient quality to assure the operability of the diesel generators until the particulate and other properties are returned to within limits. This is due in part to the existing fuel oil quality requirements that are more stringent than the vendor requires for the EDG to operate and the system of filters installed to insure good quality fuel actually reaches the EDG. Even though the margin provided in the quality of the fuel oil may be affected (see the response to question 3 below), adequate fuel oil quality is being maintained to assure the operability of the diesel generators and therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

There are no hardware changes and no changes in system operations involved. These changes only affect the quality of the stored fuel oil for the diesel generators. The availability of a diesel generator has been addressed by the CPSES [Comanche Peak Steam Electric Station] design and in particular by the analysis of the station blackout event. These changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The margin of safety of interest for these changes is the quality of the stored fuel oil for the diesel generators as compared to minimum quality which will support the diesel generators ability to supply electrical power when needed. Particulate contamination increases slowly over a period of time due to the chemical breakdown of the fuel oil (or its additives or the surfaces on the tanks themselves) or due to the introduction of foreign material during refueling activities. When considered with the fact that the existing limitation of 10 mg/L was developed for engines which require much cleaner fuel oil (aircraft engines) and that the CPSES diesel engines have in line duplex fuel oil filters which can be switched while the engine is operating, the 7 days which are being provided to restore the particulate levels do not involve a significant reduction in the margin of safety. The levels of particulate are expected to not exceed the specified value by a significant amount and the specified value is already quite conservative. Seven days is a reasonable time period in which to restore the parameter but is short enough to ensure that the contamination values do not exceed the vendors recommended fuel oil tolerances required for the EDGs to run. In a similar manner, the properties of the new fuel oil that has been added to the fuel oil storage inventory are not expected to deviate significantly from the allowed values. The testing for gravity, viscosity, flash point, clarity, water and sediment prior to adding the new fuel oil provides adequate assurance that the stored fuel oil will be of sufficient quality to support diesel generator operation. The quality of the stored fuel oil is further protected from problems being introduced by new fuel oil that has been added to the fuel oil storage inventory by the fact that the new fuel oil is generally diluted by a factor of four or more when it is added to the storage tanks by the fuel oil that is already in the tanks. Allowing 30 days to confirm or restore the properties of the stored fuel oil when a sample of new fuel that has been added to the fuel oil storage inventory has properties which exceed their specified values does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, Texas 76019.

Attorney for licensee: George L. Edgar, Esq., Newman and Holtzinger, 1615 L Street, N.W., Suite 1000, Washington, D.C. 20036.

NRC Project Director: William D. Beckner.

TU Electric Company, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: December 7, 1994.

Brief description of amendments: The proposed amendment to the technical specifications (TSs) would: (1) revise the Comanche Peak Steam Electric Station (CPSES), Technical Specification Limiting Condition for Operation (LCO) for the main steam isolation valves (MSIVs) to increase the allowed outage time (AOT) in Mode 1; (2) relocate the MSIVs full closure time requirement to a program administratively controlled by the TS; and (3) revise the associated Bases to

adopt the expanded Bases format adding information specific to CPSES.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes are to (1) revise the CPSES Technical Specification Limiting Condition for Operation (LCO) for the MSIVs to increase the Allowed Outage Time (AOT) from 4 hours to 8 hours in Mode 1; (2) modify the Mode 2 and 3 Action Statement to better reflect the safety significance of these valves by requiring that the valves be closed within 8 hours and verified at least every 7 days; (3) relocate the MSIVs full closure time requirement to a program administratively controlled by the TS; and (4) revise the associated Bases to adopt the expanded Bases format adding information specific to CPSES.

The revision of the CPSES Technical Specification Limiting Condition For Operation (LCO) for the MSIVs to increase the Allowed Outage Time (AOT) from 4 hours to 8 hours in Mode 1 only affects the time that a condition can exist and as such does not affect any of the conditions that could initiate an accident; therefore the probability of an accident is not affected. Likewise, no new conditions are created that would affect the analyses of any accident; therefore the consequences of the accidents postulated for CPSES are not affected.

Modifying the Mode 2 and 3 Action Statement to better reflect the safety significance of these valves by requiring that the valves be closed within 8 hours and verified at least every 7 days provides clarity and adds a new verification requirement. Again no new plant conditions are established, time limits and verification requirements are merely being established; therefore, no accident initiators are affected and there is no impact on the probability of any accident. Likewise no conditions are being altered which affect the analyses of any accidents which are postulated at CPSES and thus the consequences of those accidents are unaffected.

Relocating the MSIVs full closure time requirement to a program administratively controlled by the TS is an administrative change only. It has no impact on actual plant operation and thus there is no impact on the probability of any accident or on the consequences of any accident.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated? None of the changes in this request affect plant design or create new operating configurations. The only things affected are the times that certain conditions are allowed, how soon actions need be performed, how often to verify conditions and the administrative location of certain requirements. These items do not create the possibility of a new type or different kind of accident.

3. Do the proposed changes involve a significant reduction in a margin of safety?

The Technical Specifications LCOs ensure that the assumptions of the safety analyses are preserved. There are no substantive changes to the LCO; therefore, the safety analyses are unaffected and there is no affect on the margin of safety.

Revising the CPSES Technical Specification Limiting Condition For Operation (LCO) for the MSIVs to increase the Allowed Outage Time (AOT) from 4 hours to 8 hours in Mode 1 allows the unit to operate with an inoperable MSIV for a longer period of time. Although the unavailability of equipment required to mitigate or assess the consequence of an accident is increased, a more reasonable completion time is provided to diagnose the problem, mobilize the corrective action, obtain administrative clearances, complete the maintenance, restore the valve to an operable condition, and perform post-maintenance verification, where appropriate. The additional time would reduce the probability of unnecessary plant transients and plant shutdowns, thus improving plant safety and increasing plant availability, while a qualitative assessment has concluded that the impact on Core Damage Frequency is negligible. TU Electric has concluded based on the discussion above that there is no significant impact on the overall margin of safety due to this change.

Modifying the Mode 2 and 3 Action Statement to better reflect the safety significance of these valves by requiring that the valves be closed within 8 hours and verified at least every 7 days is primarily a clarification and a new verification requirement. Specifying that an inoperable valve be closed within 8 hours makes the requirement specific where no time limit was provided before. The 8 hours specified is the same as is allowed in Mode 1 which was qualitatively assessed as noted above and thus is a logical limitation. The new requirement to verify the valves closed on a periodic basis will increase assurance that the valves remain closed and will thus enhance the margin of safety. Overall, TU Electric concludes that these Mode 2 and 3 changes do not significantly affect the margin of safety.

Relocating the MSIVs full closure time requirement to a program administratively controlled by the TS is an administrative change only. There is no impact on the margin of safety.

Revising the associated Bases to adopt the expanded Bases format adding information specific to CPSES enhances the useability of the Technical Specification. Overall, this is considered an improvement which will benefit both the operators and support personnel. There is no significant impact on the margin of safety and if there is an impact, it improves the margin by providing easy access to support information.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, Texas 76019.

Attorney for licensee: George L. Edgar, Esq., Newman and Holtzinger, 1615 L Street, N.W., Suite 1000, Washington, D.C. 20036.

NRC Project Director: William D. Beckner.

TU Electric Company, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: December 19, 1994.

Brief description of amendments: The proposed changes to the Technical Specification Action Statements of Tables 3.3–1 and 3.3–2 would allow testing of the reactor protective system (RPS) and the engineered safety features actuation system (ESFAS) with the channel under test in bypass.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes will revise those Action Statements which limit the use of bypass while testing for Reactor Protection System (RPS) and Engineered Safety Feature Actuation System (ESFAS) functions. The Actions Statements concern testing with a channel inoperable and will be revised to allow testing with either the inoperable channel or the channel being tested (but not both) placed in bypass.

Testing in a bypass condition when all channels are operable will not introduce new operating configurations. The number [of] available channels with one channel in bypass for testing will remain the same as the minimum number of channels and is the same as the number of channels available when testing in trip. The number of channels to trip will be unchanged when testing in bypass while the number of channels to trip is reduced to one when testing in trip. Although there may be a sight [slight] increase in possibility that the failure of a channel could prevent the actuation of a function (because testing in bypass could result in two-out-of-two logic while testing in trip would have resulted in one-out-of-two logic), testing in bypass will reduce the vulnerability to inadvertent actuation of a function while maintaining the normal channels to trip and the minimum channels

operable requirements per the current technical specifications. Overall TU Electric concludes (and WCAP–10271 with its associate SER from the NRC supports) that testing in bypass when all channel [s] are operable does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Testing in bypass with one channel inoperable will not introduce new configurations. The current Actions Statements for ESFAS already allow testing in bypass if one channel is inoperable. Under the current Technical Specifications for an RPS function, an inoperable channel is placed in bypass (via leads and jumpers) while surveillance testing another channel (the channel under test is placed in trip). Under the proposed changes, either the inoperable channel or the channel being tested may be bypassed.

In either case, the result is one channel in bypass and the other in trip, which leaves one-out-of-two operable channels to initiate the protective function (if the initial logic was two-out-of-four) or one-out-of-one operable channels to initiate the protective function (if the initial logic was two-out-of-three). Thus, testing in bypass with one channel inoperable does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed technical specification changes will also allow certain ESFAS functions to be tested with an inoperable channel in bypass and the channel being tested in trip. The current technical specifications require that the inoperable channel be in trip and that the channel being tested be in bypass. Per the same logic provided above on testing in bypass with an inoperable channel, this change has no impact on the capability of the system to respond to plant conditions and does increase the potential for inadvertent actuation of a function.

In summary, the proposed changes to the technical specifications and testing in bypass do not increase the probability or consequences of an accident previously evaluated.

(2) Do the proposed changes create the possibility of a new or different type of accident from any accident previously evaluated?

No new operating configurations and no new failure modes are being introduced by testing in bypass or by the proposed technical specification changes; therefore, no new or different type of accident from any accident previously evaluated is being created.

(3) Do the proposed changes involve a significant reduction in the margin of safety?

Testing in bypass does not affect accident configurations, sequences, or response scenarios as modeled in the safety analyses. Testing or maintenance in a bypass configuration does not cause any design or analysis acceptance criteria to be exceeded, nor does it affect the integrity of the fission product barriers. The severity of any accident previously evaluated is not increased. Bypass testing does not affect the functional integrity of the Reactor Protection System (RPS) or the Engineered Safety Features Actuation System (ESFAS). Bypass testing and the proposed technical specification changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, Texas 76019.

Attorney for licensee: George L. Edgar, Esq., Newman and Holtzinger, 1615 L Street, N.W., Suite 1000, Washington, D.C. 20036.

NRC Project Director: William D. Beckner.

TU Electric Company, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: December 30, 1994

Brief description of amendments: The proposed amendments would revise the technical specification for fuel storage to authorize use of the high density fuel storage racks, to increase the spent fuel storage capacity, and to adopt the wording, content, and format of the Improved Standard Technical Specifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequence of an accident previously evaluated?

This proposed license amendment includes changes which clarify the Technical Specifications, identify existing licensing basis criteria, revise the wording and format to be consistent with the Improved Standard Technical Specifications (NUREG–1431), and provide the criteria for acceptable fuel storage in high density racks. The clarification and the revised wording and format are purely administrative changes and have no impact on the probability or consequences of an accident. The criteria for acceptable fuel storage in the high density racks are discussed below.

The high density racks differ from the low density racks in that the center to center storage cell spacing is decreased from a nominal 16 inches to a nominal 9 inches and the high density racks are free standing whereas the low density racks are bolted to the pool. The allowed storage pattern in the high density racks results in a nominal 12.7 inch center to center spacing (measured diagonally) with a two out of four storage pattern (high density (2/4)). Administrative controls are used to maintain the specified storage patterns and to assure storage of a fuel assembly in a proper location based on initial U–235 enrichment and burnup. The increased storage capacity results in added weight in the pools and additional heat loads.

The only potential impact on the probability of an accident concerns the potential insertion of a fuel assembly in an incorrect location in the high density racks. TU Electric has used administrative controls to move fuel assemblies from location to location since the initial receipt of fuel on site. Through receipt of fuel for two initial core loads and four refueling outages (each of which includes a complete core offload), TU Electric has not inserted a fuel assembly into an improper location. This record demonstrates the adequacy of the administrative controls in place and confirms that the use of such administrative controls will not involve a significant increase in the probability of an accident previously evaluated.

The consequences of all of these changes have been assessed and the current acceptance criteria in the licensing basis of CPSES will continue to be met. The nuclear criticality, thermal-hydraulic, mechanical, material and structural designs will accommodate these changes. Potentially affected analyses, including a dropped spent fuel assembly, a loss of spent fuel pool cooling, a seismic event, and a fuel assembly placed in a location other than a prescribed location, continue to satisfy the CPSES licensing basis acceptance criteria. The analysis methods used by TU Electric are consistent with methods used by TU Electric in the past or methods used elsewhere in the industry and accepted by the NRC.

Based on the acceptability of the methodology used and compliance with the current CPSES licensing basis, TU Electric concludes that the use of the high density racks and the increase in storage capacity do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

The administrative changes to the Technical Specifications have no impact on plant hardware or operations and therefore cannot create a new or different kind of an accident.

The spacing changes between fuel assemblies, the administrative controls, the storage limitations, and the increased storage capacity do not generate new failure modes that could create a new or different kind of an accident. The change from bolted low density racks to free standing high density racks will not create the possibility of a new or different kind of an accident. Free standing racks have been commonly used at nuclear power plants to provide for high density storage of spent fuel, and their use

does not entail any unproven or unusual design or technology. In this regard, a number of plants have previously changed from bolted or restrained racks to free standing racks, including Millstone 1 (amendment dated November 27, 1989) and San Onofre 2 and 3 (amendment dated May 1, 1990), and such changes have not been classified as involving a significant hazards consideration. Furthermore, CPSES is not located in an area subject to severe seismic events. A seismic event at CPSES would result in little movement of the free standing racks and would not cause the high density racks to collide with each other or the spent fuel pool walls. Therefore, use of the free standing high density racks would not create the possibility of a new or different kind of an accident.

3. Do the proposed changes involve a significant reduction in a margin of safety?

The proposed administrative changes to the Technical Specifications have no impact on any acceptance criteria, plant operations or the actual failure of any systems, components or structure; therefore these administrative changes have no impact on the margin of safety.

The NRC guidance [Nuclear Regulatory Commission, Letter to all Power Reactor Licensees, from B. K. Grimes, April 14, 1978, ''OT Position for Review and Acceptance of Spent Fuel Storage and Handling Applications,'' as amended by the NRC Letter dated January 18, 1979] has established that an evaluation of margin of safety should address the following areas:

(1) Nuclear criticality considerations.

(2) Thermal-Hydraulic considerations.

(3) Mechanical, material and structural consideration.

The established acceptance criterion for criticality is that the neutron multiplication factor in the spent fuel pool storage racks shall be less than or equal to 0.95, including uncertainties, under all conditions. The k_{eff} for the high density racks for CPSES is always less than 0.95, including uncertainties at a 95/95 probability confidence level. Because the existing acceptance criterion is shown to be satisfied, the high density racks do not involve a significant reduction in the margin of safety with respect to criticality considerations.

The thermal-hydraulic evaluation demonstrates that the temperature margin of safety will be maintained. Re-evaluation of the spent fuel pool cooling system for the increased heat loads shows, with minor modifications, that the spent fuel cooling system will maintain the abnormal maximum temperature of the spent fuel pool water within the limits of the existing licensing basis (i.e., below 212 °F). Additionally, it shows that, with minor modifications, the normal maximum temperature will be within the existing design basis temperatures for the high density racks, liner, structure, and cooling system and will not have any significant impact on the spent fuel pool demineralizers. Thus, the existing licensing basis remains valid, and there is no significant reduction in the margin of safety for the thermal-hydraulic design or spent fuel cooling.

The main safety function of the spent fuel pool and the high density racks is to maintain the spent fuel assemblies in a safe configuration through normal and abnormal operating conditions. The design basis floor responses of the Fuel Building were confirmed to be adequate and conservative and the floor loading will not exceed the capacity of the Fuel Building. The high density rack materials used are compatible with the spent fuel pool and the spent fuel assemblies. The structural considerations of the high density racks maintain margin of safety against tilting and deflection or movement, such that the high density racks do not impact each other or the pool walls, damage spent fuel assemblies, or cause criticality concerns. Thus, the margin of safety with respect to mechanical, material and structural considerations are not significantly reduced by the use of the high density racks.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, Texas 76019.

Attorney for licensee: George L. Edgar, Esq., Newman and Holtzinger, 1615 L Street, N.W., Suite 1000, Washington, DC 20036.

NRC Project Director: William D. Beckner.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: December 9, 1994.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 4.3.2.2, 4.7.1.2.1, and the Bases for Specification 3/4.7.1.2. The changes would decrease the frequency of testing auxiliary feedwater pumps, provide consistent testing requirements for the steam turbine-driven auxiliary feedwater pump, and clarify performance parameters in the Bases.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed revision does not involve a significant hazards consideration because operation of Callaway Plant with this change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The Callaway Final Safety Analysis Report has been reviewed and been found to be unaffected by these proposed changes. The changes proposed by this Technical Specification amendment do not affect the performance parameters of the Auxiliary Feedwater System (AFWS). The changes proposed involve a decrease in the frequency of pump testing from once per 31 days to once per 92 days as recommended by NRC Generic Letter 93–05 and reflected in NUREG–1431 (T/S 4.7.1.2.1.a). This change will decrease the out-of-service time of the AFWS due to testing. This change will also decrease the number of component manipulations performed on the system and will therefore decrease the probability of a restoration error rendering the system incapable of performing its intended function.

The pumps will be required to meet the same acceptance criteria and will continue to be monitored as required by ASME Section XI. As stated earlier, the overall effect is a slight decrease in the CDF for Callaway. These proposed changes will also eliminate an inconsistency among Specifications 4.7.1.2.1.b.2 and 4.3.2.2 and Specification 4.7.1.2.1.a.2 regarding an exception to Specification 4.0.4 for entry into Mode 3 for the TDAFP. The methodology and acceptance criteria of surveillance testing will not be changed. The ability of the AFWS to perform its intended function during accident conditions will continue to be demonstrated via surveillance testing. The proposed changes to the Technical Specifications do not affect any accident initiators for any accident evaluated in the Final Safety Analysis Report (FSAR). The Bases changes are corrections to errors which have no effect on any accident initiators nor equipment failure modes.

(2) Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed Technical Specification changes do not modify any equipment nor create any potential accident initiators. The proposed change herein of potential interest is the exception to Specification 4.0.4 for entry into Mode 3 for TDAFP response time testing and auto-start testing. This allowance is already recognized via Specification 4.7.1.2.1.a.2 and NUREG–1431, Standard Technical Specifications-Westinghouse Plants.

(3) Involve a significant reduction in a margin of safety.

The Bases for Specification 3/4.7.1.2 are to be clarified to correctly state the design flow and pressure parameters for the AFWS. No plant design changes are involved in any of the proposed changes and the method and manner of plant operation remain the same. The specific surveillance test methodology and acceptance criteria remain unchanged.

As discussed above, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated or create the possibility of a new or different kind of accident from any previously evaluated. These changes do not result in a significant reduction in a margin of safety. Therefore, it has been determined that the proposed changes do not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, N.W., Washington, DC 20037.

NRC Project Director: Leif J. Norrholm.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: December 9, 1994, as supplemented on December 22, 1994.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) Surveillance Requirement 4.8.1.1.2f.7 to remove the requirement to perform the hot restart test within 5 minutes of completing the 24-hour endurance test and place that requirement in a separate TS.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed revision does not involve a significant hazards consideration because operation of Callaway Plant with this change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revision to the T/S will not adversely impact plant safety since the requirement to perform the hot restart test will still be implemented via a separate surveillance requirement that demonstrates the hot restart functional capability of the diesel generators.

(2) Create the possibility of a new or different kind of accident from any previously evaluated.

There are no design changes being made that would create a new type of accident or malfunction and the method and manner of plant operation remain unchanged. The performance capability of the emergency diesel generators will not be affected. The verification of the hot restart capability of the diesel generators will still be performed, only the timing of the performance will be changed to give plant operators added flexibility and prevent critical path complications during outages.

(3) Involve a significant reduction in a margin of safety.

There are no changes being made to the safety limits or safety system settings that would adversely impact plant safety. The diesel generators will still perform their intended safety function following a loss of offsite power, to achieve and maintain the plant in a safe shutdown condition.

Based on the above discussions, it has been determined that the requested Technical Specification change does not involve a significant increase in the probability or consequences of an accident or create the possibility of a new or different kind of accident or condition over previous evaluations; or involve a significant reduction in a margin of safety. Therefore, the requested license amendment does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Leif J. Norrholm.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: December 14, 1994.

Description of amendment request: The proposed amendment would revise instrument identification for low reactor pressure instrument trip cards in emergency core cooling system (ECCS) actuation to reflect a design change to be installed during the 1995 refueling outage.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change to the identification numbers for certain reactor pressure instrumentation as included in the Technical Specifications for ECCS Actuation Instrumentation is only necessary because the specific identification numbers (Tag Nos.) have been listed in the [***]. This is considered an administrative type change. Acceptable measurement of Low Reactor Pressure is still assured. All automatic control or trip functions will continue to be provided.

The proposed change does not result in any function or setpoint change. The hardware changes which have resulted in a need to change the Technical Specifications have removed instrumentation no longer required to be installed in the circuitry for measuring ECCS Low Reactor Pressure. The existing logic for Low Reactor Pressure will remain the same. The only change applicable to implementation of the design modification is the use of different trip cards to provide the trip function for ECCS Low Reactor Pressure.

The requested change to ECCS Actuation Instrumentation Tables does not impact any FSAR [Final Safety Analysis Report] safety analysis involving the ECCS or Protection Systems. These measurement functions are not contributors to the initiation of accidents.

The change in instrument Tag Nos. on Tables 3.2.1 and 4.2.1 will have no affect on any safety limit setting or plant system operation and, therefore, does not modify or add any initiating parameters that would significantly increase the probability or consequences of any previously analyzed accident.

The administrative change to correct a typographical error on Table 4.2.1 will have no affect on plant hardware, plant design, safety limit setting or plant system operation and, therefore, does not modify or add any initiating parameters that would significantly increase the probability or consequences of any previously analyzed accident.

Therefore, it is concluded that there is not a significant increase in the probability or consequence of an accident previously evaluated.

2. The proposal to change instrument Tag Nos. does not result in any function changes or changes to Technical Specification requirements pertaining to these functions.

The proposed change does not involve any change in Technical Specification trip setpoints, plant operation, redundancy, protective function or design basis of the plant. There is no impact on any existing safety analysis or safety design limits. Low Reactor Pressure instrumentation functions do not initiate nuclear system parameter variations which are considered potential initiating causes of threats to the fuel and the nuclear system process barrier or that would create any new or different kind of accident.

As discussed above, the proposed administrative change only corrects a typographical error concerning equipment identification numbers. This change does not affect any equipment and it does not involve any potential initiating events that would create any new or different kind of accident.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposal to change the identification numbers for certain reactor pressure instrumentation as included in the Technical Specifications for ECCS Actuation Instrumentation does not affect any existing safety margins. The change by itself is administrative. The hardware changes which have resulted in a need to change the Technical Specifications have been reviewed per 10 CFR 50.59(a)(2) and determined to not constitute an unreviewed safety question.

The change in Tag Nos. or the change in the instrumentation used to measure low

reactor pressure does not preclude the ability of the Core Spray (CS) or Low Pressure Coolant Injection (LPCI) Systems to perform their safety function to mitigate the consequences of accidents or of any other safety system to accomplish its safety functions. Proper post-accident ECCS functioning will still be provided by safety class instruments used to measure reactor pressure.

The change to instrument Tag Nos. as listed in the Technical Specifications has no affect on the bases of Protective Instrumentation which is to operate to initiate required system protective actions. The changes to be implemented which have resulted in a need to change the Technical Specifications will actually improve the accuracy of reactor pressure measuring loops.

[***]

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Attorney for licensee: John A. Ritsher, Esquire, Ropes and Gray, One International Place, Boston, Massachusetts 02110–2624.

NRC Project Director: Walter R. Butler.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Power Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: December 22, 1994.

Description of amendment request: The proposed amendment would modify Point Beach Nuclear Plant Technical Specification (TS) Section 15.3.3, ''Emergency Core Cooling System, Auxiliary Cooling Systems, Air Recirculation Fan Coolers, and Containment Spray,'' TS Section 15.3.4, ''Steam and Power Conversion System,'' TS Section 15.3.5, ''Instrumentation System,'' TS Section 15.3.7, ''Auxiliary Electrical Systems,'' TS Section 15.3.14, ''Fire Protection System,'' and TS Section 15.4.1, ''Operation Safety Review.'' The modifications would delete obsolete TSs, would provide spring 1995 outage-specific TSs as part of the ongoing diesel upgrade project, would update several TSs to be consistent with the upgrade project design changes, and would change one monthly testing requirement. In addition, the bases for Section TS 15.3.7 would be modified to be consistent with the proposed TS changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

In accordance with the requirements of 10 CFR 50.91(a), Wisconsin Electric Power Company (Licensee) has evaluated the proposed changes against the standards of 10 CFR 50.92 and has determined that the operation of Point Beach Nuclear Plant, Units 1 and 2, in accordance with the proposed amendments [sic] does not present a significant hazards consideration. The analysis of the requirements of 10 CFR 50.92 and the basis for this conclusion are as follows:

1. Operation of the facility under the proposed Technical Specifications will not create a significant increase in the probability or consequences of an accident previously evaluated.

The probabilities of accidents previously evaluated are based on the probability of initiating events for these accidents. Initiating events for accidents previously evaluated for Point Beach include: control rod withdrawal and drop, CVCS malfunction (Boron Dilution), startup of an inactive reactor coolant loop, reduction in feedwater enthalpy, excessive load increase, losses of reactor coolant flow, loss of external electrical load, loss of normal feedwater, loss of all AC power to the auxiliaries, turbine overspeed, fuel handling accidents, accidental releases of waste liquid or gas, steam generator tube rupture, steam pipe rupture, control rod ejection, and primary coolant system ruptures.

This license amendment request proposes to remove the specifications associated with the 4160 volt safeguards bus tie, add and modify specifications associated with the degraded and loss of voltage protection functions, and remove specifications and surveillance exceptions that are obsolete. The modifications being performed and the changes proposed by this license amendment request have been reviewed and we conclude that these changes do not increase the probability of any initiating event for accidents previously analyzed for Point Beach Nuclear Plant.

The consequences of the accidents previously evaluated in the PBNP FSAR are determined by the results of analyses that are based on initial conditions of the plant, the type of accident, transient response of the plant, and the operation and failure of equipment and systems. The changes proposed in this license amendment request provide appropriate limiting conditions for operation, action statements, allowable outage times, surveillances and bases for the Point Beach Nuclear Plant Technical Specifications.

The proposed specification that allows a Train A service water pump powered from the alternate shutdown system to be considered operable under the provisions of Technical Specification 15.3.0.c is appropriate to maintain operability of the service water system for the continued safe operation of Unit 2 under the applicable standby emergency power limiting condition for operation.

The modifications that are being performed have been designed and will be installed in accordance with the applicable design and installation requirements for Point Beach Nuclear Plant.

Therefore, this proposed license amendment does not affect the consequences of any accident previously evaluated in the Point Beach Nuclear Plant FSAR because the factors that are used to determine the consequences of accidents are not being changed.

2. Operation of this facility under the proposed Technical Specifications change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

New or different kinds of accidents can only be created by new or different accident initiators or sequences. New and different types of accidents (different from those that were originally analyzed for Point Beach) have been evaluated and incorporated into the licensing basis for Point Beach Nuclear Plant. Examples of different accidents that have been incorporated into the Point Beach Licensing basis include anticipated transients without scram and station blackout.

The modifications being performed and the changes proposed by this license amendment request have been reviewed and we conclude that these changes do not create any new or different accident initiators or sequences. Therefore, these modifications and proposed Technical Specification changes do not create the possibility of an accident of a different type than any previously evaluated in the Point Beach FSAR.

3. Operation of this facility under the proposed Technical Specifications change will not create a significant reduction in a margin of safety.

The margins of safety for Point Beach are based on the design and operation of the reactor and containment and the safety systems that provide their protection. The modifications that are being performed have been designed and will be installed in accordance with the applicable design and installation requirements for Point Beach Nuclear Plant.

The modification to change the loss of voltage protection function from 1-out-of-2 logic on each bus to 2-out-of-3 logic on each bus is an improvement over the original design, because with the new design an inadvertent trip of a single channel will not cause the protection actions. Also, when any single channel is taken out-of-service for testing, maintenance, or calibration it can be placed in the trip condition to allow actuation of the protection function by the trip of either of the remaining operable channels.

The Technical Specification change to allow an operating pump powered from alternate shutdown to be considered operable is justified because the pump is able to perform its safety function powered from the alternate shutdown power source. The alternate shutdown system is powered via offsite power or from the onsite gas turbine generator and is being considered a normal power supply for the service water pump.

The alternate shutdown system was installed to provide an alternate means of

providing power to service water pumps, component cooling water pumps, and residual heat removal pumps for certain 10 CFR 50 Appendix R fire scenarios in which the normal power supplies for this equipment become inoperable. As such, the alternate shutdown system is a qualified alternate source of power for the service water pump.

Therefore, the margins of safety for Point Beach are not being reduced because the design and operation of the reactor and containment are not being changed and the safety systems that provide their protection that are being changed are being modified in accordance with the applicable design and installation requirements for the Point Beach Nuclear Plant.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin 54241.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Leif J. Norrholm.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed no Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Unit Nos. 1, 2, and 3, Maricopa County, Arizona

Date of application for amendments: October 31, 1994, supplemented by letter dated December 28, 1994.

Brief description of amendment requests: The proposed amendments would change the refueling machine overload cutoff limit from less than or equal to 1556 pounds to less than or equal to 1600 pounds. The change is a consequence of the fuel assembly weight increase which resulted from design and fabrication improvements.

Date of individual notice in **Federal Register**: January 6, 1995 (60 FR 2160).

Expiration date of individual notice: February 6, 1995.

Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004.

Entergy Operations, Inc., Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: August 30, 1994.

Description of amendment request: The proposed amendment revises technical specifications to address the installation of two battery chargers on each vital 125 vdc power train in lieu of the ''swing'' battery charger that is currently used.

Date of individual notice in the **Federal Register**: January 17, 1995 (60 FR 3439).

Expiration date of individual notice: February 16, 1995.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 728011.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: October 21, 1994.

Brief description of amendment request: The proposed amendment would add the Special Test Exception 3/4.10.6, ''Inservice Leak and Hydrostatic Testing,'' that allows the performance of pressure testing at reactor coolant temperature up to 212 °F while remaining in OPERATIONAL CONDITION 4. This special test exception would also require that certain OPERATIONAL CONDITION 3 Specifications for Secondary Containment Isolation, Secondary Containment Integrity and Standby Gas Treatment System operability be met. This change would also revise the Index, Table 1.2, ''OPERATIONAL CONDITIONS,'' and the Bases to incorporate the reference to the proposed special test exception.

Date of publication of individual notice in **Federal Register**: December 22, 1994 (59 FR 66057).

Expiration date of individual notice: January 23, 1995.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: December 8, 1994.

Brief description of amendment: The proposed amendment would revise Section 4.4 of the Indian Point 3 Technical Specifications. Specifically, TS 4.4.E.1 would be revised to allow a one-time extension to the 30-month interval requirement for leak rate testing of Residual Heat Removal (RHR) containment isolation valves AC–732, AC–741, AC–MOV–743, AC–MOV–744, and AC–MOV–1870. This one-time extension for leak rate testing of the RHR valves would be deferred until prior to return to power following the current outage, which is defined as prior to T_{avg} exceeding 350 °F.

Date of publication of individual notice in **Federal Register**: December 13, 1994 (59 FR 64224).

Expiration date of individual notice: January 12, 1995.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: December 16, 1994.

Brief description of amendments: This amendment would revise Technical Specifications regarding diesel generator surveillance requirements.

Date of publication of individual notice in the **Federal Register**: December 22, 1994 (59 FR 67350).

Expiration date of individual notice: January 23, 1995.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: January 3, 1995.

Brief description of amendments: The amendments add a permissive statement to Surveillance Requirement 4.9.7.1 that

will allow the auxiliary building bridge crane interlocks and physical stops to be defeated during implementation of the spent fuel pool storage capacity increase modification.

Date of publication of individual notice in the **Federal Register**: January 9, 1995 (60 FR 2404).

Expiration date of individual notice: January 24, 1995.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennesee 37402.

Notice of Insurance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Baltimore Gas and Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: September 23, 1994.

Brief description of amendments: The amendments revise the Unit 2 Shutdown AC Power Sources TSs to permit a one-time increase the allowed outage time (AOT) from 7 to 14 days for the dedicated Class IE emergency power system and the Unit 1 control room emergency ventilation system TSs to permit a one-time increase the AOT from 7 to 30 days. These one-time extensions are necessary to support modifications scheduled to be implemented during the upcoming 1995 Unit 2 refueling outage.

Date of issuance: January 11, 1995.

Effective date: As of the date of issuance to be implemented during the 1995 Unit 2 refueling outage.

Amendment Nos.: Unit 1–202 and Unit 2–180.

Facility Operating License Nos. DPR–53 and DPR–69: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 26, 1994 (59 FR 53835).

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated January 11, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: May 15, 1993, as supplemented February 17, 1994, February 25, 1994, and November 23, 1994.

Brief description of amendment: The amendment deletes Section 2.C.(8) of the Facility Operating License NPF–63, and deletes Attachment 1 to the License, in response to your request dated May 15, 1993, as supplemented February 17, 1994, February 25, 1994, and November 23, 1994

Date of issuance: January 12, 1995.

Effective date: January 12, 1995.

Amendment No. 53.

Facility Operating License No. NPF–63. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: June 9, 1993 (58 FR 32378).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 12, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Commonwealth Edison Company, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: June 3, 1994.

Brief description of amendments: The amendments revise Byron and Braidwood technical specifications (TSs) to reflect a primary-to-secondary leakage rate of 150 gallons per day through any one steam generator and to reflect an inservice inspection of a minimum of 20 percent of a random sample of the sleeves at the end-of-cycle. The amendment also adds a condition to the licenses to conduct additional corrosion testing to establish the design life for the sleeved tubes in the presence of a crevice. The revised TSs are more conservative than the previous TSs and were requested in order to increase the confidence in the ability of sleeves to maintain primary-to-secondary integrity.

Date of issuance: January 6, 1995.

Effective date: January 6, 1995.

Amendment Nos.: 67, 67, 57, and 57.

Facility Operating License Nos. NPF–37, NPF–66, NPF–72 and NPF–77: The amendments revised the operating licenses and TSs.

Date of initial notice in **Federal Register**: October 12, 1994 (59 FR 51613). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 6, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: For Byron, the Byron Public Library, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Commonwealth Edison Company, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: November 7, 1994, as supplemented December 16, 1994.

Brief description of amendments: The amendments approve the use and storage of fuel with an enrichment not to exceed a nominal 5.0 weight percent U–235 in the spent fuel racks.

Date of issuance: January 20, 1995.

Effective date: January 20, 1995.

Amendment Nos.: 68, 68, 58, and 58.

Facility Operating License Nos. NPF–37, NPF–66, NPF–72 and NPF–77: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 7, 1994 (59 FR 63115). The December 16, 1994, submittal provided additional clarifying information that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in an Environmental Assessment dated January 13, 1995, and in a Safety Evaluation dated January 20, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: For Byron, the Byron Public Library, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: January 10, 1994, as supplemented September 15, 1994, January 5 and 10, 1995.

Brief description of amendments: The amendments revise Technical Specification (TS) Table 2.2–1 and TS 4.2.5 to allow a change in the method for measuring reactor coolant system (RCS) flow rate from the calorimetric heat balance method to a method based on a calibration of the RCS cold leg elbow differential pressure taps.

Date of issuance: January 12, 1995.

Effective date: To be implemented within 30 days from the date of issuance.

Amendment Nos.: 153 and 135.

Facility Operating License Nos. NPF–9 and NPF–17: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: February 16, 1994 (59 FR 7688). The September 15, 1994, January 5 and 10, 1995, letters provided clarifying information that did not change the scope of the January 10, 1994, application, the **Federal Register** Notice or the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 12, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application for amendments: November 2, 1994.

Brief description of amendments: These amendments clarify the actions required in the event of inoperable equipment associated with containment depressurization and cooling systems, and provide consistency between Unit 1 and Unit 2 requirements.

Date of Issuance: January 18, 1995.

Effective Date: January 18, 1995.

Amendment Nos.: 131 and 70.

Facility Operating License Nos. DPR–67 and NPF–16: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 7, 1994 (59 FR 63122).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 18, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954–9003.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: April 19, 1994.

Brief description of amendments: These amendments consist of changes to the Technical Specifications relating to surveillance requirements for inservice inspection and testing programs.

Date of issuance: January 11, 1995.

Effective date: January 11, 1995.

Amendment Nos. 171 and 165.

Facility Operating Licenses Nos. DPR–31 and DPR–41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 25, 1994 (59 FR 27054).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 11, 1995.

No significant hazards consideration comments received: No

Local Public Document Room location: Florida International University, University Park, Miami, Florida 33199.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–424, Vogtle Electric Generating Plant, Unit 1, Burke County, Georgia

Date of application for amendment: August 16, 1994.

Brief description of amendment: The amendment eliminated License Condition 2.C.(6) and the associated Attachment 1 of the license. License Condition 2.C.(6) referenced Attachment 1 which listed special diesel generator maintenance and surveillance requirements.

Date of issuance: January 20, 1995.

Effective date: To be implemented within 30 days from the date of issuance.

Amendment No.: 81.

Facility Operating License Nos. NPF–68: Amendment revised the Facility Operating License.

Date of initial notice in **Federal Register**: September 6, 1994 (59 FR 46071).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 20, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: March 31, 1994.

Brief description of amendments: The changes revised TS Table 3.7–1 by lowering the maximum allowable power range neutron flux high setpoint when one or more main steam safety valves (MSSVs) are inoperable. The changes also revised the Bases for TS 3/4.7.1.1

to include the Westinghouse algorithm for determining the new setpoint values.

Date of issuance: January 20, 1995.

Effective date: To be implemented within 30 days from date of issuance.

Amendment Nos.: 82 and 60.

Facility Operating License Nos. NPF–68 and NPF–81: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 20, 1994 (59 FR 37071).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 20, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: May 20, 1994.

Brief description of amendments: The amendments relocate the heat flux hot channel factor, $F_Q(Z)$, penalty of 2 percent in specification 4.2.2.2.f to the cycle-specific Core Operating Limits Report (COLR) to allow for burnup-dependent values of the penalty in excess of 2 percent. This amendment also revises the reference in specification 6.8.1.6 to the Westinghouse $F_Q(Z)$ surveillance methodology in order to reflect Revision 1 of WCAP–10216–P, ''Relaxation of Constant Axial Offset Control—F_Q Surveillance Technical Specification,'' approved by the NRC on November 26, 1993.

Date of issuance: January 11, 1995.

Effective date: To be implemented within 30 days from the date of issuance.

Amendment Nos.: 79 and 58.

Facility Operating License Nos. NPF–68 and NPF–81: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 20, 1994 (59 FR 37072). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 11, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: August 16, 1994.

Brief description of amendments: The amendments change Technical Specification 3/4.7.1.1 and its Bases regarding the setpoint tolerance for the main steam safety valves.

Date of issuance: January 12, 1995.

Effective date: To be implemented within 30 days from the date of issuance.

Amendment Nos.: 80 and 59.

Facility Operating License Nos. NPF–68 and NPF–81: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 14, 1994 (59 FR 47168).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 12, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830.

IES Utilities Inc., Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: July 29, 1994.

Brief description of amendment: The proposed amendment would revise the Technical Specifications by deleting reference to written relief from ASME Code requirements. The revised Technical Specifications refer to the applicable provision of NRC regulations concerning the ASME Code.

Date of issuance: January 6, 1995.

Effective date: January 6, 1995, to be implemented within 120 days.

Amendment No.: 206.

Facility Operating License No. DPR–49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 31, 1994 (59 FR 45026).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 6, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, SE., Cedar Rapids, Iowa 52401.

Maine Yankee Atomic Power Company, Docket No. 50–309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: March 15, 1994, as supplemented October 20, 1994.

Brief description of amendment: This amendment allows the use of integral fuel burnable absorbers as a method of controlling core excess reactivity and maintaining core power distribution within acceptable peaking limitations.

Date of issuance: January 17, 1995

Effective date: January 17, 1995.

Amendment No.: 145.

Facility Operating License No. DPR–36: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 28, 1994 (59 FR 22010).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 17, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578.

Niagara Mohawk Power Corporation, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of application for amendment: October 5, 1994.

Brief description of amendment: The amendment revises the applicability requirements of Technical Specification (TS) 3.7.3 to require operability of the Control Room Outdoor Air Special Filter Train System in Operational Conditions 1, 2, 3 and ** rather than in all Operational Conditions and **. The applicability requirements for Action Statement b. of TS 3.7.3 and for the Radiation Monitoring Instrumentation required operable by TS Tables 3.3.7.1–1 and 4.3.7.1–1 are being changed in a similar manner. The amendment also adds a notation to Action Statement b.1. of TS 3.7.3 stating that the provisions of TS 3.0.4 are not applicable for entry into Operational Condition ** when one filter train is inoperable provided an operable filter train is in operation in the emergency pressurization mode of operation.

Date of issuance: January 18, 1995.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 60.

Facility Operating License No. NPF–69: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: November 9, 1994 (59 FR 55874).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 18, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Northeast Nuclear Energy Company, Docket No. 50–245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

Date of application for amendment: October 4, 1994.

Brief description of amendment: The amendment relocates the primary containment isolation valve list from Technical Specification (TS) Section 3.7.D to the Millstone Unit 1 Technical Requirements Manual. This change is in accordance with the guidance of Generic Letter 91–08. The amendment also makes administrative and editorial changes to TS Sections 3.7.D and 4.7.D and makes changes to the associated bases.

Date of issuance: January 10, 1995.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 78.

Facility Operating License No. DPR–21. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 23, 1994 (59 FR 60383)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 10, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resource Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, CT 06360.

Northeast Nuclear Energy Company, Docket No. 50–245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

Date of application for amendment: October 14, 1994.

Brief description of amendment: The amendment clarifies the low pressure coolant injection requirements as required by Technical Specification 4.5.A.2.

Date of issuance: January 9, 1995.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 77.

Facility Operating License No. DPR–21. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 7, 1994 (59 FR 63125).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 9, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resource Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, CT 06360.

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: September 9, 1994, with clarifying information provided by letter dated October 5, 1994.

Brief description of amendment: The amendment revises the Technical Specifications to modify surveillance requirements by increasing the acceptance criterion for the closure of the main steam isolation valves from 5 seconds to 10 seconds.

Date of issuance: January 10, 1995.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 101.

Facility Operating License No. NPF–49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 19, 1994 (59 FR 47960). The October 5, 1994, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated Janaury 10, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, CT 06360.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendments: October 17, 1994, as supplemented October 27, 1994.

Brief description of amendments: The amendments revise the Prairie Island Nuclear Generating Plant Technical Specifications to change the submittal frequency of the Radioactive Effluent Release Report from semiannual to annual in accordance with 10 CFR Part 50.36a.

Date of issuance: January 11, 1995.

Effective date: January 11, 1995, with full implementation within 30 days.

Amendment Nos.: 114 and 107.

Facility Operating License Nos. DPR–42 and DPR–60. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 7, 1994 (59 FR 63125) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 11, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: July 27, 1994.

Brief description of amendments: These amendments revise the Technical Specifications (TS) definition of ''Core Alteration'' to conform to the definition approved by the staff for the current boiling water reactor (BWR) improved TS in NUREG–1433, ''Standard Technical Specifications, General Electric Plants, BWR/4.''

Date of issuance: January 3, 1995.

Effective date: January 3, 1995.

Amendment Nos.: 138 and 108.

Facility Operating License Nos. NPF–14 and NPF–22. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 14, 1994 (59 FR 47177).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 3, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Osterhout Free Library,

Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: August 22, 1994.

Brief description of amendments: These amendments change Technical Specifications 3/4.1.3 to: (1) Extend the scram discharge volume (SDV) vent or drain valve restoration time from the current time period of 24 hours to 7 days; (2) permit the SDV vent and drain valves operability check to be performed at shutdown conditions instead of at-least-once-per-18-months; and (3) delete the SDV float switch response surveillance requirement.

Date of issuance: January 9, 1995.

Effective date: January 9, 1995.

Amendment Nos.: 139 and 109.

Facility Operating License Nos. NPF–14 and NPF–22. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 28, 1994 (59 FR 49433).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 9, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: September 26, 1994.

Brief description of amendments: The amendments change the Technical Specifications for each of the units to remove the requirement for the average power range monitors (APRMs) to be operable while the plant is in Operational Condition 5, refueling status. However, the amendment does not change the requirement for the APRMs to be operable when the reactor mode switch is in Startup during a shutdown margin demonstration.

Date of issuance: January 9, 1995.

Effective date: January 9, 1995.

Amendment Nos.: 140 and 110.

Facility Operating License Nos. NPF–14 and NPF–22. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 9, 1994 (59 FR 55880).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 9, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Philadelphia Electric Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: August 25, 1993, as supplemented by letter dated August 4, 1994.

Brief description of amendments: These amendments modify Technical Specification (TS) Section 3.3.7.8.2 and associated Bases 3/4.3.7.8 regarding the Main Control Room (MCR) toxic gas detection system. The TS change reflects the implementation of a modification designed to eliminate spurious high toxic gas concentration alarms received by the MCR.

Date of issuance: January 19, 1995.

Effective date: January 19, 1995.

Amendment Nos. 84 and 45.

Facility Operating License Nos. NPF–39 and NPF–85. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 29, 1993 (58 FR 50971).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 19, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Philadelphia Electric Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: July 20, 1994, as supplemented September 23, 1994.

Brief description of amendments: The amendments would raise the Steam Leakage Detection system set-points that isolate the High Pressure Coolant Injection System (HPCI) and Reactor Core Isolation Cooling (RCIC) system equipment on high equipment room temperature and high delta temperature. The amendments are supported by a Limerick Generating Station modification to increase the environmental qualifications limits of the HPCI and RCIC systems to allow the systems to remain operable when equipment room cooling is unavailable.

Date of issuance: January 20, 1995.

Effective date: January 20, 1995.

Amendment Nos. 85 and 46.

Facility Operating License Nos. NPF–39 and NPF–85. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 14, 1994 (59 FR 47178).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 20, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: April 18,1994, as supplemented October 25, 1994.

Brief description of amendment: The amendment revises TS Section 3.14 (Fire Protection and Detection Systems—Limiting Conditions for Operation), TS Section 4.12 (Fire Protection and Detection Systems—Surveillances) and TS Section 6.0 (Administrative Controls) to relocate the fire protection requirements from the TSs to the IP3 Operational Specifications Manual. In addition, the amendment revised the IP3 Facility Operating License to include the NRC's standard fire protection license condition. These changes were made in accordance with the guidance provided in Generic Letter (GL) 86–10, ''Implementation of Fire Protection Requirements,'' and GL 88–12, ''Removal of Fire Protection Requirements from Technical Specifications.''

Date of issuance: January 13, 1995.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 157.

Facility Operating License No. DPR–64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 25, 1994 (59 FR 27065).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 13, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: December 8, 1994.

Brief description of amendment: The amendment revises TS section 4.4.E.1 to allow a one-time extension to the 30-month interval requirement for leak rate testing of Residual Heat Removal containment isolation valves AC–732, AC–741, AC-MOV–743, AC-MOV–744 and AC-MOV–1870.

Date of issuance: January 13, 1995.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 158.

Facility Operating License No. DPR–64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 13, 1994 (59 FR 64223).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 13, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: June 29, 1994, as supplemented December 2, 1994.

Brief description of amendment: The amendment revised Technical Specification (TS) Section 6.5, ''Review and Audit,'' and TS Section 6.8, ''Procedures,'' to establish a new review and approval process for nuclear safety-related procedures and to modify membership requirements for the Plant Operating Review Committee. The amendment also revised TS Section 6.5 to delete review and audit responsibilities for the Emergency and Security Plans consistent with Generic Letter 93–07, ''Modification of the Technical Specification Administrative Control Requirements for Emergency and Security Plans.''

Date of issuance: January 17, 1995.

Effective date: As of the date of issuance to be implemented within 90 days.

Amendment No.: 159.

Facility Operating License No. DPR–64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 20, 1994 (59 FR 37081).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 17, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: June 17, 1994, as supplemented December 2, 1994.

Brief description of amendment: The amendment revises Section 6.5, ''Review and Audit,'' and Section 6.8, ''Procedures,'' of the Technical Specifications (TSs) to establish a new review and approval process for nuclear safety-related procedures. The amendment also revises Section 6.5 to modify membership requirements for the Plant Operating Review Committee and to delete review and audit responsibilities for the Emergency and Security Plans from the TSs consistent with Generic Letter 93–07, ''Modification of the Technical Specification Administrative Control Requirements for Emergency and Security Plans.''

Date of issuance: January 18, 1995.

Effective date: As of the date of issuance to be implemented within 90 days.

Amendment No.: 222.

Facility Operating License No. DPR–59: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 20, 1994 (59 FR 37082).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 18, 1995.

No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: September 19, 1994.

Brief description of amendment: The amendment revised the Technical Specifications for the snubber visual inspection schedule.

Date of issuance: January 20, 1995.

Effective date: January 20, 1995 and to be implemented within 90 days.

Amendment No. 68.

Facility Operating License No. NPF–58. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 26, 1994 (59 FR 53843).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 20, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: May 1, 1992 as clarified by facsimile transmission dated January 10, 1995.

Brief description of amendment: The amendment revises the LIMITING CONDITIONS FOR OPERATION and SURVEILLANCE REQUIREMENTS for the containment air locks, changes the exception for containment penetration status verification to include the annulus, clarifies containment air lock testing intervals, and clarifies the definition and bases for containment integrity.

Date of issuance: January 17, 1995.

Effective date: Date of issuance and to be implemented within 90 days.

Amendment No. 194.

Facility Operating License No. NPF–3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 2, 1992 (57 FR 40221).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 17, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Washington Public Power Supply System, Docket No. 50–397, Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: August 8, 1994.

Brief description of amendment: The amendment modifies the Technical Specifications (TS) to delete the requirement to obtain prior written relief from the Commission for inservice inspection (ISI) and inservice testing (IST) of components conducts pursuant to 10 CFR 50.55a. The amendment also adds a definition for the word ''biennial.''

Date of issuance: January 5, 1995.

Effective date: January 5, 1995.

Amendment No.: 133.

Facility Operating License No. NPF–21: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 14, 1994 (59 FR 56558).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 5, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: November 23, 1993, as supplemented January 10, 12, and 13, 1995.

Brief description of amendments: These amendments revise the operating conditions and limiting conditions for operation for containment systems, and revise corresponding definitions and tests. In addition, the related bases are updated to ensure consistency and clarity.

Date of issuance: January 18, 1995.

Effective date: January 18, 1995, to be implemented within 45 days.

Amendment Nos.: 160 and 164.

Facility Operating License Nos. DPR–24 and DPR–27. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 19, 1994 (59 FR 2875).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 18, 1995.

The January 10, 12, and 13, 1995 submittals provided supplemental information that did not change the initial proposed no significant hazards consideration determination.

No significant hazards consideration comments received: No.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin 54241.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: October 27, 1993.

Brief description of amendment: The amendment changes Note 5 of Technical Specification Table 4.3–1 to reflect the use of integral bias curves, rather than detector plateau curves, to calibrate the source range instrumentation.

Date of issuance: January 9, 1995.

Effective date: January 9, 1995, to be implemented within 30 days.

Amendment No.: 83.

Facility Operating License No. NPF–42. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 24, 1993 (58 FR 62159). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 9, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: October 21, 1994, as supplemented by letters dated October 27, 1994 and December 2, 1994.

Brief description of amendment: This amendment revises Technical Specification (TS) Surveillance Requirements 4.7.1.2.1.c.2, operability testing of the auxiliary feedwater (AFW) pump auto start feature, and 4.3.2.2, engineered safety features (ESF) time response testing of the AFW pumps to exempt the testing of the turbine-driven AFW pump from the provisions of TS 4.0.4 for entry into Mode 3. In addition, TS Surveillance Requirement 4.7.1.2.1.c is revised to delete the requirement that the 18 month AFW surveillance be performed during shutdown.

Date of issuance: January 20, 1995.

Effective date: January 20, 1995, to be implemented within 30 days.

Amendment No.: 84.

Facility Operating License No. NPF–42. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 23, 1994 (59 FR 60389) The December 2, 1994, supplemental letter provided clarifying information and did not change the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 20, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Dated at Rockville, Maryland, this 25th day of January 1995.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Director, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–2350 Filed 1–31–95; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35278; File No. SR–CBOE–95–02]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing of Long-Term Index Options Series (''LEAPS'') With a Duration of Up to Sixty Months Until Expiration

January 25, 1995.

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 January 19, 1995, the Chicago Board Options Exchange (''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

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17CFR 240.19b–4 (1991).

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 proposes to amend Exchange Rule 24.9 to permit the listing of long-term index option series (''LEAPS'') with a duration of up to sixty months (five years). 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 Exchange 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 placed 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 Organizations's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to permit the Exchange to list index LEAPS with a duration of up to sixty months (five years).[3] Presently, the Exchange has authority pursuant to CBOE Rule 24.9(b) to list index LEAPS that expire from twelve to thirty-six months from the time they are listed. The Exchange represents that there has been increasing member firm and customer interest in longer term instruments. The Exchange, therefore, is proposing to amend Exchange Rule 24.9 to permit the listing of index options with up to sixth months until expiration. In addition, the Exchange proposes to amend Rule 24.9 to allow for up to ten additional expiration months for index LEAPS, as opposed to the six additional months currently allowed.

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act,[4] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

(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

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 Exchange consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–95–02 and should be submitted by February 22, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary,

[FR Doc. 95–2384 Filed 1–31–95; 8:45 am]

BILLING CODE 8010–01–M

[3] The Exchange withdrew its proposed rule change to list equity LEAPS with a duration of up to five years. See Securities Exchange Act Release No. 35032 (November 30, 1994), 59 FR 63149 (December 7, 1994) (notice of File No. SR–CBOE–94–42) and letter from Nancy L. Nielsen, Assistant Corporate Secretary, CBOE, to Sharon Lawson, Assistant Director, Office of Market Supervision Division of Market Regulation, Commission, Dated January 18, 1995.

[4] 15 U.S.C. § 78f(b)(5) (1988).

[5] 17 CFR 200.30–3(a)(12) (1994)

[Release No. 34–35280; File No. SR–CBOE–94–43]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing of Regular and Long-Term Index Options on the S&P SmallCap 600 Index

January 25, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on November 8, 1994, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Exchange filed Amendment No. 1 to the proposed rule change on January 9, 1995.[2] 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 its rules to provide for the listing and trading on the Exchange of cash-settled, European-style index options on the Standard & Poor's SmallCap 600 Index (''S&P SmallCap 600'' or ''Index''), a broad-based index designed to measure the performance of small capitalization stocks.

[1] 15 U.S.C. § 78s(b)(1).

[2] Amendment No. 1 provides the following information regarding the Index: (1) Industry groups represented; (2) price and volume information on the component stocks; and (3) component stock selection criteria. See letter from Eileen Smith, Director, Product Development, CBOE, to Steve Youhn, Division of Market Regulation, Commission, dated January 5, 1995 (''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 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 permit the Exchange to list and trade cash-settled, European-style stock index options on the S&P SmallCap 600. The S&P SmallCap 600 is a capitalization-weighted index of 600 domestic stocks chosen for market size, liquidity, and industry group representation.

(1) Index Design

the S&P SmallCap 600 Index has been designed to measure the performance of small capitalization stocks. The Index is a capitalization-weighted index of U.S. stocks with each stock affecting the Index in proportion to its market capitalization.

As of October 19, 1994, the 600 component stocks ranged in capitalization from $933 million to $46 million, and the market capitalization of the Index totalled $181 billion. The largest stock accounted for 0.51% of the total weighting of the Index, while the smallest accounted for 0.03%. The median capitalization of the firms in the index was $267 million. A breakdown of the stocks by trading markets shows that Nasdaq represents 53% of the Index (318 issues), the New York Stock Exchange represents 43% (257 issues), and the American Stock Exchange represents 4% (25 issues). The Nasdaq stocks in the Index are authorized as Nasdaq National Market securities, the top tier of Nasdaq stocks.

A total of 98 industry groups are represented in the Index. The top five groups and their weights are: (1) Computer Software and Services—9.01%; (2) Insurance—5.13%; (3) Savings and Loans—4.88%; (4) Health Care Services—4.31%; and (5) Banks—Regional—4.26%. During the period April through September 1994, the average monthly volume for the 600 stocks ranged from 93,000 to 25.3 million shares. The average monthly volume was 1.9 million shares. The top 100 stocks account for 33.42% of the index, while the bottom 100 stocks account for 5.69% of the Index. The prices for each of the components ranged from $1.375 to $64.5. The average price was $19.37. The shares outstanding for each of the stocks ranged from 4.0 million to 189.0 million with an average of 17.8 million.[3]

S&P relies on several criteria to select Index component stocks. Among other things, stocks must trade on the New York Stock Exchange, American Stock Exchange, or be Nasdaq National Market securities; stocks must trade above $1.00 at the time of selection; companies with 50% or more of their shares outstanding held by another corporation are not included; companies with 60% or more of their shares held by insiders are not included; stocks must have at least a six month trading history; stocks that do not trade on any three days during a 12-month period are not included; and share turnover (annual trading volume as a percent of shares outstanding) has to exceed 20% on an annualized basis. Index component stocks are then chosen from the field of stocks that meets these criteria so that they balance the economic sector weightings, described above.[4]

(2) Calculation

The methodology used to calculate the value of the Index is similar to that used to calculate the value of the S&P 500 Index. The value of the Index is determined by adding the price of each stock times the number of shares outstanding. This sum is then divided by an index divisor (''Index Divisor'') which gives the Index a value of 100 on its base date of December 31, 1993. The Index Divisor is adjusted for pertinent changes as described below in the section titled ''Maintenance.'' The Index has a closing value of 96.82 on September 30, 1994.

(3) Maintenance

The S&P SmallCap 600 will be maintained by S&P. To maintain continuity of the Index, the Index Divisor will be adjusted to reflect certain events relating to the component stocks. These events include, but are not limited to, adjustments for company additions and deletions, share changes, stock splits, stock dividends, and stock price adjustments due to company restructurings or spinoffs. Some corporate actions, such as stock splits and stock dividends, require simple changes in the common shares outstanding and the stock prices of the companies in the Index. Other corporate actions, such as share issuances, change the market value of the Index and require an Index Divisor adjustment as well.

(4) Index Option Trading

In addition to regular Index options, the Exchange may provide for the listing of long-term (up to three years expiration) index options series (''LEAPS'') and reduced-value LEAPS on the Index. For reduced-value LEAPS, the underlying value would be computed at one-tenth of the Index level. The current and closing index value of any such reduced-value LEAP will, after such initial computation, be rounded to the nearest one-hundredth.

The Exchange seeks to have the discretion to list series in 2½ point intervals when the Index level falls below 200. The minimum tick size for series trading below $3 will be 1/16 and for series trading above $3 the minimum tick will be ⅛th. The trading hours for options on the Index will be from 8:30 a.m. to 3:15 p.m. Chicago time.

(5) Exercise and Settlement

The proposed options on the Index will expire on the Saturday following the third Friday of the expiration month. Trading in the expiring contract month will normally cease at 3:15 p.m. (Chicago time) on the immediately preceding Thursday.[5] The Index multiplier will be 100. The exercise settlement value of the Index at option expiration will be calculated by S&P based on the opening prices of the component securities on the business day prior to expiration (''A.M. Settlement''). If a stock fails to open for trading, the last available price on the stock will be used in the calculation of the index, as is done for currently listed indexes.

(6) Surveillance

The Exchange will use the same surveillance procedures currently used for each of the Exchange's other index options to monitor trading in Index options and Index LEAPS on the S&P SmallCap 600. For surveillance purposes, the Exchange will have complete access to information

[3] See Amendment No. 1, *supra* note 2.

[4] *Id.*

[5] When the last trading day is moved because of Exchange holidays (such as when CBOE is closed on the Friday before expiration), the last trading day for expiring options will be Wednesday and the exercise settlement value of Index options at expiration will be determined at the opening of regular Thursday trading.

regarding trading activity in the underlying securities.

(7) Position Limits

The Exchange proposes to establish position limits for options on the S&P SmallCap 600 at 100,000 contracts on either side of the market, and no more than 60,000 of such contracts may be in the series in the nearest expiration month. The Exchange represents that these limits are roughly equivalent, in dollar terms, to the limits applicable to comparable small-capitalization indexes, including the Wilshire Small Cap Index and the Russell 2000 Index.

(8) Exchange Rules Applicable

As modified herein, the Rules in Chapter XXIV will be applicable to S&P SmallCap 600 options.

CBOE represents that it has the necessary systems capacity to support new series that would result from the introduction of S&P SmallCap 600 options. CBOE has also been informed that the Options Price Reporting Authority (''OPRA'') believes that it has the capacity to support such new series.[6]

The CBOE 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 will permit trading in options based on the S&P SmallCap 600 pursuant to rules designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principals of trade, and thereby will provide investors with the ability to invest in options based on an additional index.

(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

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, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–CBOE–94–43 and should be submitted by February 22, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–2387 Filed 1–31–95; 8:45 am]

BILLING CODE 8010–01–M

[6] See letter from Joseph P. Corrigan, Executive Director, OPRA, to Eileen Smith, Director, Product Development, CBOE, dated October 26, 1994.

[7] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–35275; File No. SR–NASD–94–68]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Temporary Approval and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 2 of Proposed Rule Change to Extend the Interim SOES Rules

January 25, 1995.

I. Introduction

On December 1, 1994, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The NASD proposes to extend through March 27, 1995 certain of the prior changes to its Small Order Execution System (''SOES'') that are scheduled to expire today. The currently effective prohibition on short selling in SOES would not be extended.

Specifically, the NASD proposes to extend changes that: (1) Reduced the maximum size order eligible for execution through SOES from 1,000 shares to 500 shares; (2) reduced the minimum exposure limit for ''unpreferenced'' SOES orders from five times the maximum order size to two times the maximum order size, and eliminated the exposure limits for ''preferenced orders''; and (3) implemented an automated function for updating market maker quotations when the market maker's exposure limit has been exhausted (collectively referred to hereinafter as the ''Amended Interim SOES Rules'').

In 1993, the Commission approved these changes to the SOES rules (as well as a short selling prohibition) on a one-year pilot basis.[3] Approval on a pilot basis was intended to permit the Commission to reconsider the effects of the rules in light of experience with the rules' operation in the marketplace.[4] The NASD now seeks extension of certain of these rules.

The NASD originally sought extension of the Amended Interim SOES Rules through May 1, 1995. Notice of that proposed rule change appeared in the **Federal Register** on December 16, 1994.[5] The Commission received comments from 58 commenters, with 12 supporting the proposal and 46 opposing it. On January 23, 1995, the NASD amended its proposal to request extension of the Amended Interim SOES Rules until March 27, 1995, rather than

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] Securities Exchange Act Release No. 33377 (Dec. 23, 1993), 58 FR 69419 (Dec. 30, 1993) (approving the Interim SOES Rules on a one-year pilot basis effective January 7, 1994). See also Securities Exchange Act Release No. 33424 (Jan. 5, 1994) (order denying stay and granting interim stay through January 25, 1994) and Securities Exchange Act Release No. 33635 (Feb. 17, 1994) (order denying renewed application for stay).

[4] Securities Exchange Act Release No. 33377 (Dec. 23, 1993), 58 FR 69419 (Dec. 30, 1993).

[5] The NASD amended the proposed rule change twice since it was originally filed with the Commission on December 1, 1994. The first amendment was included in the Commission's original notice. Securities Exchange Act Release No. 35077 (Dec. 9, 1994), 59 FR 65105 (Dec. 16, 1994).

until May 1, 1995.[6] For the reasons discussed below, this order approves the proposed rule change until March 27, 1995.

II. Description of the Proposed Rule Change

As noted above, the NASD has proposed to extend three of the four Interim SOES Rules that became effective January 25, 1994. The proposal does not include extending the short sale prohibition beyond January 25, 1995; thus, effective January 26, 1995, short sales in compliance with the NASD's short sale rule applicable to the Nasdaq market as a whole will be permitted in SOES.[7] The following restrictions will be effective until March 27, 1995:

(1) *SOES Maximum Order Size:* The maximum size order eligible for SOES execution will be 500 shares for the highest tier of Nasdaq National Market securities.[8]

(2) *SOES Minimum Exposure Limit:* The market maker's SOES minimum exposure limit will be two times the maximum order size. The rule change continues the application of the minimum exposure limit to unpreferenced orders only, so that preferenced orders will not count toward depletion of the minimum exposure limit.

(3) *Automated Quotation Updates:* The NASD proposes to continue providing an automated quotation update function for marker makers using SOES, at their election, on an issue-by-issue basis. If the automated update function is not used, when a market maker depletes its exposure limit in SOES, the market maker's quotation is closed to SOES executions until the market maker updates its quote and reestablishes its exposure limit. If used, the function updates a market maker's quotation in any Nasdaq security when its exposure limit has been exhausted, and reestablishes the original quotation size and exposure limit, thereby preventing closed quotations. Market makers electing to use the feature can set the fractional interval of the quotation update for each security and set their exposure limit at the maximum order size for that security that is, 500 shares for the highest tier of Nasdaq National Market securities.

In light of the NASD's implementation of short sale prohibitions on September 6, 1994,[9] the NASD will terminate the prohibition against short selling through SOES. Thus, beginning January 26, 1995, short sales in compliance with the NASD's short sale rule will be permitted through SOES.

III. Comments

Commenters supporting and opposing the proposal stated reasons similar to those put forth in response to the NASD's original proposal to adopt the Interim SOES Rules.[10] Commenters supporting the proposal argue that the Amended Interim SOES Rules will limit the exposure of market makers to multiple executions, which should produce narrower spreads and more liquid markets. Those opposing extension of the rules argue that market makers have ample opportunity to update their quotes in order to avoid multiple SOES executions. They contend that two studies submitted by proponents of the rules fail to show any increase in market quality as a result of the rules. They also argue that the SOES immediate automatic execution feature provides them the only meaningful access to the Nasdaq market because, they allege, market makers do not honor their quoted prices on the telephone or through SelectNet. These commenters assert that they cannot obtain quote-based trade executions except through SOES and that the Interim SOES Rules have thereby restricted their access to Nasdaq and the ability of certain customers to receive executions at quoted prices. These commenters argue that the Interim SOES Rules thus produce unfair discrimination and an inappropriate burden on competition.

IV. Discussion

The Commission must approve a proposed NASD rule change if it finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that govern the NASD.[11] In evaluating a given proposal, the Commission examines the record before it and relevant factors and information.[12] After balancing the advantages and disadvantages of extension, the Commission believes that limited extension of the Amended Interim SOES Rules through March 27, 1995 meets the above standards and is necessary and appropriate in the public interest and for the protection of investors. As discussed in more detail below, the Commission does not believe that, on the basis of the information before it, an extension of the Amended Interim SOES Rules beyond 60 days is justified under the applicable statutory standard. Nevertheless, because much information has been made available only recently, the Commission has determined that it is appropriate to provide this brief phase-out period (until March 27, 1995), which will enable the market to make an orderly transition.[13]

Because the Interim SOES Rules were approved only for a pilot period, the Commission noted in its approval order that it expected to revisit the issues presented by the NASD's proposal.[14] In

[6] Letter from T. Grant Callery, Vice President & General Counsel, NASD, to Mark Barracca, Branch Chief, SEC (Jan. 23, 1995).

[7] NASD Manual, Rules of Fair Practice, Sec. 48, CCH ¶ 2200H.

[8] Market makers must continue to display a size of 1,000 shares in their quotations for these securities, and to be firm for a minimum of 1,000 shares at their published quotation, for any negotiated transaction through SelectNet or over the telephone. See NASD Manual, Schedules to the By-Laws, Schedule D, Part VI, Sec. 2(a)—(b), CCh ¶ 1819.

[9] Securities Exchange Act Release No. 34277 (June 29, 1994), 59 FR 34885 (July 7, 1994) (approval of the NASD's short sale rule, effective September 6, 1994).

[10] These comments addressed the proposal to extend the Interim SOES Rules through May 1, 1995, as originally filed. As amended, those rules would now expire March 27, 1995. See *supra* note 5.

[11] 15 U.S.C. § 78s(b). The Commission's statutory role is limited to evaluating the rules as proposed against the statutory standards. See S.Rep. No. 75, 94th Cong., 1st. Sess., at 13 (1975).

[12] In the 1975 Amendments, Congress directed the Commission to use its authority under the Act, including its authority to approve SRO rule changes, to foster the establishment of a national market system and promote the goals of economically efficient securities transactions, fair competition, and best execution. Congress granted the Commission ''broad, discretionary powers'' and ''maximum flexibility'' to develop a national market system and to carry out these objectives. Furthermore, Congress gave the Commission ''the power to classify markets, firms, and securities in any manner it deems necessary or appropriate in the public interest or for the protection of investors and to facilitate the development of subsystems within the national market system.'' S. Rep. No. 75, 94th Cong., 1st Sess., at 7 (1975).

[13] The Commission does not believe that further extension of these restrictions without changes to benefit public investors would be appropriate.

[14] Both proponents of and opponents to the 1994 Interim SOES Rules argued that imposing the rules would affect the Nasdaq market. Opponents argued that the rules would heighten volatility and widen spreads. *E.g.*, Letters to Jonathan G. Katz, Secretary, SEC, from Michael Frey, President, A.J. Michaels & Co., at 7 (May 11, 1993); Douglas P. Ralston, President, Shearman, Ralston Inc., at 1 and 6 (May 10, 1993); and Harvey L. Pitt, counsel for Dina Securities, Inc., at 15 (June 11, 1993). The NASD and its supporters, on the other hand, argued that placing certain restrictions on the use of SOES, for example, lowering the maximum order size, would act to decrease volatility and narrow spreads. Securities Exchange Act Release No. 32143 (Apr. 14, 1993), 58 FR 21484 (Apr. 21, 1993) (notice of the NASD's proposed Interim SOES Rules, File No. SR–NASD–93–16). The Commission's December 1993 SOES order describes in some detail the order size reduction, the minimum order exposure limit reductions, and the automated quotation update feature that the NASD proposes to extend. See Securities Exchange Act Release No. 33377 (Dec. 23, 1993), 58 FR 69419 (Dec. 30, 1993). That order also discusses the NASD's rationale for these

approving the Interim SOES Rules, the Commission noted its concern over the lack of reliable statistical analysis. The Commission approved the rules, however, among other reasons, because of the rules' limited duration and because of the agency's commitment to monitor the rules' effects.[15] The Commission stated that extension of the Interim SOES Rules or other similar modifications upon expiration of the Interim SOES Rules would ''require an independent consideration under Section 19 of the Act.''[16]

In connection with its extension request, the NASD submitted an econometric study conducted by the NASD's Economic Research Department[17] and commissioned a consulting economist to provide an assessment of the effect of the Interim SOES Rules.[18] In summary, the NASD's Economic Research Department found that since implementation of the Interim SOES Rules: (a) Spreads in Nasdaq securities have declined; and (b) volatility of Nasdaq securities appears to be unchanged, except for brief, market-wide period of volatility in March and April 1994. The commissioned study reported that while percentage quoted spreads increased a statistically insignificant amount, percentage quoted spreads, adjusted for other determining factors, declined by a statistically significant, but economically insignificant, amount. From this data, the author concluded that the Interim SOES Rules did not harm market quality.

An evaluation of the empirical data submitted by the NASD does not persuasively demonstrate that the quality of the market improved subsequent to the adoption of the Interim Rules. The evidence in both studies shows that spreads declined, but the results were only marginally significant, and the size of the reduction is too small to be important. Nevertheless, the Commission believes that these studies demonstrate that the Interim Rules have operated for one year with no apparent significant negative implications for overall market quality.

The absence of negative implications for market quality must be considered in conjunction with other effects of the Interim SOES Rules on the investing public. Commenters opposed to the Interim SOES Rules argue that the restrictions impose a burden on the ability of some customers to obtain execution of transactions in size in the Nasdaq market. They contend that, to the extent that the Interim Rules restrict their access to SOES, their ability to obtain executions is limited because they cannot effectively trade over the telephone and through SelectNet. In support of these arguments, they refer to a large number of complaints alleging that market makers have refused to fill trades now ineligible for SOES execution at their quoted prices. In addition, they have provided anecdotal information that certain SOES order entry firms have suffered serious drops in daily trading volume since approval of the Interim Rules. The Commission takes such allegations seriously, and is reviewing them as part of its obligation to oversee the securities markets.

As indicated above, the Commission has determined to approve the Amended Interim Rules through March 27, 1995. In light of the balance of factors described above, the Commission does not believe that further extension of this proposal would be appropriate.[19] The short extension the Commission has determined to approve will permit the market to make an orderly transition to operation in a changed environment. The Commission believes that such a measure is appropriate in the public interest. Moreover, the Commission notes that the Amended Interim Rules, unlike the rules currently in effect, will permit the entry of short sale orders. The Commission believes this will ameliorate during the phase-out period the burdens associated with the Interim SOES Rules by expanding the types of orders that are eligible for automatic execution.

The Commission notes that subsequent to approval of the Interim SOES Rules in December 1993, the NASD submitted a proposal to replace SOES with the Nasdaq Primary Retail Order View and Execution System (''N•PROVE''). As currently proposed, N•PROVE would differ from SOES in two general ways:

- N•PROVE would provide a facility for automated routing and execution of small orders, allowing market makers a 15 second opportunity to decline an order (if consistent with the Firm Quote Rule, permitting a brief period for quote updates). SOES generally provides immediate execution of orders against an assigned market maker at the best bid or offer and thereafter notifies the affected market maker; and
- N•PROVE would provide an opportunity for public limit orders to interact with other limit orders and incoming market orders, and for execution of market orders at prices superior to the best market maker quotes. SOES provides limited opportunity for such interaction.

In light of comments received as recently as January 9, 1995 concerning N•PROVE, as well as other developments in the Nasdaq market,[20] the Commission believes that the NASD's N•PROVE proposal warrants further assessment. Among other matters, commenters have raised concerns about the NASD's ability to monitor sufficiently market maker compliance with the Firm Quote Rule and the potential for significant order queues to develop. Before further Commission action on N•PROVE, the Commission believes that the NASD should address such issues, including the potential for queuing during periods of market stress, whether there are restrictions on access to the system inconsistent with the purposes of the Act, and whether there are adequate mechanisms to ensure effective oversight of market makers' compliance with the Firm Quote Rule.

changes to the SOES rules and the Commission's rationale for approving them for a one-year period.

[15] Securities Exchange Act Release No. 33377 (Dec. 23, 1993), 58 FR 69419 (Dec. 30, 1993).

[16] Securities Exchange Act Release No. 33377 (Dec. 23, 1993), 58 FR 69419 (Dec. 30, 1993) (footnote omitted). The Commission's order further stated that ''[t]he NASD should consider whether additional criteria for evaluating the effectiveness of the modifications are appropriate, and should include in its assessment of the modifications all factors that it deems relevant in evaluating the effects of the modifications [and] . . . [i]f an assessment is not feasible, the NASD should provide a reasoned explanation supporting that determination.'' *Id*.

[17] Securities Exchange Act Release No. 35080 (Dec. 9, 1994), 59 FR 65109 (Dec. 16, 1994). The NASD's Economic Research Department examined Nasdaq bid-ask spreads in specific stocks and price volatility on two sample days each month from November 1993 (three months prior to the effective date of the rules) through August 1994.

[18] Letter from John F. Olson, Counsel for the NASD, Gibson, Dunn & Crutcher, to Jonathan Katz, Secretary, SEC (Dec. 30, 1994) (submitting in connection with File No. SR–NASD–94–68 analysis entitled the Association Between the Interim SOES Rules and Nasdaq Market Quality prepared by Dean Furbush, Ph.D., Economists Incorporated (Dec. 30, 1994)). This analysis compared sample days in the three months prior to and three months after the effective date of the Interim SOES Rules.

[19] Of course, a different proposal that modified the Amended Interim Rules to provide additional public benefits would require an independent Commission determination.

[20] As has been widely disclosed, the Commission is conducting an inquiry into certain practices in the Nasdaq market and the Antitrust Division of the Department of Justice recently has made public an inquiry into whether Nasdaq market makers are violating federal antitrust laws. Although not tied directly to the Commission's consideration of the instant proposal, the Commission expects that these inquiries may provide valuable information that will affect future reform efforts and ultimately improve the quality of the Nasdaq market. In addition, the NASD has formed a committee headed by former U.S. Senator Warren Rudman to review the effectiveness of the operation and surveillance of Nasdaq and the governance of the NASD and Nasdaq.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number SR–NASD–94–68 and should be submitted by February 22, 1995.

VI. Conclusion

The Commission, in the exercise of the authority delegated to it by Congress, and in light of its experience regulating securities markets and market participants, has determined that a temporary extension of the Amended Interim SOES Rules will provide an orderly phase-out period and is consistent with maintaining investor protection and fair and orderly markets, and that these goals, on balance, outweigh any temporary anti-competitive effects on order entry firms and their customers.

For the reasons discussed in this order, pursuant to Section 19(b)(2) of the Act,[21] the Commission finds good cause for approving the proposed rule change, as amended, prior to the 30th day after publication of Amendment No. 2 in the **Federal Register**. The proposed amendment shortens the date that the Amended Interim SOES Rules would expire from May 1, 1995 to March 27, 1995, and will facilitate maintenance of fair and orderly markets. Prior to Amendment No. 2, the proposed rule change was published in the **Federal Register** for the full statutory period.

Accordingly, the Commission finds that the rule change is consistent with the Act and the rules and regulations thereunder applicable to the NASD and, in particular, Sections 15A(b)(6), 15A(b)(9), and 15A(b)(11). In addition, the Commission finds that the rule change is consistent with the Congressional objectives for the equity markets, set out in Section 11A, of achieving more efficient and effective market operations, fair competition among brokers and dealers, and the economically efficient execution of investor orders in the best market.

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the instant rule change SR–NASD–94–68 be, and hereby is, approved, effective January 26, 1995, extending the Interim SOES Rules, exclusive of the short sale prohibition, through March 27, 1995.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–2388 Filed 1–31–95; 8:45 am]

BILLING CODE 8010–01–M

[21] 15 U.S.C. § 78s(b)(2).

[Release No. 34–35274; File No. SR–NYSE–94–34]

Self-Regulatory Organizations; New York Stock Exchange, Notice of Filing of Extension of Comment Period Relating to Amendment of Exchange Rule 92—Limitations on Members' Trading Because of Customers' Orders

January 25, 1995.

On September 27, 1994, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–NYSE–94–34), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. § 78s(b)(1), and filed Amendment No. 1 thereto on December 20, 1994. The NYSE filed the proposal to amend NYSE Rule 92. Notice of the proposed rule change was provided by the issuance of a Commission release, Securities Exchange Act Release No. 35139 (December 22, 1994), 60 FR 156 (January 3, 1995).

The Commission received requests for extension of the period for public comment on the proposed rule change from several self-regulatory organizations (''SROs''). Pursuant to Section 19(b)(2) of the Act, the NYSE consented to an additional twenty-one day public comment period.[1] Because other SROs have expressed their intention to submit comments, a longer comment period is appropriate to ensure complete analysis of the proposal.

The Commission hereby extends the period for public comment on the proposed rule change until February 22, 1995.

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 NYSE. All submissions should refer to File No. SR–NYSE–94–34 and should be submitted by February 22, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–2382 Filed 1–31–95; 8:45 am]

BILLING CODE 8010–01–M

[1] Letter from Donald Siemer, NYSE, to Katherine Simmons, SEC, dated January 24, 1995

[Release No. 34–35277; File No. SR–PSE–94–24]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to the Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to Financial Arrangements of Options Market Makers

January 25, 1995.

On September 9, 1994, the Pacific Stock Exchange, Inc. (''PSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change regarding financial arrangements of market makers and the trading restrictions that are imposed on market makers who have financial

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1992).

arrangements with other members or member organizations. Notice of the proposal appeared in the **Federal Register** on December 23, 1994.[3] No comment letters were received on the proposed rule change. The Exchange filed Amendment No. 1 to the proposal on January 25, 1995.[4] This order approves the Exchange's proposal, as amended.

The Exchange is proposing several amendments to Exchange Rule 6.40 (Financial Arrangements of Market Makers). First, the Exchange is proposing to change its definition of ''financial arrangement.'' Specifically, instead of relying on the Exchange's definition of financial arrangement under Rule 4.18,[5] a financial arrangement for purposes of Rule 6.40 would exist if one member directly finances the other member's dealings upon the Exchange and has a beneficial interest in the other member's trading account such that the first member is entitled to at least ten percent of the second member's trading profits. In the alternative, a financial arrangement will be deemed to exist under Rule 6.40(a) where two members trade for the same joint account.

Second, the Exchange proposes to modify Rule 6.40(b) to provide that two floor officials, on the basis of demonstrated need, may grant a written exemption[6] to the trading restrictions imposed by the rule.[7]

Finally, the Exchange proposes to add several commentaries to Rule 6.40. Proposed Commentary .03 merely provides that for purposes of Rule 6.40(a), the term ''member'' includes members and member organizations.

Proposed Commentary .04 states the purpose of Rule 6.40 and further provides that any market makers who are not technically covered by the terms of Rule 6.40, but who unfairly dominate the market in any class of options, will be considered to be in violation of their obligation to contribute to the maintenance of fair and orderly markets and to act in accordance with just and equitable principles of trade.

Proposed Commentary .05 codifies the Exchange's existing policy that two or more Lead Market Makers (''LMMs'') who are trading on behalf of the same member organization may not bid, offer, and/or trade in the same option series at the same time. Commentary .05 further provides that two or more LMMs who do not have financial arrangements with each other are permitted to bid, offer and/or trade in the same option series at the same time.[8]

Proposed Commentary .06 provides that exemptions to the trading restrictions in Rule 6.40(b) may ordinarily be granted by two floor officials for the purpose of providing liquidity in a trading crowd or where the individual situation otherwise warrant such action. Commentary .06 further provides that an exemption granted pursuant to Rule 6.40(b) generally will not extend beyond the trading day on which it is issued. Moreover, Commentary .06 provides that the Exchange's Options Floor Trading Committee (''Committee'') will review, on a regular basis, the exemptions granted pursuant to Rule 6.40(b).[9]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[10] Specifically, the Commission finds, as it did in originally approving Rule 6.40,[11] that full disclosure of financial arrangements among PSE market makers, members, and member organizations helps the Exchange to better identify and deter potential trading abuses among affiliated PSE members and member organizations. In addition, with such disclosure, the Exchange's ability to monitor the financial condition of its members and member organizations is enhanced. The Commission believes that the proposed amendments to Rule 6.40 do not detract from these benefits in any material manner and thus, are consistent with the Act.

The Commission believes that it is appropriate for the Exchange to amend the definition of ''financial arrangement'' to focus more on the nature of the financial interest that a member may have in a market maker's trading account. The Commission believes that the amended definition will help the Exchange to achieve a balance whereby it can still restrict the types of activity for which the rule was intended without unnecessarily removing liquidity from its trading crowds. Commentary .04 furthers this by clarifying the purpose of the rule and providing that unfair domination by market makers subject to financial arrangements that technically are not covered by the amended definition will be considered a violation of just and equitable principles of trade.[12] The Commission believes that Commentary .06 is also consistent with this goal by providing that exemptions to the trading restrictions in Rule 6.40(b) may ordinarily be granted for purposes of providing liquidity in a trading crowd.

On balance, the Commission believes that the trading restrictions in Rule 6.40 should continue to help to preclude collusive trading activity and increase public confidence in the markets while the proposed amendments to Rule 6.40 will allow PSE market makers to continue to respond to trading conditions in all options classes on the Exchange floor without adversely affecting the liquidity of the Exchange's options markets.

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. As discussed above, the Commission believes that Proposed Commentary .07 was merely a restatement of the general proposition that in considering appropriate sanctions for violation of Exchange rules, the Exchange (and appropriate committees) may consider mitigating factors, such as whether a violation was inadvertent. As a result, the Commission believes that deleting this language from Rule 6.40 does not raise any new regulatory concerns. Accordingly, the Commission believes that it is consistent with Section 6(b)(5) of the Act to approve Amendment No.

[3] See Securities Exchange Act Release No. 35107 (December 16, 1994), 59 FR 66395 (December 23, 1994).

[4] In Amendment No. 1, the Exchange deleted proposed Commentary .07 from PSE Rule 6.40, regarding inadvertent violations of Rule 6.40. See Letter from Michael Pierson, Senior Attorney, Market Regulation, PSE, to Brad Ritter, Senior Counsel, Office of Market Supervision, Division of Market Regulation, Commission, dated January 25, 1995 (''Amendment No. 1'').

[5] Rule 4.18 requires disclosure to the Exchange of certain financial arrangements of members. For these purposes, a financial arrangement is defined as: (1) The direct financing of a member's dealings upon the Exchange; or (2) any direct equity investment or profit sharing arrangement; or (3) any consideration over the amount of $5,000 that constitutes a gift, loan, salary, or bonus. See PSE Rule 4.18(a).

[6] This amendment merely changes the word ''dispensation'' to ''exemption.''

[7] The Exchange also proposes non-substantive amendments to Rule 6.40(b) by deleting subsections (b)(2) and (b)(3) and adding to subsection (b)(1) the restriction on bidding, offering, and/or trading in the same option series at the same time.

[8] See generally PSE Rule 6.82 (Lead Market Maker System Pilot Program).

[9] This requirement is presently set forth in Rule 6.40(c). To avoid repetition, the Exchange also proposes to delete Rule 6.40(c) and renumber rule 6.40(d).

[10] 15 U.S.C. § 78f(b)(5) (1988).

[11] See Securities Exchange Act Release No. 32775 (August 20, 1993), 58 FR 45368 (August 27, 1993).

[12] The Commission also notes that as with other PSE rules, in considering appropriate sanctions for violations of Rule 6.40, the Exchange can consider mitigating factors, such as whether a violation was inadvertent. See Amendment No. 1, *supra* note 4.

1 to the proposed rule change on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1 to the proposed rule change. 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 submissions, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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, N.W., Washington, D.C. 20549. Copies of such filings will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR–PSE–94–24 and should be submitted by February 22, 1995.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–PSE–94–24), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–2385 Filed 1–31–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35279; File No. SR–Phlx–94–75]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Amending the Phlx's Schedule of Fees and Charges Respecting Fees and Charges for the Transaction of Business on its Option Floor, Specifically the Options Transaction Value Charge

January 25, 1995.

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 January 4, 1995, the Philadelphia Stock Exchange, Inc. (''Phlx'' 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. 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, pursuant to Rule 19b–4 of the Act, proposes to amend the Phlx's Schedule of Fees and Charges respecting options transaction charges for the transaction of business on its options floor. Specifically, the rule change would provide a discount on certain options transactions charges regarding all Phlx equity and index options involving block transactions of 500–999 and 1000 or more contracts.[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, Phlx 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

The purpose of the proposed rule change is to amend the Phlx Schedule of Fees and Charges for the transaction of business on its options floor. Effective at the opening of business on Tuesday, January 3, 1995, the Phlx adopted an amended options transaction value charge schedule to accord member firms transacting business for customers accounts, regarding all equity and index options, to receive a discount from the option transaction charges of 15% and 25% respectively for block transactions for customers executions of 500–999 contracts and 1000 or more on a per trade basis, upon submission of a Phlx Customer Option Block Trade Discount Request Form with supporting documentation within thirty days of the monthly billing date. It should be noted that due to the limitations respecting the recording of transactions on the Phlx options trading floor, options customer block transactions will continue to be invoiced at the non-discounted customer execution rates. The purpose of these amended changes respecting all equity and index option transactions is to promote and encourage additional customer market participation in these products at the Phlx.

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)(4), in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Phlx 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

Because the foregoing rule change establishes or changes a due, fee or other charge imposed by the Exchange, 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 for 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, NW., Washington, DC 20549. Copies of the submission, all subsequent

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[13] 15 U.S.C. § 78s(b)(2) (1988).

[14] 17 CFR 200.30–3(a)(12) (1994).

[1] The proposal originally stated that the options transaction value charge applied to ''Equity, Sectors and Value Line Index options.'' The Exchange filed Amendment No. 1 to the proposal on January 12, 1995 indicating that the options transaction value charge applies to all equity and index options for block transactions of 500–999 and 1000 or more contracts. See Letter from Murray L. Ross, Secretary, Phlx, to John Ayanian, Staff Attorney, Office of Market Supervision (''OMS''), Division of Market Regulation (''Division''), Commission, dated January 12, 1995, and telephone conversation between Michele Weisbaum, Associate General Counsel, Phlx, and John Ayanian, Staff Attorney, OMS, Division, Commission, on January 17, 1995. (''Amendment No. 1'').

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 Phlx. All submissions should refer to File No. SR–Phlx–94–75 and should be submitted by February 22, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–2386 Filed 1–31–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35283; File No. SR–Phlx–94–58]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Rule 229 Governing Execution of PACE Orders

January 26, 1995.

On December 1, 1994, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to provide Phlx specialists with the opportunity to effect price improvement for market orders in securities sent through the Philadelphia Stock Exchange Automated Communication and Execution System (''PACE''). On December 12, 1994, the Exchange filed with the Commission Amendment No. 1 to the proposed rule change.[3]

The proposed rule change, together with Amendment No. 1, was published for comment in Securities Exchange Act Release No. 35089 (December 12, 1994), 59 FR 65423 (December 19, 1994). No comments were received on the proposal. This order approves the proposed rule change.

The Phlx proposes to amend the Supplementary Material section to its Rule 229 to provide Phlx specialists the opportunity to effect price improvement for market orders in securities sent through PACE when the spread between the PACE Quote, which reflects the consolidated national best bid and offer, exceeds ⅛ point in any PACE eligible security.[4] The proposed rule change provides for an automatic stop of such orders and a 15 second execution delay, allowing a Phlx specialist to manually provide for price improvement during the 15 second delay.[5] Specifically, the proposal provides that all round-lot market orders of up to 500 shares and all combined round-lot and odd-lot market orders of up to 599 shares will be stopped at the PACE Quote at the time of entry into PACE (stopped at the best bid for sell orders; at the best ask for buy orders) and will be subject to a delay of up to 15 seconds before being executed in order to provide an opportunity for price improvement.[6] If a particular market order is not executed within 15 seconds, the order will be automatically executed at the stop price. PACE market orders will receive automatic and immediate execution when the PACE Quote at the time of order entry reflects a spread between the best bid and offer of ⅛ point.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, including the requirements of Section 6(b) of the Act.[7] In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public.

The Commission believes that this rule will protect investors and the public interest by providing small orders routed through PACE with the possibility for price improvement through order exposure without imposing a significant burden on the economically efficient execution of these transactions. As a result, adoption of this proposal should benefit investors while also helping the Phlx to retain equity order flow and thereby remain competitive with the other regional exchanges, each of which has previously adopted order exposure features into its small order routing and execution systems. Prior to this rule change, the Phlx was the only securities exchange whose small order execution system for equities did not offer an opportunity for price improvement. In its Market 2000 report, the SEC's Division of Market Regulations recommended that the Phlx include such a feature in its small order execution system.[8] The Phlx's proposed rule change is responsive to that recommendation.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–Phlx–94–58) be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–2426 Filed 1–31–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35264; File No. SR–SCCP–94–9]

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Automated Customer Account Transfer Service and the ACAT-Fund/SERV Interface

January 23, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

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[2] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] See letter from William W. Uchimoto, Vice President and General Counsel, Phlx, to Glen Barrentine, Senior Counsel, SEC, dated December 12, 1994. Amendment No. 1 made certain clarifying changes to the proposed rule change.

[4] Only agency orders may be executed through PACE. Supplementary Material .02 to Phlx Rule 229.

[5] According to the Phlx, the proposed rule change does not apply to limit orders, including marketable limit orders, because such orders are executed manually and, therefore, already have an opportunity for price improvement. Telephone conversation between William W. Uchimoto, Vice President and General Counsel, Phlx, and Glen Barrentine, Senior Counsel, SEC, on December 9, 1994.

[6] PACE does not require automatic execution of round-lot market orders greater than 500 shares or combined round-lot and odd-lot market orders greater than 599 shares. Supplementary Material .05 and .06 to Phlx Rule 229. To the extent a specialist agrees to automatic execution of larger market orders, such orders would also be subject to a delay of up to 15 seconds before being executed in order to provide an opportunity for price improvement. Telephone conversation between William W. Uchimoto, Vice President and General Counsel, Phlx, and Glen Barrentine, Senior Counsel, SEC, on January 26, 1995.

[7] 15 U.S.C. 78f(b) (1988).

[8] Division of Market Regulation, Securities and Exchange Commission, Market 2000: An Examination of Current Equity Market Developments (Jan. 1994), Study V at 4 n. 19.

[9] 15 U.S.C. 78s(b)(2) (1988).

[10] 17 CFR 200.30–3(a)(12) (1994).

(''Act''),[1] notice is hereby given that on December 8, 1994, the Stock Clearing Corporation of Philadelphia (''SCCP'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by SCCP. On December 27, 1994, and on January 4, 1995, SCCP amended the filing.[2] 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

SCCP proposes to amend its procedures to comply with New York Stock Exchange (''NYSE'') rule 412, which sets forth the time for transferring customer accounts,[3] and with National Securities Clearing Corporation (''NSCC'') Rule 50, Section 9,[4] which governs NSCC's Automated Customer Account Transfer (''ACAT'') Service.[5] SCCP also proposes to begin using the ACAT-Fund/SERV link [6] on March 3, 1995, in compliance with the NYSE requirement that all mutual fund account transfers be accomplished by use of an automated system where the NYSE member organizations are participants in a registered clearing agency which has such a facility.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, SCCP 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. SCCP 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

NSCC's ACAT Service is an input, comparison, and settlement service for customer account transfers from one brokerage firm to another. SCCP's proposal is consistent with NSCC's recent amendments to NSCC Rule 50, Section 9 which shortened the period in which a participant that is to receive a transferred account has to review the transfer instructions and reply thereto. The completed transfer cycle will be reduced to allow a three day validation period and a four day delivery period for all accounts including cash margin, retirement, and qualified accounts. The entire account transfer cycle is thus recuced from ten business days to seven business days for transferring cash or margin accounts and from fifteen business days to seven business days for transferring qualified or retirement accounts. The portion of SCCP's filing containing these procedures is consistent with the NYSE and NSCC proposals; therefore, SCCP's procedures also take effect on December 2, 1994.

SCCP's proposed rule change also proposes to modify its ACAT-SERV interface [7] with NSCC to comply with the NYSE requirement that generally all mutual fund account transfers must be accomplished by using the automated by using the automated systems of a registered clearing agency where both the receiving broker-dealer and the delivering broker-dealer are participants in a registered clearing agency which has such a facility. In accordance with NYSE Rule 412, this change will be effective March 3, 1995.[8]

SCCP believes the proposed rule change is consistent with Section 17A of the Act is that it promotes the prompt and accurate clearance and settlement of securities transactions. SCCP's believes that its proposed rule change setting forth the shortened time period for transferring accounts is appropriate because it properly reflects the changes set forth by the NYSE and NSCC in their efforts to enhance automation of the transfer process. In addition, the rule change is consistent with the Commission's effort to reduce the settlement cycle as required by Rule 15c6–1 which mandates a three business day settlement cycle for most broker-dealer transactions effective June 7, 1995.[9]

(B) Self-Regulatory Organization's Statement on Burden on Competition

SCCP does not believe that the proposed rule change will have an impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

SCPP has not solicited or received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action.

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) [10] of the Act and pursuant to Rule 19b–4(e)(4) [11] promulgated thereunder because the proposal effects a change in an existing service of SCCP that does not adversely affect the safeguarding of securities or funds in the custody or control of SCCP and does not significantly affect the respective rights of obligations of SCCP or persons using the service. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Letters from J. Keith Kessel, Compliance Officer, SCCP, to Margaret Robb, Staff Attorney, Division of Market Regulation (''Division''), Commission (December 23, 1994, and December 27, 1994).

[3] For a complete description of the recent amendments to NYSE Rule 412, refer to Securities Exchange Act Release No. 34633 (September 2, 1994), 59 FR 467872 [File No. SR–NYSE–94–21] (order approving amendments to NYSE Rule 412).

[4] For a complete description of the recent amendments to NSCC's Rule 50, Section 9, refer to Securities Exchange Act Release No. 34879 (October 21, 1994), 59 FR 44229 [File No. SR–NSCC–94–13] (other approving modifications to NSCC's ACAT Service to accelerate the time in which customer accounts are transferred).

[5] For a complete description of NSCC's ACAT system, refer to Securities Exchange Act Release No. 22481 (September 30, 1985), 50 FR 41274 [File No. SR–NSCC–85–7] (order approving proposed rule change establishing ACAT Service).

[6] SCCP is not a member of NSCC's Fund/SERV; however, membership in Fund/SERV is not necessary to use the ACAT-Fund/SERV link. Telephone conversation between Karen L. Saperstein, Association General Counsel and Vice President/Director of Legal, NSCC, and Peter R. Geraghty, Senior Counsel, Division, Commission, and Margaret J. Robb, Staff Attorney, Division, Commission (January 6, 1995).

[7] For a detailed description of NSCC's ACAT-Fund/SERV interface, refer to Securities Exchange Act Release No. 27454 (November 20, 1989), 54 FR 48962 [File No. SR–NSCC–89–12] (order approving modification of NSCC's ACAT Service rules to provide for the automated transfer of eligible book share mutual fund assets).

[8] *Supra* note 2.

[9] For a complete description of Rule 15c6–1, refer to Securities Exchange Act Release Nos. 33023 (October 6, 1993), 58 FR 52891 [File No. S7–5–93] (order adopting Commission Rule 15c6–1) and 34952 (November 9, 1994), 59 FR 59137 [File No. S7–5–93] (change of effective date of Rule 15c6–1).

[10] 15 U.S.C. 78s(b)(3)(A)(iii) (1988).

[11] 17 CFR 240.19b–4(e)(4) (1994).

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 SCCP. All submissions should refer to File No. SR–SCCP–94–9 and should be submitted by February 22, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–2427 Filed 1–31–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Rel. No. 20862; 812–9332]

Ambassador Funds, et al.; Notice of Application

January 25, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (''Act'').

APPLICANTS: Ambassador Funds (''Ambassador''); St. Clair Funds, Inc. (''St. Clair''); The Munder Funds, Inc. (''Munder''); Peoples S&P MidCap Index Fund, Inc. (''Peoples''); SEI Index Funds (''SEI,'' and, collectively with Ambassador, St. Clair, Munder, and Peoples, the ''Funds''); Woodbridge Capital Management, Inc. (''Woodbridge''); WAM Holdings, Inc. (''WAM'');[1] Old MCM, Inc. (''MCM,'' and, collectively with Woodbridge and WAM, the ''Advisers'');[2] and Munder Capital Management (the ''New Adviser'').

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from the provisions of section 15(a).

SUMMARY OF APPLICATION: Applicants seek a conditional order exempting them from the provisions of section 15(a). The Advisers have formed a partnership, the New Adviser, to succeed to and continue the advisory business of each Adviser. The order would permit the implementation, without shareholder approval, of a new investment advisory agreement for each Fund for a period of up to 120 days (the ''Interim Period'') after the termination of the existing investment advisory agreement of each Fund as a result of the transfer of the investment advisory businesses of the current advisers of the Funds (the ''Advisers'') to a partnership (the ''New Adviser'') formed by the Advisers. The order also would permit the New Adviser to receive fees earned under the new investment advisory agreements during the Interim Period following approval of the agreements by the shareholders of the Funds.[3]

FILING DATES: The application was filed on November 22, 1994, and amended on January 17 and 24, 1995.

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 February 21, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants: Ambassador and St. Clair, One Exchange Place, Boston, Massachusetts 02109; Peoples, 144 Glenn Curtiss Boulevard, Uniondale, New York 11556; SEI, 680 East Swedesford Road, Wayne, Pennsylvania 19087; Woodbridge and WAM, 100 Renaissance Center, Detroit, Michigan 48243; Munder, MCM, and the New Adviser, 480 Pierce Street, Birmingham, Michigan 48009.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Attorney, at (202) 942–0583, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

APPLICANTS' REPRESENTATIONS:

1. Each Fund is registered under the Act as an open-end management investment company. Each Fund offers one or more investment portfolios to the public.

2. Each Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''). Woodbridge and WAM are subsidiaries of Comerica Investment Services, Inc. (''CIS''). CIS is, in turn, a subsidiary of Comerica Bank, which is a wholly-owned subsidiary of Comerica Incorporated (''Comerica''), a publicly-held bank holding company. Woodbridge serves as sole investment adviser to each investment portfolio of Ambassador, St. Clair, and SEI. Until December 31, 1994, WAM served as Peoples' sole investment adviser. MCM, a Delaware corporation in which Mr. Lee P. Munder owns a controlling stock interest, currently serves as sole investment adviser to each investment portfolio of Munder.

3. In August, 1994, representatives of CIS and MCM began discussions regarding the possible creation of a new general partnership, the New Adviser, to succeed to the investment advisory businesses of the Advisers. On November 2, 1994, Comerica and the Advisers entered into a definitive joint venture agreement, which provided for the contribution of the investment advisory business of each Adviser to the New Adviser, which was created on December 31, 1994. The partners of the New Adviser are the Advisers (which will continue to be controlled by Comerica and Mr. Munder, respectively) and Employee Group, L.L.C., a newly-organized company through which employees of the New Adviser may acquire partnership interests.

4. Consummation of the joint venture agreement (the ''Closing'') was subject to a number of contingencies, including consent by the Office of the Comptroller of the Currency (the ''OCC'') to the participation of Woodbridge and WAM in the transaction. The boards of directors or boards of trustees, as applicable, (the ''Governing Boards'') of the Funds believed that it was in the interests of the Funds and their shareholders not to commence the solicitation of proxies to approve the new investment advisory agreement until it was reasonably certain that the

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[12] 17 CFR 200.30–3(a)(12) (1994).

[1] Prior to December 30, 1994, WAM was known as ''World Asset Management, Inc.''

[2] Prior to January 4, 1995, MCM was known as ''Munder Capital Management, Inc.''

[3] In the case of Peoples and SEI, the new investment advisory agreement will be with a newly-organized, wholly-owned subsidiary of the partnership. For purposes of this notice, the term ''New Adviser'' refers to both the partnership referred to above and this wholly-owned subsidiary.

OCC consent would be obtained in order to avoid possible shareholder confusion in the event such consent was not in fact obtained. The OCC consent was received on December 15, 1994.

5. Once the joint venture agreement was announced on November 2, 1994, the Governing Boards of the Funds were promptly notified and meetings scheduled. Between November 9, 1994 and December 23, 1994, meetings of the Governing Boards of the Funds were held to consider and vote on the proposed new investment advisory agreement and, in the case of Ambassador, St. Clair, and Munder, to nominate additional board members to ensure compliance with section 15(f) of the Act and avoid a subsequent meeting of shareholders to elect board members.[4] At these meetings, the Governing Board of each Fund, including a majority of those board members who are not interested persons of the Funds or the Advisers (the ''Independent Board Members''), approved a new investment advisory agreement. They also recommended that the shareholders of the Fund approve the new agreement, including the payment of advisory fees earned by the New Adviser during the Interim Period, which would be maintained in an interest-bearing escrow account during the Interim Period. In connection with their evaluation of the new advisory agreements, a primary consideration of the Governing Boards was the Advisers; representation that: (a) There would be no diminution under the new agreements in the scope and quality of advisory and other services currently provided by the Advisers; (b) the new agreements would have the same terms and conditions as the existing agreements for the respective Funds; and (c) the Funds would receive during the Interim Periods the same investment advisory services, provided in the same manner by essentially the same personnel, as they had received prior to the Closing.

6. The first part of the Closing occurred on December 31, 1994. On that date, the non-mutual fund accounts of the Advisers and WAM's investment advisory agreement with Peoples were transferred to the New Adviser. A second part of the Closing, which involved the transfer of the financing activities conducted by Pierce & Brown, was held on January 13, 1995. The remaining part of the Closing, which will involve the transfer of the investment advisory arrangements of Woodbridge and MCM with the other Funds to the New Adviser, will occur no later than January 31, 1995.

7. Because of issues arising under the Glass-Steagall Act and federal banking regulations, MCM has transferred to an unaffiliated third party the mutual fund sales load financing activities that had been conducted by Pierce & Brown, a limited partnership in which MCM is general partner. This divestiture occurred on January 13, 1995.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in pertinent part, that it shall be unlawful for any person to serve or act as investment adviser of a registered investment company, except pursuant to a written contract which has been approved by the vote of a majority of the outstanding voting securities of such registered company. Section 15(a) further requires that such written contract provide for automatic termination in the event of its assignment. Section 2(a)(4) defines ''assignment'' to include any direct or indirect transfer of a contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor.

2. Upon completion of the Closing, the New Adviser will acquire the investment advisory businesses of the respective Advisers. This acquisition will result in an ''assignment'' of the existing advisory agreements within the meaning of section 2(a)(4) of the Act. Consistent with section 15(a), therefore, the existing advisory agreements between the Advisers and the Funds will terminate pursuant to their terms upon completion of the Closing.

3. Rule 15a–4 provides, among other things, that if an investment adviser's investment advisory contract with an investment company is terminated by assignment, the adviser may continue to act as such for 120 days at the previous compensation rate if a new contract is approved by the board of directors of the investment company and if the investment adviser or a controlling person thereof does not directly or indirectly receive money or other benefit in connection with the assignment. Because of possible benefits to the Advisers and their controlling shareholders as a result of the joint venture agreement, rule 15a–4 is not available to applicants.

4. Applicants believe that the 120-day period they request will facilitate the orderly and reasonable consideration of the advisory agreements by the shareholders of each Fund in a manner that is consistent with the provisions of section 15 of the Act as well as the corporate governance objectives of the Act.

5. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard.

6. Applicants submit that a Closing on December 31, 1994 was important for tax, accounting, and regulatory reporting purposes, in that certain of the Advisers (Woodbridge and WAM) currently have, and the New Adviser will have, tax and accounting years that close on December 31. Applicants represent that it would have been impossible to obtain the required shareholder approvals of the new investment advisory agreements within the fifty-nine day period between the execution of the joint venture agreement on November 2, 1994 and the first part of the Closing on December 31, 1994. First, it was necessary to submit the transaction to the Governing Boards of four separate and independent Fund groups and to obtain the required board approvals to proceed. Second, in the case of three of the Funds, consideration of new board nominees was necessary. Third, the preparation, regulatory clearance, printing and mailing of proxy materials requires, at a minimum, three to four weeks. Further, any shareholder solicitation would have occurred during the December holiday season, which would have involved delays in mailing time and shareholder response.

7. Applicants assert that only a small fraction (less than 17 percent) of the total assets managed by the Advisers are mutual fund assets. Because the process for obtaining consents with respect to the non-mutual fund assets is much simpler than the process of obtaining required board and shareholder approvals with respect to the mutual fund assets, the Advisers' non-mutual fund accounts were ready for transfer to the New Adviser on December 31, 1994, and the holders of those accounts expected that the transfer would in fact occur on that date. Accordingly, applicants state that, if the non-mutual fund accounts had not been transferred on or promptly after that date, the legitimate expectations of these accountholders regarding the orderly

[4] Section 15(f) permits an investment adviser to receive ''any amount or benefit'' in connection with the assignment of its investment advisory contract with a registered investment company if the requirements of that section are satisfied. Section 15(f)(1)(A) requires that, for three years after the transaction, at least 75% of the directors of the investment company are not interested persons of the investment adviser of such company, or of the predecessor investment adviser.

transfer of their accounts to the New Adviser and the prompt delivery of the benefits that the joint venture agreement is expected to produce would not have been met.

8. Applicants believed that a speedy Closing would serve to minimize employee anxiety, assist in the retention of portfolio personnel, and assist in the delivery of improved portfolio service through the integration of credit research, back office, and other operations.

9. Applicants also state that an arrangement whereby all non-mutual fund accounts were transferred on December 31, 1994, but all mutual fund accounts were not transferred until the shareholder votes occurred, would have required the Advisers to implement a form of ''dual employee'' arrangement. Such an arrangement would have created needless organizational complexity and would have raised the possibility of shareholder confusion as to the provision of investment advisory services during the Interim Periods.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. The new advisory agreements to the implemented during the Interim Periods will have the same terms and conditions as each respective current agreement, except in each case for the names or identities of the parties, the commencement and termination dates, the inclusion of escrow arrangements, the incorporation of certain previously adopted amendments (if any) into the body of the agreements, and certain additional language to satisfy regulatory requirements of the Advisers Act.

2. Fees earned by the New Adviser during the Interim Period in accordance with the terms of such new advisory agreements will be maintained in an interest-bearing escrow account, and amounts in the account will be paid to: (a) the New Adviser only upon approval by the shareholders of such Fund, or (b) in the absence of such approval, to such Fund.

3. Each Fund will hold a meeting of shareholders to vote on approval of its new investment advisory agreement on or before the 120th day following the termination of its existing investment advisory agreement as a result of the transfer of the investment advisory businesses of the Advisers to the New Adviser (which transfer will be completed on or before Janaury 31, 1995).

4. The Advisers and the New Adviser will pay the costs of preparing and filing the application and the costs of holding all meetings of each Fund's shareholders necessitated by the consummation of the joint venture agreement, including the cost of proxy solicitations.

5. The New Adviser will take all appropriate steps so that the scope and quality of advisory and other services provided to each Fund during the respective Interim Periods will be at least equivalent, in the judgment of the Governing Board of each Fund, including a majority of the independent board members, to the scope and quality of services previously provided. In the event of any material change in personnel providing services pursuant to the advisory agreement, the New Adviser will apprise and consult with the Governing Board of the affected Fund in order to assure that they, including a majority of the independent board members, are satisfied that the services provided will not be diminished in scope or quality.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–2383 Filed 1–31–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20863; File No. 812–9326]

Financial Horizons Variable Separate Account—2, et seq.

January 26, 1995.

AGENCY: Securities and Exchange Commission (the ''Commission'' or the ''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''1940 Act'').

APPLICANTS: Financial Horizons Variable Separate Account-2 (''Separate Account''), Financial Horizons Life Insurance Company (the ''Company''), and Nationwide Financial Services (''NFS'').

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) for exemptions from Sections 26(a)(2)(C) and 27(c)(2).

SUMMARY OF APPLICATION: Applicants seek on order to permit the deduction from the assets of the Separate Account of a mortality and expense risk charge under certain variable annuity contracts.

FILING DATE: The application was filed on November 14, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing 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 February 21, 1995, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, DC. 20549; Applicants c/o Steven Savini, Esq., Druen Rath & Dietrich, One Nationwide Plaza, Columbus, Ohio 43216.

FOR FURTHER INFORMATION CONTACT: Joseph G. Mari, Senior Special Counsel, at (202) 942–0567, or Wendy F. Friedlander, Deputy Chief, at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Company is a stock life insurance company incorporated under the laws of Ohio.

2. The Separate Account, registered as a unit investment trust under the 1940 Act, is a separate account of the Company that was established to fund certain variable annuity contracts issued by the Company (the ''Contracts''). Purchase payments under the Contracts will be allocated to the Separate Account and invested at net asset value in shares of one or more mutual funds that are registered under the 1940 Act, as designated by the Contract owner at the time of the purchase. The Separate Account maintains a separate sub-account corresponding to each available mutual fund.

3. The Contracts are sold to individuals either as Non-Qualified Contracts or as Individual Retirement Annuities that may qualify for special federal tax treatment. They also may be sold as Qualified Contracts to Qualified Plans on behalf of Qualified Plan Participants, which may qualify for special federal tax treatment.

4. NFS, registered as a broker-dealer under the Securities Exchange Act of 1934, is the general distributor for the Contracts.

5. An Administration Charge equal on an annual basis to .20% of the daily net asset value of the Variable Account is deducted during both the ''pay-in''

accumulation phase and the ''pay-out'' annuity phase. The Company relies upon Rule 26a–1 to assess the Administration Charge, and will monitor the proceeds of the Administration Charge to ensure that they do not exceed expenses without profit.

6. There are no sales charges under the Contracts.

7. The Company will assess a mortality and expense risk charge at an annual rate of 1.25% of the daily net value of the Separate Account. Of this amount, .80% represents mortality risks and .45% represents expense risks.

The mortality risks the Company assumes arise from (1) the guarantee to make monthly payments for the lifetime of the annuitant regardless of how long the annuitant may live; and (2) the guaranteed minimum death benefit risk assumed by the Company in connection with its promise to return, upon the death of the annuitant, the greatest of the Contract value as of the most recent five-year anniversary of the Contract, total purchase payments, or the Contract value at the time of death. The expense risk the Company assumes is the guarantee that the Administration Charge will never be increased regardless of the actual expense incurred by the Company.

Applicants' Legal Analysis

1. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act require that all payments received under a periodic payment plan certificate be held by a qualified trustee or a custodian under a trust indenture, and prohibit any payment to the depositor of or a principal underwriter for a registered unit investment trust except a fee, not exceeding such reasonable amounts as the Commission may prescribe, for performing bookkeeping and other administrative services.

2. Applicants request an order under Section 6(c) exempting them from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to issue Contracts subject to the proposed mortality and expense risk charge.

3. The Company represents that the level of the mortality and expense risk charge is within the range of industry practice for comparable annuity products and is reasonable in relation to the risks assumed under the Contracts. The Company bases this representation on its analysis of publicly available information regarding other insurance companies of similar size and risk ratings offering similar products. Applicants represent that the Company will maintain a memorandum, available to the Commission, setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey. The Company also maintains, and will make available to the Commission upon request, a supporting actuarial memorandum demonstrating the reasonableness of the mortality and expense risk charge.

4. If the mortality and expense risk charge is insufficient to cover the actual cost of the mortality and expense risk, the loss will be borne by the Company. If the mortality and expense risk charge proves more than sufficient, the excess will be a profit to the Company, and will become a part of the Company's general account surplus.

5. The Company advances sales commissions from its surplus and intends to recover sales expenses through the long-term profitability, if any, derived from the mortality and expense risk charge. If long-term profitability does not materialize, the Company will bear the shortfall in its general account. The Company represents that there exists a reasonable likelihood that this distribution financing arrangement will benefit the separate Account and the Contract owners. Applicants also represent that the basis of this conclusion is set forth in a memorandum maintained on file by the Company which will be made available to the Commission upon its request.

6. The Applicants represent that investments of the Separate Account will be made only in investment companies that, if they adopt any distribution financing plan under Rule 12b–1 under the 1940 Act, will have boards of trustees or directors, the majority of which will not be interested persons as defined in the 1940 Act. Applicants further represent that such boards of directors or trustees must formulate and approve any such distribution plan.

Conclusion

Applicants assert that based on the reasons and the facts set forth above, their requested exemptions from Sections 26(c)(2)(C) and 27(c)(2) of the 1940 Act to deduct the mortality and expense risk charge from the assets of the Separate Account under the Contracts are necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret M. McFarland,

Deputy Secretary.

[FR Doc. 95–2428 Filed 1–31–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20864; 812–9168]

Heritage Cash Trust, et al.; Notice of Application

January 26, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Heritage Cash Trust (''HCT''), Heritage Capital Appreciation Trust (''HCAT''), Heritage Income-Growth Trust (''HIGT''), Heritage Income Trust (''HIT''), Heritage Series Trust (''HST''), Heritage Asset Management, Inc. (the ''Adviser''), and Raymond James & Associates, Inc. (the ''Distributor''), and any other open-end management investment companies created in the future, for which the Adviser, or any person directly or indirectly controlling, controlled by, or under common control with the Adviser, serves as investment adviser, and/or for which the Distributor, or any person controlled by or under common control with the Distributor, serves as principal underwriter (collectively, the ''Funds'').

RELEVANT ACT SECTIONS: Order requested pursuant to section 6(c) granting an exemption from sections 2(a)(32), 2(a)(35), 18(f)(1), 18(g), 18(i), 22(c), and 22(d) of the Act, and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit certain open-end management investment companies to issue and sell multiple classes of shares representing interests in the same portfolios of securities, assess a contingent deferred sales charge (''CDSC'') on certain redemptions, defer, and waive the CDSC in certain instances.

FILING DATES: The application was filed on August 15, 1994 and amended on November 29, 1994, December 19, 1994 and January 25, 1995.

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 February 21, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of the date of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 880 Carillon Parkway, St. Petersburg, Florida 33176.

FOR FURTHER INFORMATION CONTACT: Marianne H. Khawley, Staff Attorney, at (202) 942–0562, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. HCT, HCAT, HIGT, HIT, and HST are Massachusetts business trusts registered under the Act as open-end diversified management investment companies. HCAT and HIGT each have a single investment portfolio. HCT currently offers shares in two investment portfolios: the Money Market Fund and the Municipal Money Market Fund. HIT currently offers shares of three investment portfolios: the Diversified Portfolio, the Institutional Government Portfolio, and the Limited Maturity Government Portfolio. HST currently offers shares in three investment portfolios: Small Cap Stock Fund, Value Equity Fund, and Eagle International Equity Portfolio.

2. The Adivser, a wholly-owned subsidiary of Raymond James Financial, Inc. (''RJF''), serves as investment adviser for each Fund, except HST-Eagle International Equity Portfolio. Eagle Asset Management, Inc., also a wholly-owned subsidiary of RJF, serves as investment adviser for HST-Eagle International Equity Portfolio and as subadviser for HCAT, HIGT, HIT-Diversified Portfolio, and HST-Value Equity Fund. Two separate divisions of the Distributor, the Research Division and Awad & Associates, serve as subadvisers to HST-Small Cap Stock Fund. Martin Currie Inc. serves as subadviser to HST-Eagle International Equity Portfolio. The Adviser serves as fund accountant and transfer agent for each Fund. State Street Bank and Trust Company serves as custodian for the Funds. The Distributor serves as the principal underwriter.

3. Each Fund pays advisory and administration fees to the Adviser at annualized rates ranging from .50% to 1.00% of average daily net assets. Each Fund also pays transfer agency fees and fund accounting fees. The fees of the subadvisers are paid by the Adviser. Shares of the Funds are available for sale to the public through the Distributor or participating dealers and participating banks that have entered into agreements with the Distributor to sell shares. Shares also may be acquired through the Adviser in its capacity as transfer agent. Shares of each Fund, except HCT, HIT-Institutional Government Portfolio, HIT-Limited Maturity Government Portfolio, and HST-Eagle International Equity Portfolio, are presently offered with a front-end sales charge ranging from 2.00% to 4.75%. HCT, HIT-Institutional Government Portfolio, and HST-Eagle International Equity Portfolio do not charge a front-end or deferred sales charge. HIT-Limited Maturity Government Portfolio currently waives its front-end sales charge. The Distributor retains the sales charges imposed on sales of shares and re-allows all or a portion of such charges to certain dealers and banks that effect such sales. Based on distributor plans adopted pursuant to rule 12b–1 under the Act (the ''12b–1 plan(s)'', the Funds pay the Distributor fees at annualized rates ranging from .15% to 1.00% of average daily net assets.

4. The net asset value of each fund share, other than the shares of HCT, is computed by dividing the value of the Fund's assets, less its liabilities, by the number of the Fund's shares outstanding. The net asset value of each share of HCT-Money Market Fund and HCT-Municipal Money Market Fund is calculated in accordance with the amortized cost method which is designed to enable these Funds to maintain a constant $1.00 per share net asset value.

5. Applicants request an order pursuant to section 6(c) exempting the Funds and each of their investment portfolios from the provisions of sections 2(a)(32), 2(a)(35), 18(f)(1), 18(g), 18(i), 22(c), and 22(d) of the Act, and rule 22c–1 thereunder, to the extent necessary to: (a) Create, issue, and sell multiple classes of securities for the purpose of establishing a multiple class system (''multi-class system''); and (b) permit the imposition of a CDSC on the redemption of certain shares purchased at net asset value and to waive or reduce the CDSC with respect to certain redemptions.

6. The Funds currently propose to offer three classes of shares. Class A shares will be subject to a front-end sales charge, if any, and a rule 12b–1 fee at a rate of approximately .25% per annum of the average daily net asset value of such shares. Class A shares of a Fund, such as Class A shares of HCT-Money Market Fund, HCT-Municipal Money Market Fund, and HIT-Institutional Government Portfolio, may be offered without a front-end sales charge. In addition, the Adviser may choose to waive the front-end sales charge for Class A shares of a Fund, such as the waiver in effect for the HIT-Limited Maturity Government Portfolio.

7. Class C shares will be subject to a CDSC, if any, ranging from .75% to 1.00% of the aggregate purchase payments made by an investor for such shares of a Fund, and a rule 12b–1 fee ranging from, depending on the Fund, approximately .60% to 1.00% per annum of the average daily net asset value of the shares. The 12b–1 fee of the Class C shares will consist of a combination of up to a .75% distribution fee and up to a .25% service fee.

8. Class D shares will not be subject to a sales charge, will have a low 12b–1 fee, if any, and will be offered only to institutional investors. Existing shares of the Funds generally will be classified as Class A shares. If such shares are held by investors eligible to purchase Class D shares, however, the shares may be classified as Class D shares.

9. Although there is no current intention to do so, applicants may in the future establish such other classes of shares as applicants deem in the best interest of each Fund and its shareholders. All classes of shares issued by the funds in connection with any order granted in response to this application will be issued on a basis identical in all material respects to the classes described and will comply with all conditions set forth below. These classes might be offered: (a) in connection with a 12b–1 plan or plans; (b) in connection with a non-rule 12b–1 shareholder services plan or plans (the ''shareholder services plan(s)''); (c) in connection with the allocation of certain expenses that are directly attributable only to certain classes (''class expenses''); (d) without any 12b–1 plan or shareholder services plan; (e) subject to the imposition of varying front-end sales charges; and/or (f) subject to the imposition of varying CDSCs.

10. With respect to each new class, each Fund may enter into one or more 12b–1 plan agreements and/or

shareholder services plan agreements with the Distributor and/or other groups, organizations, or institutions concerning the provision of certain services to shareholders of a particular class. The provision of distribution services and shareholder servicing under the plans will complement (and not duplicate) the services to be provided to each Fund by its manager, investment adviser(s), and/or distributor, and by the parties that provide custody, transfer agency, and administrative services to each Fund. In all cases, the Funds shall comply with article III, section 26 of the National Association of Securities Dealers' (''NASD'') Rules of Fair Practice as it relates to the maximum amount of asset-based sales charges that may be imposed by an investment company.

11. The expenses of the Funds that cannot be attributed directly to any one Fund (''trust expenses'') generally will be allocated to each Fund based on the relative net assets of those Funds.[1] Trust expenses could include, for example, trustees' fees and expenses, unallocated audit and legal fees, certain insurance premiums, expenses relating to shareholder reports and meetings, and printing expenses not attributable to a single Fund or class.

12. Certain expenses may be attributable to a particular Fund, but not a particular class (''Fund expenses''). All such Fund expenses incurred by a Fund will be allocated to each class of its shares based upon the relative net assets of the class, at the beginning of the day, as determined daily. Fund expenses could include, for example, advisory fees, accounting fees, custodian fees, and fees related to the preparation of separate documents of a particular Fund, such as an annual report for such Fund.

13. Class expenses will be charged directly to the net assets of the particular class and thus will be borne on a pro rata basis by the outstanding shares of such class. All allocations of class expenses will be limited to the extent necessary to preserve a Fund's qualification as a regulated investment company pursuant to the Internal Revenue Code of 1986, as amended.

14. Shares of one or more classes (''Purchase Class shares'') may automatically convert to another class (''Target Class shares'') after a prescribed period of time. Target Class shares thereafter would be subject to lower 12b–1 plan payments, if any, than Purchase Class shares. Purchase Class shares are currently expected to convert to Target Class shares following the expiration of approximately six years from the purchase date. Target Class shares in all cases will be subject to lower aggregate 12b–1 plan payments, if any, and ongoing class expenses, than Purchase Class shares. The conversion will be on the basis of the relative net asset values of the two classes, without the imposition of any sales or other charge except that any asset-based sales or other charge applicable to the Target Class shares would thereafter be applied to such converted shares. Purchase Class shares in a shareholder's Fund account that were purchased through the reinvestment of dividends and other distributions paid in respect of Purchase Class shares will be considered to be held in a separate sub-account. Each time any Purchase Class shares in a shareholder's Fund account convert to Target Class shares, a pro rata share of the Purchase Class shares then in the sub-account also will convert to Target Class shares. The conversion would be subject to the availability of any opinion by counsel or an Internal Revenue Service private letter ruling to the effect that the conversion does not constitute a taxable event under federal income tax law.

15. Applicants request relief to permit each Fund to waive, defer, or reduce the CDSC in certain circumstances. Any waiver, deferral, or reduction will comply with the conditions in paragraphs (a) through (d) of rule 22d–1 under the Act.

16. The CDSC will not be imposed on redemptions of shares which were purchased more than six years prior to the redemptions (the ''CDSC period'') or on those shares derived from the reinvestment of dividends and/or distributions. No CDSC will be imposed on an amount which represents an increase in the value of a shareholder's account resulting from capital appreciation above the amount paid for shares purchased in the CDSC period. The amount of the CDSC will be calculated as the lesser of the amount that represents a specified percentage of the net asset value of the shares at the time of purchase, or the amount that represents such percentage of the net asset value of the shares at the time of redemption.

17. In determining the applicability of any CDSC, it will be assumed that a redemption is made first of shares representing reinvestment of the dividends and capital gain distributions, second of shares held by the shareholder for a period equal to or greater than the CDSC period, and finally of other shares held by the shareholder for the longest period of time. This will result in a charge, if any, imposed at the lowest possible rate.

18. No CDSC will be imposed on any shares issued by the Funds prior to the date of any order granting the exemptive relief requested.

19. Applicants also request the ability to provide a pro rata credit for any CDSC paid in connection with a redemption of shares followed by a reinvestment effected within a specified period not exceeding 365 days of redemption. Such credit will be paid by the Distributor rather than the Fund.

20. The shares in different classes within a Fund will also have different exchange privileges. Shares may be exchanged at net asset value for shares of the corresponding class of other Funds. Applicants anticipate that shares of each class of a Fund will be exchangeable for the corresponding class of one or more other Funds. The Adviser retains the right to disallow exchanges of existing and future classes into HCT. All exchange privileges will comply with rule 11a–3 under the Act.

Applicants' Legal Analysis

1. Applicants request an order pursuant to section 6(c) providing an exemption from the Act to the extent that the proposed creation, issuance, and sale of new classes of shares representing interests in the existing and future Funds, including the allocation of voting rights thereto and the payment of dividends thereon, might be deemed: (a) to result in a ''senior security'' within the meaning of section 18(g) of the Act and to be prohibited by section 18(f)(1) of the Act; and (b) to violate the requirement of section 18(i) of the Act that every share of stock issued by a registered management investment company shall have equal voting rights with every other outstanding voting stock.

2. Applicants believe the proposed allocation of expenses and voting rights in the manner described is equitable and would not discriminate against any group of shareholders. Although investors purchasing shares offered in connection with a 12b–1 plan and/or bearing particular class expenses would bear the costs associated with the related services, they also would enjoy the benefits of those services and the exclusive shareholder voting rights with respect to matters affecting the applicable 12b–1 plan. Conversely, investors purchasing shares that are not covered by a plan or not bearing class expenses would not be burdened with such expenses or enjoy such voting rights.

[1] From time to time, a Fund may allocate expenses among its series using an alternative method, including allocation based on the number of shareholders of each series or the number of series in such Fund, as may be appropriate.

3. Applicants assert that because the rights and privileges of shares would be substantially identical, the possibility that their interests would ever conflict is remote. The interests of each class of shareholders would be protected adequately because the 12b–1 plans and the payments thereunder will conform to the requirements of rule 12b–1, including the requirement that the 12b–1 plans be approved by the boards of trustees (the ''trustees'') of the respective Funds, including the independent trustees.

4. Applicants believe that the creation, issuance, and sale of new classes of shares by the Funds may assist the Funds in meeting the competitive demands of today's financial services industry. The proposed arrangement would permit the Funds to both facilitate the distribution of their securities and provide investors with a broader choice as to the method of purchasing shares without assuming excessive accounting and bookkeeping costs or unnecessary investment risks. Under the proposed arrangement, investors will be able to choose the method of purchasing shares that is most beneficial given the amount of their purchase and the length of time the investor expects to hold his shares. The proposed arrangement does not involve borrowed money and does not affect the Funds' existing assets or reserves. The proposed arrangement will not increase the speculative character of the new classes of shares in a Fund because all shares will participate in all of the Fund's appreciation, income, and expenses.

5. Applicants also are requesting an exemption from the provisions of sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act, and rule 22c–1 thereunder, to the extent necessary to allow the Funds the ability to assess a CDSC on certain classes of shares and any future classes of shares which may impose a CDSC, and to waive or reduce the CDSC with respect to certain types of redemptions. Applicants believe that the imposition of a CDSC on certain classes of shares is fair and in the best interests of their shareholders. The proposed sales structure permits Fund shareholders to have the advantage of greater investment dollars working for them from the time of their purchase of CDSC class shares than if a sales charge were imposed at the time of purchase.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. Each class of shares of a Fund will represent interests in the same portfolio of investments, and be identical in all respects, except as set forth below. The only differences between the classes of shares of a Fund will relate solely to one or more of the following: (a) Expenses assessed to a class pursuant to a 12b–1 plan or shareholder services plan, if any, with respect to such class; (b) the impact of class expenses, which are limited to any or all of the following: (i) Transfer agent fees identified as being attributable to a specific class of shares, (ii) stationary, printing, postage, and delivery expenses related to preparing and distributing materials such as shareholder reports, prospectuses, statements of additional information, and proxy statements to current shareholders of a specific class, (iii) Blue Sky registration fees incurred by a class of shares, (iv) SEC registration fees incurred by a class of shares, (v) expenses of administrative personnel and services as required to support the shareholders of a specific class, (vi) trustees' fees or expenses incurred as a result of issues relating to one class of shares, (vii) accounting expenses relating solely to one class of shares, (viii) auditors' fees, litigation expenses, legal fees, and expenses relating to a class of shares, and (ix) expenses incurred in connection with shareholders' meetings as a result of issues relating to one class of shares; (c) the fact that the classes will vote separately with respect to matters relating to a Fund's 12b–1 plan applicable to each class, if any, except as provided in condition 15; (d) the different exchange privileges of the classes of shares, if any; (e) certain classes may have a conversion feature; and (f) the designation of each class of shares of a Fund. Any additional incremental expenses not specifically identified which are subsequently identified and determined to be properly allocated to one class of shares shall not be so applied unless and until approved by the SEC.

2. The trustees, including a majority of the independent trustees, will have approved the multi-class system, with respect to a particular Fund prior to the implementation of the system by that Fund. The minutes of the meetings of the trustees regarding the deliberations of the trustees with respect to the approvals necessary to implement the multi-class system will reflect in detail the reasons for the trustees' determination that the proposed multi-class system is in the best interests of each Fund and its shareholders.

3. The initial determination of the class expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a vote of the trustees, including a majority of the independent trustees. Any person authorized to direct the allocation and disposition of monies paid or payable by a Fund to meet class expenses shall provide to the trustees, and the trustees shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

4. If any class will be subject to a shareholder services plan, the plan will be adopted and operated in accordance with the procedures set forth in rule 12b–1(b) through (f) as if the expenditures made thereunder were subject to rule 12b–1, except that shareholders need not enjoy the voting rights specified in rule 12b–1.

5. On an ongoing basis, each Fund's board of trustees, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor that Fund, for the existence of any material conflicts among the interests of the classes of its shares. The trustees, including a majority of the independent trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The Adviser and the Distributor will be responsible for reporting any potential or existing conflicts to the trustees. If a conflict arises, the Adviser and the Distributor, at their own expense will take such actions as are necessary to remedy such conflict including establishing a new registered management investment company, if necessary.

6. The trustees will receive quarterly and annual statements concerning distribution and shareholder servicing expenditures in compliance with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of a particular class of shares will be used to justify any fees charged to that class. Expenditures not related to the sale or servicing of a particular class of shares will not be presented to the trustees to justify any fees charged to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent trustees in the exercise of their fiduciary duties.

7. Dividends and other distributions paid by a Fund with respect to each class of its shares, to the extent any dividends or other distributions are paid, will be declared and paid on the same day and at the same time, and will be determined in the same manner and will be in the same amount, except that the amount of the dividends and other

distributions declared and paid by a particular class may be different from that of another class because plan payments made by a class pursuant to a 12b–1 plan or shareholder services plan and other class expenses will be borne exclusively by that class.

8. The methodology and procedures for calculating the net asset value and dividends and other distributions of the classes and the proper allocation of expenses among the classes have been reviewed by an Expert (the ''Expert''), who has rendered a report to the trustees of the Funds, which has been provided to the staff of the SEC, stating that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made, and based upon such review, will render at least annually a report to the Funds that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with respect to such reports, following request by the Funds which the Funds agree to make, will be available for inspection by the SEC staff upon the written request to a Fund for such work papers by a senior member of the SEC's Division of Investment Management or of a Regional Office of the SEC, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a ''Special Purpose'' report on ''policies and procedures placed in operation'' in accordance with Statements on Auditing Standards (''SAS'') No. 70, ''Reports on the Processing of Transactions by Service Organizations,'' of the American Institute of Certified Public Accountants (''AICPA''). Ongoing reports will be reports on ''policies and procedures placed in operation and tests of operating effectiveness'' prepared in accordance with SAS No. 70 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

9. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and other distributions of the classes of shares and the proper allocation of income and expenses among the classes of shares and this representation has been concurred with by the Expert in the initial report referred to in condition 8 above and has been concurred with by the Expert, or appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition 8 above. Applicants will take immediate corrective measures if the Expert, or appropriate substitute Expert, does not so concur in the ongoing reports.

10. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the trustees with respect to the multi-class system will be set forth in the guidelines that will be furnished to the trustees.

11. Each Fund will disclose the respective expenses, performance data, distribution arrangement, services, fees, sales loads, CDSCs, and exchange privileges applicable to each class of shares in every prospectus, regardless of whether all classes of shares are offered through each prospectus. Each Fund will disclose the respective expenses and performance data applicable to all classes of shares in every shareholder report. The shareholder reports will contain, in the statement of assets and liabilities and statements of operations, information related to the Fund as a whole generally and not on a per class basis. Each Fund's per share data, however, will be prepared on a per class basis with respect to all classes of shares of such Fund. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of shares, it will disclose the expense or performance data applicable to all classes of shares. The information provided by applicants for publication in any newspaper or similar listing of a Fund's net asset a value or public offering price will present each class of shares separately.

12. The prospectus of each Fund will include a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing shares of a Fund may receive different levels of compensation with respect to one particular class of shares over another in a Fund.

13. Applicants acknowledge that the grant of the exemptive order requested by this application will not imply SEC approval, authorization, or acquiescence in any particular level of payments that a Fund may make pursuant to its 12b–1 plan or shareholder services plan in reliance on the exemptive order.

14. Any class of shares with a conversion feature will convert into another class of shares on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge, After conversion,the converted shares will be subject to an asset-based sales charge (as the term is defined in Article III, Section 26 of the NASA's Rules of Fair Practice), if any, that in the aggregate is lower than the asset-based sales charge and service fee to which they were subject prior to the conversion.

15. If a Fund implements any amendment to a 12b–1 plan (or, if presented to sharesholders, adopts or implements any amendment to a shareholder services plan) that would increase materially the amount that may be borne by the Target Class shares under the plan, then existing Purchase Class shares will stop converting into the Target Class shares unless the holders of a majority of Purchase Class shares, voting separately as a class, approve the amendment. The trustees shall take such action as is necessary to ensure that existing Purchase class shares are exchanged or converted into a new class of shares (''New Target Class shares''), identical in all material respects to Target Class shares as they existed prior to implementation of the amendment, no later than the date such shares previously were scheduled to convert into Target Class shares. If deemed advisable by the trustees to implement the foregoing, such action may include the exchange of all existing Purchase Class shares for a new class of shares (''New Purchase Class shares''), identical to existing Purchase Class shares in all material respects except that the New Purchase Class shares will convert into New Target Class shares. The New Target Class shares and New Purchase Class shares may be formed without further exemptive relief. Exchanges or conversions described in this condition shall be effected in a manner that the trustees reasonably believe will not be subject to federal taxation. In accordance with condition 5, any additional cost associated with the creation, exchange, or conversion of the New Target Class shares or New Purchase Class shares will be borne solely by the Adviser and/or the Distributor. Purchase Class shares sold after the implementation of this proposed arrangement may convert into Target Class shares subject to the higher maximum payment, provided that the material features of the target Class plan and the relationship of such plan to the Purchase class shares are disclosed in an effective registration statement.

16. The Distributor will adopt compliance standards as to when each class of shares may appropriately be

sold to particular investors. Applicants will require all persons selling shares of the Funds to agree to conform to such standards.

17. Applicants will comply with the provisions of proposed rule 6c–10 under the Act, Investment Company Act Release No. 16619 (Nov. 2, 1988), as such rule is currently proposed, or if it is reproposed or adopted, as it may be reproposed, adopted, or amended.

For the SEC, by the Division of Investment Management, under delegated authority.

Margeret H. McFarland,

Deputy Secretary.

[FR Doc. 95–2429 Filed 1–31–95; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Rural America Fund, Inc.; Notice of Surrender of License

[License No. 03/03–0194]

Notice is hereby given that Rural America Fund, Inc. (RAF), Woodland Park, 2201 Cooperative Way, Herndon, Virginia 22071 has surrendered its License to operate as a small business investment company under the Small Business Investment Act of 1958. RAF was licensed by the Small Business Administration on April 30, 1991.

Under authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender of the license was accepted on January 9, 1995, and accordingly, all rights, privileges, and franchises, derived therefrom, have been terminated.

(Catalog of Federal Domestic Assistant Program No. 59.011. Small Business Investment Companies)

Dated: January 25, 1995.

Robert D. Sillman,

Associate Administrator for Investment.

[FR Doc. 95–2408 Filed 1–31–95; 8:45 am]

BILLING CODE 8025–01–M

Gateway Partners, L.P.; Notice of Issuance of a Small Business Investment Company License

[License No. 07/77–0097]

On November 18, 1994, a notice was published in the **Federal Register** (59 FR 59814) stating that an application had been filed by Gateway Venture, L.P., 8000 Maryland Avenue, Suite 1190, St. Louis, Missouri 63105, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1994)) for a license to operate as a small business investment company.

Interested parties were given until close of business December 3, 1994 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, including a request for a name change which was granted, SBA issued License No. 07/77–0097 on January 23, 1995, to Gateway Partners, L.P. to operate as a small business investment company.

The Licensee has initial private capital of $7.5 million, and Mr. John S. McCarthy will manage the fund. Mr. McCarthy and two other individual General Partners will own approximately 16% of the partnership interests of the Licensee; the Danforth Foundation, a limited partner investor, will own approximately 13.5% of the licensee. The balance of the partnership will be owned by 33 individuals, trusts, pensions and corporations, none of whom will own more than 10%.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 25, 1995.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 95–2409 Filed 1–31–95; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice 2156]

United States International Telecommunications Advisory Committee Radiocommunication Sector Study Group 4; Meeting

The Department of State announces that the United States International Telecommunications Advisory Committee (ITAC), Radiocommunication Sector Study Group 4, will meet on February 28, 1995, from 1:30 to 5:00 PM, in Room 1207 at the U.S. Department of State, 2201 C Street, N.W. Washington, D.C. 20520.

Study Group 4 deals with matters relating to the fixed satellite service. The purpose of the meeting is (1) review Working Party and Task Group work, (2) organize preparations for the international meeting of Study Group 4 in May 1995, (3) report on activities related to international satellite coordination related to Resolution Com 4/10 from Kyoto and (4) any other matters within the competence of this Study Group.

Members of the General Public may attend the meetings and join in the discussion, subject to the instructions of the Chairman, Dr. Robert Hedinger, (908) 234–7550. Those persons who wish to attend please call (202) 647–0201—(Fax 202) 647–7407) and leave name, social security number and date of birth not later than 5 days before the meeting. Enter from the ''C'' Street Main Lobby. A picture ID will be required for admittance.

Dated: January 20, 1995.

Warren G. Richards,

Chairman, U.S. ITAC for ITU—Radiocommunication Sector.

[FR Doc. 95–2475 Filed 1–31–95; 8:45 am]

BILLING CODE 4710–45–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. 49973]

Order on Discussion Authority Regarding a Smoking Ban on Transatlantic Flights

January 24, 1995.

SUMMARY: We are publishing the entire order as an appendix to this document.

EFFECTIVE DATE: January 30, 1995.

FOR FURTHER INFORMATION CONTACT: Peter Bloch, U.S. Department of Transportation. Office of the Assistant General Counsel for International Law, Room 10105, 400 Seventh Street, S.W., Washington, D.C. 20590. (202) 366–9183.

Patrick V. Murphy,

Acting Assistant Secretary for Aviation and International Affairs.

Order

On December 15, 1994, a joint application was filed by American Airlines, British Airways, Continental Airlines, KLM Royal Dutch Airlines, Northwest Airlines, Trans World Airlines, United Air Lines, and USAir (Joint Applicants) requesting approval of, and antitrust immunity for, discussions to be held for the purpose of reaching a voluntary agreement to ban all smoking on commercial transatlantic flights. They propose to announce a date and place for such discussions and to invite representatives of all interested U.S. and foreign air carriers and international airport and civic groups to participate.

In support of their application, the Joint Applicants state that such a grant is consistent with the public interest because eliminating the exposure of passengers and crew to passive smoke would serve the public health. They cite

several U.S. and other governmental initiatives under way to ban smoking on international flights and assert that the voluntary action they advocate will produce faster results and avoid the possibility of different or conflicting rules for different countries.

The Joint Applicants also state that the antitrust immunity they seek is consistent with Department precedent. They state that, under either of the two tests the Department has employed for granting antitrust immunity, their application merits approval.

Answers in response to the Joint Application were filed by the National Smokers Alliance, the Coalition on Smoking or Health, and Congressman Richard J. Durbin.[1] The National Smokers Alliance, a nonprofit membership organization seeking accommodation for smokers, opposes the grant of antitrust immunity on the grounds that the purpose of the discussions is to eliminate competition in the provision of air services and to reduce consumer options. It states that individual carriers should make decisions banning smoking in a competitive environment, subject to the economics of the marketplace, and cites the voluntary ban by one U.S. carrier, Delta, as evidence that such an approach can achieve antismoking goals.

The Coalition on Smoking or Health, representing the American Cancer Society, the American Heart Association and the American Lung Association, supports grant of the discussion immunity. The Coalition believes that a voluntary agreement among carriers in the important transatlantic market would probably lead to similar agreements on other international routes, greatly increasing the prospects of worldwide compliance with the resolution of the International Civil Aviation Organization (ICAO) calling for smokefree international flights by July 1, 1996. Congressman Durbin also urges prompt approval of the requested discussion authority, observing that the efforts of the U.S. and other countries to achieve implementation of the ICAO resolution through intergovernmental agreement is a slow process, and states that a voluntary agreement among carriers would provide an important public health benefit that is clearly in the public interest.

The Joint Applicants filed a request for leave to file a reply to the answers of the National Smokers Alliance and the Coalition on Smoking or Health, which we will grant. The Joint Applicants contend that the Coalition's comments highlight the important public benefit and strong U.S. policy of achieving a smoke-free environment on international flights that underlie the discussion immunity request, while the position of the Alliance that the proposed discussions would be anticompetitive underscores the reluctance of the carriers to proceed without that immunity.

As required by statute, we have given the Attorney General and the Secretary of State a copy of the application and the opportunity to submit written comments on the application. Neither the Attorney General nor the Secretary of State has submitted any comments.

Decision

The Department has decided to grant the requested discussion immunity, subject to several conditions traditionally imposed to protect the public interest when potentially anticompetitive discussion authority is granted. The United States has a firmly-established policy that smoking should be banned on international flights, because eliminating smoking on international airline flights will provide important public health benefits. We are granting the application, because the discussions proposed by the carrier applicants should hasten the achievement of that goal in transatlantic markets.

We assume for the purposes of our decision here that both the purpose and effect of the proposed discussions would be to substantially reduce competition among carriers in the provision of air transportation. In such instances, we may authorize intercarrier discussions and grant them antitrust immunity where we find that the discussions are necessary to meet a serious transportation need or to achieve important public benefits and that such benefits or need cannot be secured by reasonably available alternatives that are materially less anticompetitive. 49 U.S.C. 41308, 41309.

The purpose of the discussions in this case is to secure the important public benefit of smoke-free air travel in a faster and more orderly fashion than the present process of government regulation and intergovernmental negotiation. The discussions are also consistent with a strong and clearly articulated U.S. policy.

The public health and safety benefits of eliminating smoking and passive smoke contamination of aircraft were addressed in regulatory proceedings prompted by the enactment of section 335 of Public Law 101–164 and resulting in the adoption of the smoking ban on most domestic flight segments set forth in Part 252 of the Department's regulations, 14 CFR Part 252. In the case of international flights, the U.S. has sponsored, and in 1992 ICAO adopted, a resolution urging member states to ban smoking on all international flights by July 1, 1996. In November, 1994, the U.S., Canada and Australia announced the signing of an agreement to ban smoking on flights by their carriers operating nonstop between their territories.

Despite such initiatives, however, the process of negotiating and implementing smoking bans with dozens of governments is a slow and uncertain process due to the complexities of dealing with so many different countries. Furthermore, failure to achieve agreement with all of the countries of a given region would create confusion for passengers and present significant crew and aircraft coordination problems for airlines. A voluntary agreement among carriers in the important transatlantic market will clearly help avoid such problems while making it more likely that the goals of the U.S. and most of the world's nations under the ICAO resolution can be achieved.

We also find that there are no reasonably available alternatives to the requested discussions having a materially less anticompetitive effect. Direct governmental action would not be a market solution and would present the difficulties noted above. And, while the National Smokers Alliance points to an independent action by one U.S. carrier to ban smoking on at least some of its international flights, we find no basis to believe that a pure reliance on individual carrier marketing decisions will either avoid the difficulties faced by direct government action or significantly contribute to the realization of U.S. policies and objectives.

The applicants assert that each of them would be reluctant to ban smoking on its own transatlantic flights because doing so could cost it a significant number of passengers. As a result, notwithstanding Delta's own decision to bar smoking on its flights, the applicant carriers might well delay prohibiting smoking until smoking was prohibited by government action. This causes us to find that independent carrier action is not a reasonably available alternative which would achieve the same result as the proposed discussions, the early elimination of smoking from most transatlantic service. The United States wishes to bar smoking on international

[1] Congressman's Durbin's comments were filed by United Airlines, which requests that they be accepted. We will grant that request.

flights as soon as possible. In our judgment, the discussions proposed by the applicants may achieve the United States' goal—the elimination of smoking—much sooner than independent action by individual airlines.

We also find that the requested approval and grant of antitrust immunity to discuss a voluntary agreement to ban smoking on international commercial flights in transatlantic service is appropriately limited in nature and well-calculated to achieve a result consistent with our objective of eliminating smoking on all international flights. As noted, the Joint Applicants propose to announce a date and place for such discussions, and to invite representatives of all interested domestic and foreign air carriers, as well as representatives of international airports and interested civic groups. We will also require that representatives of airline employee unions or associations and private consumer groups (including the commenters in this proceeding) be invited to attend, although the latter may be limited to observer status.

We have determined to grant the request for discussion authority and antitrust immunity in this order, rather than through a show-cause proceeding. The discussions sought by the applicants seek to carry out an established public policy goal of the United States, the prohibition of smoking on international flights. Implementing that goal as soon as possible will provide important public health benefits. We are willing to grant antitrust immunity in this instance because, unlike most situations where it has been sought, the purpose of the discussions at issue here is fully consistent with the public interest. To the extent that consumer service options would be curtailed by an agreement, such a result is inherent in the public policy decision to eliminate smoking aboard aircraft. Furthermore, any agreement reached by the carriers may not be implemented without our approval, and interested persons will have an opportunity to comment on any application for such approval.

In addition, to minimize any adverse impact on the public interest, we will condition our approval and grant of antitrust immunity upon the following express conditions: (1) The discussion authority is limited to 120 days from the date of publication of this order; (2) advance notice of any meeting shall be given to all identifiable entities and groups noted above, as well as to the Department of Transportation, the Department of Justice, and the Federal Trade Commission; (3) representatives of the Department of Transportation, the Department of Justice and the Federal Trade Commission shall be permitted to attend the meetings authorized by this order; (4) the Joint Applicants or a representative shall file within 14 days with the Department a report of each meeting held including *inter alia* the date, place, attendance, a copy of any information submitted to the meeting by any participant, and a summary of the discussions and any proposed agreements; (5) any agreement reached must be submitted to the Department for approval and must be approved before its implementation; (6) the attendees at such meetings must not discuss rates, fares or capacity; and (7) the discussions will be held in the metropolitan Washington, D.C. area.

Accordingly,

1. The Department approves the request for discussion authority filed by the Joint Applicants in this docket, subject to the restrictions listed below, under section 41308 of title 49 of the United States Code, for 120 days from the date of publication of this order, for discussions directed toward eliminating smoking on all international flights in transatlantic service;

2. The Department exempts persons participating in the discussions approved by this order from the operation of the antitrust laws under section 41309 of Title 49 of the United States Code;

3. The Department's approval is subject to the following conditions:

(a) Advance notice of any meeting shall be given to all identifiably interested air carriers, foreign air carriers, international airports, airline employee unions or associations, civic groups and consumer groups, as well as to the Department of Transportation, the Department of Justice, and the Federal Trade Commission;

(b) Representatives of the entities and groups listed in subparagraph (a) above shall be permitted to attend all meetings authorized by this order;

(c) The Joint Applicants or a representative shall file within 14 days with the Department a report of each meeting held including *inter alia* the date, place, attendance, a copy of any information submitted to the meeting by any participant, and a summary of the discussions and any proposed agreements;

(d) Any agreement reached must be submitted to the Department for approval and must be approved before its implementation;

(e) Attendees at such meetings must not discuss rates, fares or capacity;

(f) The Department shall retain jurisdiction over the discussions to take such further action at any time, without a hearing, as it may deem appropriate; and

(g) Any meetings authorized by this order shall be held in the metropolitan Washington, D.C. area.

4. Petitions for reconsideration may be filed pursuant to our rules in response to this order;

5. We will serve a copy of this order on all parties served by the Joint Applicants in this docket, as indicated by the service list attached to their Application, on all parties filing Answers to the Application, and Congressman Richard J. Durbin; and

6. We will publish a copy of this order in the **Federal Register**.

By:

Patrick V. Murphy,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 95–2498 Filed 1–31–95; 8:45 am]

BILLING CODE 4910–62–M

Coast Guard

[CGD 91–202]

RIN 2115–AE10

Escort Vessels for Certain Oil Tankers

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability.

SUMMARY: A two-part study assessing the capability of escort tugs to control disabled tankers in Prince William Sound, Alaska, was commissioned by the Disabled Tanker Towing Study Group. The study specifically reviewed the present equipment, personnel, and procedures aboard the tankers and escort vessels operating in Prince William Sound, as well as the assist capabilities of the vessels presently in service for escorting these tankers. Both parts of the study have now been completed, and the U.S. Coast Guard has been granted permission to make it available to the public through the National Technical Information Service (NTIS).

ADDRESSES: The study is published as two separate parts, which may be ordered from the National Technical Information Service, Springfield, VA 22161 (phone orders (703) 487–4650; MasterCard, Visa, and American Express are accepted).

FOR FURTHER INFORMATION CONTACT: Thomas Jordan, Project Manager, OPA 90 Staff, at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001, or by phone at (202) 267–6751.

SUPPLEMENTARY INFORMATION:

Background

In the aftermath of the EXXON VALDEZ grounding, the state of Alaska established a contingency plan that includes provisions requiring laden tankers to be escorted through Prince William Sound. The escort vessels are expected to provide immediate assistance to a tanker in the event it suffers a propulsion or steering failure. The escort vessels also have some spill response capabilities. At present, there are 11 tugs and escort vessels in this service, operating out of Port Valdez and escorting tankers to Hinchinbrook Entrance.

The Disabled Tanker Towing Study Group (DTTSG) was formed to review the present escort vessel practices in Prince William Sound. The DTTSG is formed of representatives from the Regional Citizen's Advisory Council (RCAC) for Prince William Sound, the Prince William Sound Tanker Association, the Alyeska Pipeline Service Company, the Alaska Department of Environmental Conservation, and the U.S. Coast Guard.

The DTTSG commissioned The Glosten Associates, Inc., to prepare a two-part study. The first part conducted an expert review and evaluation of the emergency towing equipment aboard the tankers and escort vessels operating in Prince William Sound. The second part determined, by means of actual tanker/tug trials and computer simulation analyses, the capabilities of the escort vessels to actually control disabled tankers within the navigational limits of Prince William Sound, under various weather and operating conditions.

Part 1 of the study was previously announced in a notice of availability published by the Coast Guard (59 FR 1411; January 10, 1994). This present notice announces the availability of Part 2 of the study.

Ordering Information

A synopsis of each part of the study is given here in order to provide the public with an overview of the study and its findings. Persons interested in obtaining full copies of the study may order it from the National Technical Information Service. The NTIS publication number for Part 1 of the study is PB94–120961 (price $27.00 for paper copy, or $12.50 for microfiche copy). The publication number for Part 2 is PB95–147617 (price $119.00 for paper copy, or $52.00 for microfiche copy). A separate shipping and handling charge of $8.00 per order also applies. It generally takes 3 to 6 weeks to fill an order, unless a customer opts to pay for 24-hour turnaround.

Summary of Part 1

Part 1 of the DTTS, entitled ''Evaluation of Existing Equipment, Personnel and Procedures,'' is summarized as follows:

The DTTS is an objective evaluation by an experienced salvage towing master of the existing tugs, emergency towing equipment, towing practices, and discussion of alternate tug types.

The Part 1 investigation was performed by subcontractor Smit Tak BV, based in Rotterdam. Captain Jan ter Haar, a senior Smit Tak salvage master, conducted interviews and observed normal operations and emergency drills in the Valdez area.

All tankers calling at Valdez are required to carry specific emergency towing gear for rapid deployment and connection to a rescue tug. This ''Prince William Sound Emergency Towing Package'' is stowed and deployed differently on various vessels. Captain ter Haar recommends that all vessels adopt systems that can be readied for deployment in 15 minutes or less by a crew of two without using winch power.

Captain ter Haar demonstrated, in drills, several effective alternative methods of making towing connections with the tugs' own gear, without deploying the ship's Prince William Sound Towing Package. Drills were also used to assess crew skills in towing large tankers in adverse weather with multiple tugs. He concludes that additional drills and training, both in the makeup and towing operations, would be beneficial.

Captain ter Haar concludes that the vessels presently under contract are suitable for rescue towing in Prince William Sound under a full range of weather conditions. In the open waters of the Gulf of Alaska, at and beyond Hinchinbrook Entrance, he concludes that a larger salvage tug would improve the capability to prevent a major casualty.

Summary of Part 2

Part 2 of the DTTS, is entitled ''Computer Simulations of Escort and Rescue Towing Scenarios.'' Part 2 evaluates, using computer simulations, the capability of existing escort vessels in Prince William Sound, Alaska, and examines alternatives, if any, that could enhance escort and rescue towing capabilities in a worst case failure scenario. The study was subsequently expanded to include a parametric study to investigate the consequences of variants from the worst case. The parametric variables included wind speed, tanker speed, failure rudder angle, failure recognition time and tug notification time.

Tug escort of laden tankers has been a feature of tanker operations in Valdez Narrows since the opening of Alyeska Valdez Marine Terminal in 1977. Shortly after the grounding of the EXXON VALDEZ in 1989, escorting was extended all the way through Prince William Sound to Seal Rocks in the Gulf of Alaska.

Tankers calling in Prince William Sound range in size from 60,000 to 265,000 DWT. Three representative sizes, 90,000 DWT, 170,000 DWT and 265,000 DWT, were chosen for computer simulation.

In developing the parameters of the study, it was decided that worst-case scenarios would be investigated because if the escort system was effective in worst cases it would be effective in all situations. The worst-case scenario was a combination of: a hard-over rudder failure, loss of power, extreme weather conditions, a failure recognition delay and a conservative definition of areas (red zones) where a response effort would be considered ineffective.

The study investigated (via computer simulations) five geographic locations in Prince William Sound (PWS): Valdez Narrows; Valdez Arm; central Prince William Sound; Hinchinbrook Entrance; and the Gulf of Alaska near Seal Rocks. The climatology used for this study was the worst-case wind and sea state resulting from a 25-year return period storm or the defined closure condition in each of the study's geographic areas.

The study defined the worst-case tanker failure scenario to be:

—A 35-degree locked rudder failure.
—A time delay for failure recognition.
—Simultaneous shutdown or loss of the propulsion system upon rudder failure recognition.

The parametric study investigated less extreme variations to the failure scenario (rudder failures at 10 and 20 degrees, shorter time delays for failure recognition and tug notification, and reversing of the tanker engine).

Each class of tugs currently on charter was modeled for use in the computer simulations, as well as four other tug designs as possible alternatives. These alternative vessels were:

—4000 BHP vertical axis propeller tractor tug.
—7600 BHP vertical axis propeller tractor tug.
—7110 BHP azimuthing propeller (Z-drive) pusher tug (sometimes called a reverse tractor).
—168-ton bollard pull deep sea salvage tug.

The ability of the various types and sizes of tugs to perform escort and emergency towing was determined based on existing performance data, computer simulations and available operating experience.

A matrix of simulation cases was developed, representing a full range of combinations of tug types, deployments and associated time delays, geographic locations and tanker sizes and speeds. In addition to the matrix of worst-case scenarios, over 1,000 additional cases, involving parametric reductions in the severity of the defined variables, were performed.

The study's results of the worst-case and parametric studies are summarized below.

—For the worst-case scenario, the larger tractor tug (with additional assist from an untethered ERV tug), or the largest conventional tug tethered as a rudder tug (with additional assist from another conventional tug and an ERV tug both tethered alongside), is capable of controlling all three modeled tankers in the Valdez Narrows if the tanker speed at failure is less than or equal 4 knots.

—All of the current escort tugs have adequate power to tow a disabled tanker in the worst-case climatology of Valdez Arm. However, the simulations show the need for increasing the sea room between the outbound track and Buoy 9 near Pt. Freemantle.

—Both the SEA VOYAGER and the ERV class tugs are capable of towing any of the three sizes of tankers to windward in the modeled worst-case (45-knot wind) conditions for central Prince William Sound. However, there is inadequate sea room from the TSS lane to Naked Island for the tug to rig its towline and begin towing. In lesser wind speed conditions, however, there would be adequate sea room for these tugs to begin towing before any of the three sizes of tankers reached Naked Island. A SEA SWIFT class tug requires additional assistance from an ERV tug to tow any of the three sizes of tankers to windward.

—There is insufficient sea room to accommodate arrival time delays of existing tugs on standby at the Pilot Station, Naked Island or Port Etches based on the worst-case parameters set for this study. This result supports the current escort policy in Prince William Sound.

—The simulations for Hinchinbrook Entrance in the worst-case climatology show the need for increasing the sea room between the outbound track and Montague Island. For all cases with a right rudder failure occurring in the center of the southbound separation lane, the tanker will enter the red zone around Schooner Rock before an escorting tug can provide effective assistance.

—However, the parametric study for Hinchinbrook Entrance identifies some successful combinations under reduced wind conditions that result in towing control before the disabled vessel enters the red zone.

—None of the tugs investigated in this study can tow the modeled 170,000 and 265,000 DWT vessels to windward in the worst-case climatology identified for the Gulf of Alaska. However, both the simulated SEA VOYAGER class tug and the salvage tug at least have the capability to control its downwind drift direction.

—The simulations indicate that the salvage tug can tow the disabled 90,000 DWT vessel to windward in the Gulf of Alaska given the assumed worst-case conditions.

—The parametric study of reduced wind conditions for the Gulf of Alaska show that all three sizes of tankers can be towed to windward by the SEA VOYAGER class tug in 30 knots of wind or less or by the salvage tug in 50 knots of wind or less.

Dated: January 24, 1995.

Joseph J. Angelo,

Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 95–2493 Filed 1–31–95; 8:45 am]

BILLING CODE 4910–14–P

Research and Special Programs Administration

[Notice No 95–1]

Supplemental Emergency Preparedness Grant Program; Correction

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Correction.

SUMMARY: In notice document 95–1720 beginning on page 4657 in the issue of Tuesday, January 24, 1995, make the following corrections:

On page 4657 in the second column, the date comments must be submitted on or before was shown as February 6, 1995. This should be changed to read March 1, 1995.

On page 4657 in the third column the telephone for further information was listed as (202) 366–6601. This should be changed to read (202) 366–0001.

On page 4658 in the second column under Grant and Selection Criteria the fifth paragraph, (4), reads, ''A statement of work for the upcoming budget period that describes and sets priorities for the activities and tasks to be conducted, the costs associated with each activity, the number and types of deliverables and products to be completed, and a schedule for implementation.'' It should read, ''A statement of work for the grant program's first budget period (September 15, 1995 to September 15, 1996) that describes and sets priorities for the activities and tasks to be conducted, the costs associated with each activity, the number and types of deliverables and products to be completed, and a schedule for implementation.''

Issued in Washington, DC on January 27, 1995.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 95–2411 Filed 1–31–95; 8:45 am]

BILLING CODE 4910–60–M

Sunshine Act Meetings

Federal Register

Vol. 60, No. 21

Wednesday, February 1, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., Tuesday, February 7, 1995.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Objectives.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 95–2657 Filed 1–30–95; 3:57 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Tuesday, February 7, 1995.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 95–2658 Filed 1–30–95; 3:57 pm]

BILLING CODE 6351–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of change in Time and Subject of Meeting

The previously announced closed meeting (**Federal Register**, Vol. 60, No. 15, page 4660, Tuesday, January 24, 1995) scheduled for 10:30 a.m., Friday, January 27, 1995 was changed to 1:57 p.m., Friday, January 27, 1995.

The National Credit Union Administration Board also determined that its business required the addition of the following item, which was closed to public observation, to the previously announced closed meeting scheduled for Friday, January 27, 1995.

4. Administrative Action under Section 306 of the Federal Credit Union Act. Closed pursuant to exemption (8).

The Board voted unanimously that Agency business required that this item be considered with less than the usual seven days notice, that it be closed to the public, and that no earlier announcement of this change was possible.

The previously announced items were:

1. Approval of Minutes of Previous Closed Meeting.

2. Administrative Action under Section 205 of the Federal Credit Union Act. Closed pursuant to exemption (8).

3. Administrative Action under the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 95–2611 Filed 1–30–95; 3:15 pm]

BILLING CODE 7535–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

"FEDERAL REGISTER": CITATION OF PREVIOUS ANNOUNCEMENT: [60 FR 5761, January 30, 1995.

STATUS: Closed meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: January 30, 1995.

CHANGE IN THE MEETING: Time Change.

The time for the closed meeting scheduled for Thursday, February 2, 1995, at 10:00 a.m., has been changed to Tuesday, January 31, 1995, at 9:30 a.m.

Commissioner Wallman, 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 alternations 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: January 30, 1995.

Jonathan G. Katz.

Secretary.

[FR Doc. 95–2649 Filed 1–30–95; 3:42 pm]

BILLING CODE 8010–01–M

federal register

Wednesday
February 1, 1995

Part II

Department of Agriculture

Commodity Credit Corporation

7 CFR Part 1485

Agreements for the Development of Foreign Markets for Agricultural Commodities; Final Rule

Market Promotion Program FY 1995; Notice

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1485

Agreements for the Development of Foreign Markets for Agricultural Commodities

AGENCY: Commodity Credit Corporation (CCC).

ACTION: Final rule.

SUMMARY: This final rule adopts the substantive provisions of the Interim Rules published August 16, 1991, (56 FR 40747) and November 17, 1993, (58 FR 60550) regarding implementation of the Market Promotion Program with changes to reflect public comments and recent legislative changes to the authorizing statute. The interim rule was also edited to present a more logical and understandable regulation.

EFFECTIVE DATE: February 1, 1995.

FOR FURTHER INFORMATION CONTACT: Sharon L. McClure, Director, Marketing Operations Staff, Foreign Agricultural Service, United States Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC, 20250–1042. Telephone: (202) 720–5521. The Final Regulatory Impact Analysis concerning this rule is available on request from the Director, Marketing Operations Staff, Foreign Agricultural Service, United States Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC, 20250–1000. Telephone: (202) 720–5521. The United States Department of Agriculture (USDA) prohibits discrimination in its programs on the basis of race, color, national origin, sex, religion, age, disability, political beliefs and marital or familial status. Persons with disabilities who require alternative means for communication of program information (braille, large print, audiotape, etc.) should contact the USDA Office of Communications at (202) 720–5881 (voice) or (202) 720–7808 (TDD).

SUPPLEMENTARY INFORMATION: This rule is issued in conformance with Executive Order 12866. Based on information compiled by USDA it has been determined that this rule is ''economically significant'' and has been reviewed by the Office of Management and Budget.

This final rule amends the existing information collection as approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), under OMB control numbers 0563–0001, 0563–0003, and 0563–0029. Due to the time constraints of implementing the rule immediately, the agency has requested emergency clearance of this addendum from OMB. Comments on the information collection may be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, room 10202, NEOB, Washington, DC 20503. Attention: Desk Officer for USDA.

It has been determined that the Regulatory Flexibility Act is not applicable to the final rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of rulemaking with respect to the subject matter of this rule.

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

This rule has been reviewed under the Executive Order 12778, Civil Justice Reform. The rule would have preemptive effect with respect to any state or local laws, regulations, or policies which conflict with such provisions or which otherwise impede their full implementation. The rule would not have retroactive effect. The rule requires that certain administrative remedies be exhausted before suit may be filed.

The Department of Agriculture is committed to carrying out its statutory and regulatory mandates in a manner that best serves the public interest. Therefore, where legal discretion permits, the Department actively seeks to promulgate regulations that promote economic growth, create jobs, are minimally burdensome and are easy for the public to understand, use or comply with. In short, the Department is committed to issuing regulations that maximize net benefits to society and minimize costs imposed by those regulations.

Background

Section 203 of the Agricultural Trade Act of 1978, as amended, directs the CCC to carry out a program to encourage the development, maintenance and expansion of commercial export markets for agricultural commodities through cost-share assistance to eligible trade organizations. Such assistance may be provided in the form of CCC funds or CCC owned commodities.

Since the inception of the MPP, CCC has monitored the program closely, strengthened program controls and implemented changes to improve the effectiveness of the program. In administering the program, CCC is committed to ensuring efficient and effective use of public funds. In this regard, CCC considers an applicant's need for Federal financial assistance, an applicant's use of rigorous performance measurements in its plans, and increasing contribution levels from participants as important factors in the overall management of the MPP.

Summary and Analysis of General Comments

On August 16, 1991 (56 FR 40747), and November 17, 1993 (58 FR 60550), interim rules were published governing the operations of the Market Promotion Program authorized by Section 203 of the Agricultural Trade Act of 1978, as amended by Section 1531 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Pub. L. 101–624) and the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66).

Following is a summary of the comments which specifically address the provisions of the interim rules and CCC's responses to these comments. The discussion addresses each interim rule separately and, therefore, may not follow the sequence of the interim rules. General comments relating to the value and success of the program, editorial suggestions, and non-substantive comments have been omitted.

CCC received 46 letters containing nearly 200 comments from nonprofit U.S. trade associations, U.S. companies, state organizations, regional trade associations, cooperatives and consulting firms in response to the interim rule published on August 16, 1991 (56 FR 40747).

Definitions

CCC received 42 comments on this section.

Comment: Revise the definition of ''foreign third party'' to include individuals.

Response: CCC agrees with the commenter and has expanded the definition to encompass ''foreign entity'', thereby including individuals.

Comment: Include a definition for ''foreign third party contribution''.

Response: CCC defined ''contribution'' in § 1485.11(i) to refer to costs incurred in support of an approved activity. The rule contains detailed provisions as to the expenditures that may be counted as contributions.

Comment: Define the term ''allowances'' as used in § 1485.20(b).

Response: The term ''allowances'' refers to the cost of housing and educational tuition and cost of living adjustments. Further clarification is provided in § 1485.16(c).

Comment: Clarify the term ''fiscal year''.

Response: CCC deleted all references to the term ''fiscal year'' in the final rule since it had no significant bearing on the administrative operations of the program.

Comment: Revise the definition of ''trade servicing'' to include processors.

Response: CCC did not intend to exclude activities directed at processors. Therefore, CCC deleted the definition of ''trade servicing'' in favor of its ordinary and customary meaning.

Comment: CCC's definitions for ''brand product or brand commodity'' and ''brand promotion'' restrict or prevent the use of brand names in worthwhile promotional activities. Furthermore, the definitions do not account for the way in which high value products are marketed. These definitions should be amended so that if all brands within an industry sector are included on an advertising copy, then it would be considered a generic promotion.

Response: CCC recognizes the merit of this suggestion and amended the definition of ''brand promotion'' in § 1485.11(g).

Comment: Print or media advertising containing the name of a retail outlet should be considered a generic promotion rather than a brand promotion since a retailer's name is not a private label.

Response: CCC adopted the concept that print or media advertising containing the name of a retail outlet is a generic promotion rather than a brand promotion.

Comment: Include ''private label products'' in the definition of ''brand promotion.''

Response: The revised definition of brand promotion would encompass promotion of private label products.

Comment: Clarify the difference between the terms ''U.S. commercial entity'' and ''U.S. entity''.

Response: CCC deleted all references to the term ''U.S. entity'' in the final rule. The term ''U.S. commercial entity'' is defined at § 1485.11(ff).

Comment: Clarify the term ''incurred expense''. A strict interpretation of this term could pose serious problems for non-refundable deposits. For example, an MPP participant makes a non-refundable deposit in October for an advertisement which will air in January. Is the expense ''incurred'' on the date the space is reserved and a deposit is made (October) or on the date the advertisement actually airs (January)?

Response: CCC defines ''incurred'' as the date a participant or third party transfers funds to pay for an expenditure. In this example, the expense is incurred when the deposit is made.

Comment: Define the terms ''market'' and ''functions''.

Response: The term ''market'' is defined as ''a country'' in the final rule. CCC also deleted all references to the term ''functions''.

Comment: Define the term ''sales expenses''.

Response: CCC did not define the term ''sales expenses'' since it has an ordinary and customary meaning. The term ''sales expenditures'' appears in § 1485.13(c)(3)(x) and § 1485.16(d)(6).

Comment: Define the term ''permanent display''. On what basis is something determined to be ''permanent''—time used, material used, level of use?

Response: The term ''permanent'' as used in § 1485.16(d)(7) means enduring or lasting beyond one activity plan year.

Comment: Expand the definition of ''agricultural commodity or commodity'' to include high value items such as beverages, pet foods, vitamin and mineral supplements, flowers, ornamental plants, seeds, and mineral water.

Response: CCC revised the definition of ''agricultural commodity'' at § 1485.11(d) to match the statutory definition applicable to the MPP. This definition includes ''products'' thereby covering many of the items listed by the commenter. Mineral water, however, does not fall within this statutory definition.

CCC added definitions for ''eligible commodity'', ''exported commodity'' and ''promoted commodity'' in § 1485.11(o), § 1485.11(p) and § 1485.11(x), respectively, because a description of each of these is required for each application. This information is necessary for determining appropriate reimbursement rates and for evaluating MPP and EIP/MPP proposals.

Slotting Fees and Display Space Rental Fees

CCC received 14 comments on this issue.

Comment: The interim rule should clearly distinguish between slotting fees and display space rental fees since they are not one and the same. Slotting fees—the cost of getting a new product into the warehouse or obtaining shelf space in the store—should not be reimbursable under the MPP. Display space fees, on the other hand, are promotional expenses associated with using store space for end-aisle displays, case stack displays, demonstrations, etc., and should be eligible for reimbursement. Temporary off-shelf display space is one of the most effective promotional tools available because it stimulates impulse purchases and provides high in-store visibility.

Response: CCC agrees with the commenters that display space fees are appropriate promotional expenditures. Therefore, CCC amended the final rule to allow participants to seek reimbursement for display space fees. Slotting fees, however, are not eligible for reimbursement.

Contributions

CCC received ten comments on this issue.

Comment: What is meant by the phrase ''to be eligible as a participant's contribution, an expense must be directly incurred by the MPP participant. . .''? For example, can contributions made by regional or product associations which are members of an MPP participant count as a participant contribution?

Comment: Expenses incurred and time spent by employees of state departments of agriculture involved in the design and execution of the MPP should be considered eligible participant contributions.

Response: An MPP participant may count, as part of its participant contribution, time and expenses incurred by member organizations provided the costs incurred are for the overall administration or management of the participant's entire MPP.

Comment: CCC should not require MPP participants to enter into written agreements with foreign third parties in order to count the expenses incurred as contributions. When pressed on the issue of entering into written agreements, foreign third parties often withdraw their support and participation in promotional activities.

Response: A participant is no longer required to enter into a written agreement with a third party if the expenses incurred by the third party are claimed solely as contributions. However, to the extent that the U.S. industry or a foreign third party participates in an activity, the expenses incurred by the contributing party must be documented and available for audit. The final rule is adopted in this regard.

Comment: Expenses incurred by target audiences should be considered eligible contributions. Their willingness to bear costs such as travel expenses and registration fees indicates a strong support for a participant's program.

Response: CCC agrees with the commenter and considers costs incurred by a target audience, other than any portion of salary or compensation, as

eligible contributions. This change is reflected in § 1485.13(c)(3)(ii).

Comment: Sections 1485.16(a)(7) and (8) of the interim rule should be revised to permit expenditures that are incurred prior to CCC's approval of the activity plan to be eligible contributions.

Response: The MPP is a cost-share program designed to develop, maintain and expand commercial export markets for U.S. agricultural commodities. Allowing unauthorized expenditures to be claimed as contributions would eliminate this basic principle of the MPP.

Comment: Why does CCC consider all expenditures on brand promotions to be ineligible contributions? In some cases the contributions made by brand participants are considerably higher than the minimum 50 percent and such contributions are essential for achieving overall goals in the target markets.

Response: It is not necessary to consider contributions in connection with brand promotion activities since CCC reimburses these activities on a set cost-share basis. However, expenditures incurred by an MPP participant in administering its brand program are eligible contributions. This point is clarified in § 1485.13(c)(3)(i).

Brand Promotion Program Operations

CCC received 22 comments on this issue.

Comment: CCC should not require an applicant to provide plans and budgets for its brand program as part of the application. This requirement is both excessive and redundant since the same information is provided in the activity plan.

Response: CCC allocates MPP resources on the basis of several specific criteria, one of which is the adequacy of the applicant's proposed strategic plan. In order to make this determination, CCC evaluates the applicant's proposed program in its entirety which includes plans for both generic and brand promotion activities and corresponding budgets. CCC also establishes budget ceilings (maximum funding levels) by country and program type—generic versus brand—based on the strategic plan. Accordingly, this aspect of the interim rule is adopted.

Comment: CCC should not require an MPP participant to reannounce the availability of unexpended brand promotion funds nor should redistribution of such funds require prior CCC approval. These requirements are inefficient, time-consuming and counterproductive since in many cases brand participants are funded at lower than justified levels due to budgetary constraints.

Response: CCC agrees with much of this comment. An MPP participant is no longer required to reannounce the availability of unexpended brand promotion funds. However, redistribution of brand promotion funds must be made in accordance with the MPP participant's approved budget ceilings and activity plans. If, for example, a redistribution of brand promotion funds will increase a country budget ceiling or add a new brand participant to the activity plan, then the MPP participant must submit an activity plan amendment request (APAR) to CCC for approval prior to redistribution. CCC omitted the substance of § 1485.14(e)(5) from the final rule.

Comment: CCC should allow advance payments under EIP/MPP agreements and MPP brand promotion programs. Advertising agencies and suppliers working on brand promotions should not have to wait longer for payment than similar organizations working on generic promotions. Furthermore, advance billing and payment is standard practice in the broadcast and print media business. Advances allow participants to negotiate lower rates and ensure better positioning and placement of advertising in the media.

Response: CCC expects brand participants to have sufficient working capital to cover the total cost of promotional activities since they are expected to directly profit from such activities.

Comment: EIP/MPP participants and brand participants should only be required to maintain receipts for expenditures on brand promotions which exceed $25.00, as is the case with generic promotions.

Response: CCC adopted the suggestion to only require receipts for program related expenditures, other than STRE, which exceed $25.00. This change is reflected in § 1485.20(a)(3)(i) and (ii).

Comment: New brand participants should not be limited to a maximum reimbursement rate of 50 percent when former participants in the Targeted Export Assistance program are eligible to receive reimbursement rates that exceed 50 percent. This rule precludes funds from being distributed equitably throughout the agricultural sector. It also violates the Robinson-Patman and Clayton Antitrust acts because it restrains trade by providing an advantage to one company over another.

Response: This provision is specifically mandated by Congress in section 203(g)(2) and (3) of the Agricultural Trade Act of 1978, as amended by section 1531 of the Food, Agriculture, Conservation, and Trade (FACT) Act of 1990. New participants are only eligible for a higher reimbursement rate if, as described in § 1485.16(g)(1) and (2), there has been an affirmative action by the U.S. Trade Representative under section 301 of the Trade Act of 1974 with respect to the unfair trade practice cited and U.S. market share of the agricultural commodity concerned has decreased. In such case, CCC shall determine the appropriate rate of reimbursement.

Comment: Are fees charged by a contracted firm eligible expenditures under the MPP brand promotion program? For example, ''a contracted firm, either domestic or international, is hired by a MPP brand participant. The contracted firm is hired to make and manage all arrangements for the company's participation in a trade show—order the booth space, rent the tables and A-V equipment, hire the booth attendants —* * * The contracted firm charges a fee for their [sic] services to coordinate the details for the company's participation in the trade show.''

Response: CCC will reimburse an MPP participant or EIP/MPP participant for fees charged by a contractor to implement a brand promotion activity. This point is clarified in § 1485.16(b)(9).

Comment: Why are MPP participants required to announce the availability of the MPP to U.S. commercial entities when the participant chooses to conduct brand promotions solely with foreign firms? CCC should establish different procedures for administering brand programs with U.S. and foreign commercial entities.

Response: It appears that § 1485.14(e)(3) of the interim rule has been misinterpreted by the commenter. An MPP participant may request approval to conduct brand promotion activities with either U.S. commercial entities or foreign firms or both. If an MPP participant requests approval to conduct brand promotion activities exclusively with foreign firms, then the MPP participant is not required to announce the program to U.S. commercial entities. CCC is unable to respond to the second comment concerning different procedures for administering brand programs with U.S. commercial entities and foreign firms since the commenter failed to indicate why or how this should be done.

U.S. Origin Identification

CCC received two similar comments on this issue.

Comment: CCC should waive the requirement that ''all product labels, promotional material and advertising identify the origin of the agricultural

commodity or products* * *'' in those instances where U.S. identification would adversely affect the marketability or acceptability of a promotional campaign.

Response: The goal of the MPP is to increase U.S. agricultural exports and establish a reputation for the U.S. as a supplier of quality products. The origin identification helps to distinguish U.S. products from other competing foreign products. CCC recognizes the commenters' concern that in some countries the ''U.S.A'' origin identification may hinder a participant's promotional efforts. Therefore, a participant may request an exemption to the ''U.S.A'' labelling requirement. The Deputy Administrator will determine, on a case by case basis, whether sufficient justification exists to grant such an exemption. CCC also recognizes that one could interpret the phrase in the interim rule, ''the origin of the agricultural * * * products'', as the place where a product is processed, packaged or manufactured. This, however, does not emphasize the source of the commodities and, therefore, necessarily further the market development goals of the MPP. CCC clarified this issue in § 1485.23(e)(6) and (f) of the final rule by: 1) Listing those specific terms which are acceptable for U.S. origin identification; 2) allowing other U.S. regional designations if approved in advance by CCC; and 3) adopting a size standard for such origin identification.

Consumer-oriented Shows and Advertising

CCC received 10 similar comments on this issue.

Comment: CCC should reimburse participants for promotional costs associated with consumer shows. Consumer shows are an extremely cost-effective means for reaching a target audience and offer the best opportunity to reach the greatest number of people in a short amount of time with a low per person cost. Consumer shows are also particularly important for introducing new products into a market because they help build brand awareness. Limiting reimbursement to trade-only shows fails to recognize the power of the consumer in the buying decision of retailers and importers.

Response: CCC agrees that consumer-oriented shows and consumer advertising can be effective market development activities by stimulating demand for U.S. agricultural commodities. CCC amended § 1485.16(b)(6) to include ''consumer exhibits and shows''.

Compensation/Allowances for U.S. Citizens and U.S. Contractors

CCC received six comments on this issue.

Comment: Increase the limit on payment of salary and allowances for U.S. citizens stationed overseas.

Response: CCC recognizes that compensation levels may need to be adjusted periodically to attract and retain qualified individuals to manage overseas offices. Therefore, CCC will reimburse, in whole or in part, the cost of compensation and allowances for each U.S. citizen stationed overseas not to exceed 125 percent of the level of a GS–15 Step 10 salary for U.S. Government employees. This change is reflected in § 1485.16(c)(1) of the final rule.

Comment: Give MPP participants the flexibility to establish a ''pool of funds'' to pay U.S. citizen salaries and allowances. The maximum amount authorized for this ''pool'' would be based on the actual number of U.S. citizens stationed overseas multiplied by the GS–15 Step 10 salary. MPP participants should also have the flexibility to pay only salary or allowances or a combination of the two.

Response: CCC disagrees with this suggestion. Congress has given CCC discretion to operate and manage the MPP. In doing so, CCC must balance benefits to program participants against limited financial resources. CCC has established maximum compensation levels for which it will reimburse to ensure the efficient use of public funds and to preserve consistency across all commodity programs. An MPP participant may use its own funds to pay compensation and allowance expenses which exceed the prescribed maximum level and count the difference as a contribution, provided that such compensation adjustments are included in the MPP participant's approved activity plan.

Compensation Levels for Foreign Nationals

CCC received five similar comments on this issue.

Comment: The limitation on salary levels for foreign national employees is too restrictive, particularly in those countries where there is a shortage of qualified personnel. In those cases where the Foreign Service National (FSN) compensation schedule is too low, MPP participants should be allowed to establish salary ranges or alternative compensation systems for foreign nationals based on in-country surveys.

Response: Congress has given CCC discretion to operate and manage the MPP. In doing so, CCC must balance benefits to program participants against limited financial resources. CCC has established a maximum level for compensation of a non-U.S. employee or non-U.S. contractor for which it will reimburse to ensure the efficient use of public funds and to preserve consistency across all commodity programs. An MPP participant may use its own funds to pay compensation that exceeds the prescribed maximum level and count the difference as a contribution, provided that such salary adjustment is included in the MPP participant's approved activity plan.

Comment: The rule does not provide guidance for those instances where there is no FSN salary plan in the local embassy.

Response: In countries where an FSN salary plan does not exist, CCC will not reimburse any portion of compensation that exceeds locally prevailing levels. The MPP participant is responsible for documenting such compensation levels by a salary survey or other means. A justification for the compensation levels must be presented in the MPP participant's activity plan. This point is clarified in § 1485.16(c)(3)(ii).

Comment: Once established, salary levels of supergrades should not be reduced unless the top grade of the local FSN salary plan is reduced.

Response: An MPP participant is only required to reduce the compensation levels for supergrades when the FSN salary plan is reduced. However, an MPP participant may reduce the compensation levels for supergrades at other times if deemed appropriate by the MPP participant.

Fees Paid to Consultants and Contractors

CCC received three similar comments on this issue.

Comment: Define the terms ''consultant'' and ''contractor''.

Comment: The limitation on fees paid to consultants is too restrictive. The final rule should permit participants to pay prevailing local rates.

Response: CCC recognizes that the terms ''consultant'' and ''contractor'' are not clearly defined and in some instances may not be discernibly different. Therefore, to eliminate this ambiguity, CCC has deleted all references to the term ''consultant'' and replaced it with the term ''contractor''. CCC has established a maximum level for contractor fees for which it will reimburse to ensure the efficient use of public funds and to preserve consistency across all commodity programs. CCC will not reimburse any portion of a daily contractor fee that

exceeds the daily gross salary of a GS–15 Step 10 for U.S. Government employees in effect on the date the fee is earned. A participant may use its own funds to pay contractor fees which exceed the prescribed maximum level and count the difference as a contribution, provided that the fee adjustment is included in the participant's approved activity plan.

Contracting Standards

CCC received two similar comments on this issue.

Comment: The final rule should contain additional guidance in the area of contracting. Specifically, CCC should provide language relating to contracting standards.

Response: CCC requires all participating organizations to have the resources and ability to effectively manage the program. CCC also expects participants to have either a solid understanding of contracting principles and practices or the resources to obtain this expertise. In general, participants must ensure that all fees for goods and services reimbursed in any part by CCC are adequately documented by a purchase order, invoice or contract. Participants must also maintain records with regard to the competitive bidding process used to acquire the goods or services. To assist participants, CCC has included contracting procedures in § 1485.23(c).

Payment of Foreign National Salaries in Local Currencies

CCC received six similar comments on this section.

Comment: Why are MPP participants required to pay salaries of foreign nationals in the local currency and salaries of U.S. citizens stationed overseas in U.S. dollars? MPP participants should be permitted to pay FSN salaries in any currency so long as it does not violate local laws. This would alleviate problems arising from foreign nationals employed in countries other than their country of origin.

Response: CCC agrees with the commenters and amended § 1485.19(c) to allow participants to pay salaries and fees in any currency if approved by the Attache/Counselor. However, participants are cautioned to consult local laws and ordinances governing this issue.

Use of Part-time Contractors for Services

CCC received one comment on this issue.

Comment: Can fees paid to translators or demonstrators for promotional activities be reimbursed by CCC?

Response: CCC will reimburse a participant for the cost of part-time contractors such as translators and demonstrators if such costs are included in a participant's approved activity plan.

Overseas Administrative Expenses

CCC received three comments on this issue.

Comment: Participants should not be solely liable for all forward financial obligations, i.e., severance payments, rental agreements and contracts, as stipulated in § 1485.19(c)(2) and § 1485.21(d)(6) of the interim rule.

Response: CCC disagrees with this comment. The availability of new MPP resources may be limited annually by Congress. Therefore, CCC is unable to prepare for forward year obligations beyond the period of availability of funds specified in a participant's program agreement. CCC funding of forward year obligations would unduly hinder promotional efforts by tying up MPP resources that may otherwise be used for actual activities. Accordingly, the substance of the interim rule is adopted.

Comment: Are EIP/MPP participants prohibited from sharing administrative expenses, i.e., salaries, utilities and travel, with foreign third parties to conduct joint promotional activities?

Response: An EIP/MPP participant may share administrative expenses with a foreign third party to conduct a joint promotion. However, such expenses will not be reimbursed by CCC under an EIP/MPP agreement.

Application Process and Strategic Plan

CCC received four comments on this issue.

Comment: The initial EIP/MPP participant should not be required to include a strategic plan in its application for program funding, but rather the strategic plan should be included in the activity plan. The initial application for program funding should be a ''generic'' application which describes the worldwide marketing situation for the U.S. industry as a whole.

Response: CCC disagrees with this comment. The strategic plan describes the overall situation for the agricultural commodity and the applicant's plans, projections, targeted markets and budget for the activity plan year. The strategic plan is essential for determining appropriate funding levels and program activities. Accordingly, the substance of the interim rule is adopted.

Comment: The final rule should contain provisions which protect proprietary and confidential information of individual companies from public disclosure.

Response: CCC's policy is to treat all program documents with the utmost respect for any proprietary information. CCC does not release information which could cause substantial competitive harm to the submitter of the information. If the information submitted is not readily identifiable as privileged or business confidential, CCC will obtain and consider the views of the submitter of the information. If CCC disagrees with the arguments presented by the submitter, CCC will give the submitter sufficient time to pursue legal action to prevent the release of the information.

Activity Plans

CCC received 10 comments on this section.

Comment: Activity plans should not be required for each year within a multiyear program, particularly when there are no changes to the original proposal. The time it takes to submit annual activity plans and receive approval from CCC causes undue delays in the construction of demonstration structures and risks continued third party participation.

Response: CCC agrees that timing for large-scale, multiyear projects is extremely important. However, CCC requires separate activity plans for each year covered by a multiyear agreement to ensure proper management of limited CCC resources. The annual activity plans also assist CCC in determining whether program design requires modification to improve cost effectiveness or impact. The final rule is adopted as written.

Comment: The final rule should contain a provision which accommodates immediate or unanticipated changes to activity plans. This could be accomplished by: (1) allowing retroactive approval of APARs, (2) establishing a same-day or immediate approval process for APARs, (3) allowing a 10 percent budget overrun for each activity, (4) allowing a 10 percent budget shift at the end of the plan year, or (5) allowing a participant to verbally notify the Division Director prior to implementation of the activity.

Response: Past experience has proven that retroactive approval authority creates unnecessary administrative burdens and that ''after-the-fact'' change becomes the norm rather than the exception. Adjustments to activity plans can be made with CCC approval in an expeditious manner using existing policies and procedures. Accordingly, the final rule is adopted in this regard.

Comment: Activity plan years should correspond to the U.S. Government's fiscal year.

Response: CCC would prefer to have a single activity plan year for all participants. However, CCC recognizes that factors such as varying crop seasons and the Federal budget process make this illogical.

Comment: Will CCC consider approval of individual activities prior to the approval of an entire activity plan?

Response: Program planning is a primary tool used to guide the implementation and successful completion of market development activities. CCC will not grant approval for activities prior to the announcement of program allocations nor prior to the start of a participant's activity plan. However, CCC may grant approval for individual activities on a case-by-case basis before approving a participant's entire activity plan.

Comment: CCC should provide more detailed information about deadlines for submission of activity plans.

Response: The rule does not contain a deadline for the submission of activity plans; however, MPP participants should submit activity plans at least 45 business days prior to the start of the proposed activities in order to ensure adequate time for review and approval by CCC.

Comment: CCC should be required to approve or disapprove APARs within two weeks of receipt.

Response: CCC's policy is to review activity plans and APARs in an expeditious manner. A specific time period is not practical. However, participants should allow adequate time for review and approval of APARs.

Allocation of CCC Resources

CCC received one comment on this issue.

Comment: CCC should not consider, as one criterion for allocating resources, the applicant's ability to monitor and evaluate the activities proposed in the strategic plan since this information was not specifically solicited as part of the application.

Response: The rule explicitly states that CCC takes into account the applicant's provisions for monitoring and evaluating activities proposed in the strategic plan when reviewing applications for program funding. Evaluation is an integral part of the MPP and serves as a basis for continuing, altering or eliminating activities proposed in the strategic plan. The application approval criteria and allocation factors are provided in § 1485.14(b) and (c) of the final rule.

Product Samples, Product Development, Packaging and Labeling

CCC received nine comments on these issues.

Comment: Packaging and design expenses should be eligible for reimbursement by CCC.

Comment: CCC should amend § 1485.17(d)(14) of the interim rule to read ''Labeling, packaging and associated design expenses, except when the MPP participant's logo or generic symbol is made part of the packaging for the branded promotion activity. In that case, a pro-rated expense based on the size of the logo or symbol in relation to the entire package surface area will be reimbursed.''

Response: Congress has given CCC discretion to operate and manage the MPP. In doing so, CCC must balance benefits to program participants against limited financial resources. CCC will not provide reimbursement for packaging, labeling and other design expenditures because these costs are associated with the production of the final product rather than the promotion. CCC also considers origin identification stickers to be a type of label and, therefore, not reimbursable by CCC. This change is reflected in § 1485.16(d)(3). The suggestion that CCC calculate a pro-rata reimbursement is not practical to administer.

Comment: The Deputy Administrator should have the authority to approve the use of MPP funds for the purchase of commodity samples, particularly in those instances where the participant does not own the commodity or product.

Response: Congress has given CCC discretion to operate and manage the MPP. In doing so, CCC must balance benefits to program participants against limited financial resources. CCC will not provide reimbursement for product samples because products samples are of minimal cost to the industry involved and could easily be contributed towards the program.

Comment: Does the exclusion of product development expenses from reimbursement by CCC pertain only to new products? In other words, can participants be reimbursed by CCC for expenses related to the modification of an existing product?

Response: CCC will not reimburse participants for the cost of product development, product modification or product research. This prohibition applies to all products for the reasons identified in previous responses.

Comment: Product development and design expenses should be eligible for reimbursement by CCC because such expenses are included in the example in the MPP handbook.

Response: The particular example cited by the commenter refers to a consultant's work in introducing a new product to the market (a promotional activity), not in the actual development or design of the product. The substance of the interim rule is adopted.

Financial Policies and Procedures, Reimbursement Claims and Advances

CCC received 24 comments on these issues.

Comment: Why are reimbursement claims limited to no less than $10,000?

Response: CCC requires participants to consolidate their reimbursement claims to ensure a more effective use of resources and to accelerate the reimbursement process. Accordingly, the final rule is adopted in this regard.

Comment: Why does CCC charge reimbursement claims against the oldest unexpended program agreement balance?

Response: This is simply a procedure used by CCC to ensure efficient use and accurate accounting of MPP funds. Since § 1485.17(h) of the interim rule had no significant bearing on a participant, CCC omitted this subsection from the final rule.

Comment: Why do the regulations make reference to reimbursement with CCC commodity certificates?

Response: Although all MPP claims are currently reimbursed by CCC in cash, circumstances could change where it might become necessary to return to the use of certificates.

Comment: CCC should revise § 1485.17(k)(2) of the interim rule so that participants are not precluded from claiming previously billed amounts which had been erroneously disallowed by CCC.

Response: CCC agrees with the commenter and amended the final rule in § 1485.17(a)(8) to include any amount previously claimed that has not been reimbursed.

Comment: CCC should extend the deadline for submitting reimbursement claims to CCC.

Response: The 180-day period is reasonable based upon the standard business practice for submitting reports and expense claims. For administrative ease, CCC replaced the phrase ''180 calendar days'' with ''6 months''. This change is reflected in § 1485.17(d).

Comment: Participants operating brand programs should be allowed to receive advances.

Comment: Brand participants should be allowed to receive advances for electronic media advertising since this

type of advertising is normally contracted one year in advance.

Response: CCC expects participating firms to have sufficient working capital to cover the total cost of promotional activities since they are expected to directly profit from the activities. Furthermore, CCC has determined that reimbursement, rather than advance payment, ensures the most efficient use of MPP funds. The substance of the interim rule is adopted.

Comment: CCC should amend § 1485.18(b)(1) of the interim rule which limits advances to no more than 40 percent of a participant's annual generic budget approved by CCC. For example, CCC could: (1) provide a ''working advance'' of up to 15 percent of a participant's annual budget with additional special advances for large expenditures, (2) calculate the 40 percent advance on the basis of the total approved budget and eliminate the 90-day expenditure rule, (3) increase the percentage, or (4) replace the 40 percent advance limit with the special advance payment request system used in the Cooperator program.

Response: Since CCC is given limited resources by Congress to administer the MPP, CCC must balance benefits to program participants with efforts to reduce operating costs of the program. The limitation on authorized advance payments reduces the amount of money CCC borrows from the U.S. Treasury. CCC's policy is to reimburse participants for expenditures incurred rather than finance initial costs. Accordingly, the final rule is adopted in this regard.

Comment: Extend the time period that MPP participants have to fully expend their advances from 90 to 180 days.

Response: The 90-day period is sufficient time to expend any advance. The final rule is adopted in this regard.

Comment: Does § 1485.17(l)(3) of the interim rule which provides that ''activity expenses incurred up to 30 days beyond the end of an activity plan year may be charged back to the budget for that activity plan year'' apply to MPP participants?

Response: This provision applies to MPP and EIP/MPP participants. CCC has provided additional clarification in § 1485.16(h) of the final rule.

Travel Expenses

CCC received 18 comments on this issue.

Comment: CCC should amend the regulations to permit reimbursement for ''business class'' travel.

Response: CCC recognizes that participants may be able to obtain a particular class of air travel at a lower rate than full fare economy. Since CCC's policy is to ensure the efficient use of public funds, CCC will not preclude business class travel, but will not reimburse any portion of air travel in excess of the full fare economy rate. This change is reflected in § 1485.16(c)(8) of the final rule.

Comment: Travel expenditures should be reimbursable under an EIP/MPP agreement.

Response: Congress has given CCC discretion to operate and manage the MPP. In doing so, CCC must balance benefits to program participants against limited financial resources. Private entities engaged in brand promotion activities should bear their own travel expenses. The substance of the interim rule is adopted.

Comment: Participants should be permitted to develop their own in-house travel guidelines.

Response: Congress has given CCC discretion to operate and manage the MPP. CCC has established limits on the amount and type of travel expenditures that will be reimbursed by CCC to ensure the efficient use of public funds and to preserve consistency across all commodity programs. Accordingly, the final rule is adopted in this regard.

Comment: Are participants allowed to calculate per diem at a rate lower than that permitted under the U.S. Federal Travel Regulations (USFTR)?

Response: CCC established a maximum reimbursement rate for per diem which is no more than the rate specified under the USFTR. Consequently, a lower rate of reimbursement is permissible.

Comment: Eliminate § 1485.22(b) of the interim rule which requires participants to notify the Attache/Counselor in writing in advance of proposed travel to that country. This provision is more restrictive than the former Targeted Export Assistance program guidelines and is inconsistent with the Paperwork Reduction Act.

Response: The Attache/Counselor must be notified prior to any travel in order to effectively supervise and support program activities in his or her country of responsibility. Accordingly, the final rule is adopted in this regard.

Comment: Participants should be permitted to choose one of two reimbursement options for travel expenses—either per diem or living expenses.

Response: Congress has given CCC discretion to operate and manage the MPP. CCC has adopted the USFTR to ensure uniformity in administering the program and accounting for travel expenditures. Accordingly, the final rule is adopted in this regard.

Comment: Participants should be permitted to use MPP funds to lease vehicles when it can be shown that the lease cost would be lower than the cost associated with the use of a privately owned vehicle.

Response: CCC's policy is to ensure the most efficient use of limited resources. It would be virtually impossible for a participant to provide an accurate number of miles to be travelled for project business during the term of a leasing agreement. Consequently, CCC would not be able to compare the cost of leasing a vehicle for an extended time period to the cost of using a privately owned vehicle. Accordingly, the substance of the interim rule is adopted.

Comment: CCC should amend § 1485.22(d) of the interim rule which states that reimbursement for the use of privately owned automobiles will be calculated on the basis of the local U.S. Embassy's fixed rate per mile. Participants should be reimbursed by CCC for costs based on prevailing local practices rather than the Embassy rate, particularly in those instances where the U.S. Embassy does not have a fixed rate per mile or where U.S. Embassy personnel can buy gas from a Post Exchange.

Response: Congress has given CCC discretion to operate and manage the MPP. CCC's policy is to ensure the efficient use of limited resources and to preserve consistency across all commodity programs. In support of this policy, CCC has established a maximum reimbursement rate for the authorized use of a privately owned automobile equal to the U.S. Embassy's fixed rate per mile. This uniform policy also simplifies administration and program compliance requirements. A participant may expend an amount in excess of the amount reimbursed by CCC and count the difference as a contribution, provided that the adjustment is included in the participant's approved activity plan. Accordingly, the final rule is adopted in this regard.

Promotional Items and Token Gifts

CCC received nine similar comments on this issue.

Comment: CCC should either reimburse participants for the total cost of giveaways, awards and prizes or establish a maximum allowable amount for these items.

Response: CCC agrees that inexpensive promotional items such as giveaways, awards and prizes can be useful market development tools. CCC will reimburse the cost of giveaways, awards, prizes, gifts and other similar promotional materials up to $1.00 per

promotional item This change is reflected in § 1485.16(b)(10) and (d)(11) of the final rule.

Comment: The term ''token gift'' is not defined and, therefore, should be deleted from the rule.

Comment: CCC should define ''token gift'' as ''any promotional item costing under $5.00''.

Response: CCC deleted the word ''token'' from the final rule. The term ''gift'' has ordinary and customary meaning and does not require further definition. CCC will reimburse a participant for the cost of gifts subject to the limitation that CCC will not reimburse more than $1.00 per item.

Activities in the United States

CCC received one comment on this issue.

Comment: All MPP participants should be permitted to claim reimbursement for market development activities conducted in the United States. Foreign market development programs have typically allowed travel expenditures in the United States for foreign trade teams when part of an international trip and participation fees for foreign participants in grain grading seminars in the United States.

Response: CCC agrees that certain activities conducted in the United States may be valuable and appropriate for specific foreign market development programs. Consequently, CCC will reimburse an MPP participant for the cost of trade shows, seminars and educational training conducted in the United States. This change is reflected in § 1485.16(c)(25).

Participation Fees

CCC received one comment on this issue.

Comment: Clarify § 1485.17(d)(7) of the interim rule which states that participation fees for United States Government-sponsored activities will not be reimbursed by CCC.

Response: CCC will not reimburse the cost of fees for participating in United States Government sponsored activities, other than trade fairs and exhibits, because in these instances the United States Government finances most of the activity expenses. Although participation fees for United States government-sponsored activities, other than trade fairs and exhibits, are not reimbursable by CCC, they may be counted as a contribution.

Export Availability

CCC received one comment on this issue.

Comment: Why are MPP applicants required to describe the export availability of the agricultural commodity, product, or brand product over the duration of the proposed agreement? Some agricultural products are always in sufficient supply.

Response: The primary objective of the MPP is to increase U.S. agricultural exports by stimulating demand in foreign markets. The development and maintenance of new export markets for U.S. agricultural commodities are dependent, in part, upon knowledge of the U.S. supply situation. Accordingly, the final rule is adopted in this regard.

Reimbursement for Demonstration or Training Activities

CCC received four comments on this section.

Comment: What is meant by the phrase ''training activities'' in § 1485.17(c) of the interim rule? Does this refer to the construction of training facilities or technical training activities in general?

Response: CCC recognizes that the term ''training activities'' is ambiguous. To clarify this issue, CCC replaced the phrase ''demonstration and training activities'' with ''demonstration projects'' in the final rule. ''Demonstration projects'' is defined in § 1485.11(j) and does not include technical training activities.

Comment: CCC should not impose a limit of no more than one demonstration or training activity under each MPP agreement for each market.

Comment: Does the limitation on demonstration and training activities apply to the annual activity plan or any successive year in the market?

Response: CCC recognizes that more than one demonstration project may be appropriate to overcome different constraints within a particular market. Therefore, CCC will consider proposals for demonstration projects provided that: (1) no more than one such demonstration project per constraint is undertaken in a market; (2) the constraint to be addressed in the market is a lack of technical knowledge or expertise; (3) the demonstration project is a practical and cost effective method of overcoming the constraint; and (4) a foreign third party participates in the demonstration project through a written agreement.

Significant Program Provisions

CCC received one comment on this section.

Comment: How will CCC apply the 50 percent reimbursement rule when a brand product is not entirely 100 percent U.S. origin?

Response: Each MPP or EIP/MPP applicant must declare, in its application, the percentage of U.S. origin of the promoted agricultural commodity by weight, exclusive of added water. For any promoted brand product, the reimbursement rate generally equals the lesser of the percentage of U.S. origin in the brand product or 50 percent. Each participant must be able to prove the percentage of U.S. origin it declares. Failure to document this percentage will result in repayment to CCC.

Business Confidentiality

CCC received seven similar comments on this issue.

Comment: The final regulation should contain language which protects the contents of a participant's application and activity plans.

Response: CCC's policy is to treat all program documents with the utmost respect for proprietary information. CCC does not release information which could cause substantial competitive harm to the submitter of the information. If the information submitted is not readily identifiable as privileged or business confidential, CCC will obtain and consider the views of the submitter of the information. If CCC disagrees with the arguments presented by the submitter, CCC will give the submitter sufficient time to pursue legal action to prevent the release of the information. The release of information is governed by the Freedom of Information Act (FOIA), 5 U.S.C. 552, and 7 CFR Part 1, Subpart A—Official Records, specifically 7 CFR 1.11, Handling Information from a Private Business. CCC added § 1485.23(a) to the final rule relating to this issue.

Appeals

CCC received one comment on this issue.

Comment: Amend § 1485.27(b) of the interim rule to include procedures for appealing compliance findings.

Response: CCC has included specific provisions and procedures in the final rule for the resolution of disputes that involve the remittance of resources to CCC. The appeal procedure is designed to ensure prompt and reasonable evaluation and resolution of program disputes. Most compliance findings are minor infractions of program rules which, when brought to the attention of participants, are routinely resolved. Participants will be notified promptly when program discrepancies are found and given an opportunity to remit resources to CCC or, where there is a disagreement, present additional information in support of the participant's position. See § 1485.20(d) of the final rule.

Export Incentive Program

CCC received three comments on this section.

Comment: CCC should not differentiate MPP participants from EIP/MPP participants because generic promotions simply create demand for foreign products.

Response: Congress has directed CCC to make certain distinctions between brand and generic promotions in recognition of the benefit that private companies receive from brand promotion. For example, the FACT Act of 1990 provides that assistance for brand activities shall not exceed 50 percent of the cost of implementing the plans. CCC also makes minor distinctions between brand and generic promotions to ensure the efficient use of limited resources.

CCC received 38 letters containing nearly 200 comments from nonprofit trade associations, U.S. companies, state organizations, state regional trade groups, cooperatives, professional associations and consulting firms in response to the interim rule published on November 17, 1993, (58 FR 60550).

Independent Audits

CCC received 14 comments on this issue.

Comment: CCC should not have the authority to require independent audits of program activities.

Comment: If the provision for independent audits is necessary, then CCC should develop specific criteria to avoid arbitrary implementation and to keep costs reasonable for MPP participants.

Comment: The Compliance Review Staff and the General Accounting Office are in the best position to conduct audits of the MPP because of their familiarity with federal regulations.

Comment: The current system used for compliance reviews is thorough, rigorous, professional and nonpartial, and fulfills the audit needs of the program.

Comment: This provision should be clarified so as not to preclude the use of CCC resources for other types of program evaluations.

Comment: CCC should only require independent audits in extreme cases of mismanagement or fraud.

Comment: CCC's sole discretion to require independent audits poses a jeopardy.

Comment: In the absence of confirmed non-compliance with program regulations, CCC should pay for any independent audits it requires.

Comment: CCC should amend the final rule to allow a participant to document its compliance with program requirements.

Comment: Independent audits could be beneficial in those instances where compliance reviews reveal the need for such audits.

Comment: Each participant in the program should be required to have an annual independent audit of its own accounting system.

Response: CCC's authority to require independent audits was legislated by Congress in section 1302(b)(2)(E) of the Omnibus Budget Reconciliation Act of 1993. CCC will only use this authority when it determines that further review is necessary in order to ensure compliance with program requirements. This provision is contained in § 1485.20(c)(5).

Definitions

CCC received 63 comments on this section.

Comment: CCC should clearly define the term ''U.S. entities'' and limit participation in the MPP to U.S. entities.

Response: CCC limits direct participation in the MPP to U.S. agricultural trade organizations, nonprofit state regional trade groups, agricultural cooperatives and State agencies. Participation by foreign entities only occurs through third party arrangements. The term ''U.S. commercial entity'' is defined at § 1485.11(ff) of the final rule.

Comment: The definition of ''market'' as ''a single country'' is too narrow and rigid. The definition should be modified to take into account the different types of market segments within a country such as discrete geographic regions, audiences and distribution outlets.

Comment: Defining ''market'' as anything other than ''a single country'' would create more uncertainty.

Comment: If participants defined markets in terms of geographic regions, it would likely be perceived by the public as an attempt to circumvent the graduation requirement.

Response: CCC recognizes that many market segments can exist within a single country. Depending on the particular agricultural commodity promoted, a market could be defined by a geographic region, target audience or demographic group. Because numerous market segments could exist within a country, CCC decided to define ''market'' as ''a single country''. This eliminates the need for interpretation and reduces the administrative burden on both the participant and CCC. Accordingly, the final rule is adopted in this regard.

Comment: The term ''U.S. firm'' should be defined as ''any firm that is incorporated in the U.S. and has a physical entity located within the U.S.''

Response: CCC did not define the term ''U.S. firm'' in the final rule because a definition is not necessary in the context of the final regulation.

Comment: CCC should define the terms ''supplement'' and ''supplant''.

Response: ''Supplement'' and ''supplant'' are statutory terms for which Congress did not assign any special meaning. CCC has determined that these terms have ordinary and customary meanings and, therefore, do not require further definitions in the final rule.

Unfair Trade Practices

CCC received comments regarding the requirement that assistance under the MPP only address unfair trade practices. Recent legislation implementing the Uruguay Round negotiations of the General Agreement on Tariffs and Trade deleted this requirement. Accordingly, CCC has revised the final rule to delete this requirement from the regulation. However, an unfair trade practice is still relevant in determining reimbursement rates for brand promotions. See § 1485.16(g).

Graduation

CCC received 31 comments on this issue.

Comment: CCC should retain the provision which limits promotional assistance for brand products to no more than five years in a single market.

Comment: Does the five-year limit on promotional assistance apply to individual products or product lines?

Comment: CCC should retain the provision which allows for continued promotional assistance beyond the five-year limit based on the continued existence of an unfair trade practice or identification of a new unfair trade practice.

Comment: The final rule should contain a provision which allows for exceptions to the five-year limit in unusual or unexpected circumstances. For example, in the event of market disruptions or new trade barriers which restrict market access, the affected years should not count toward the five-year limit.

Comment: CCC should consider providing assistance for more than five years in a market when there is ''the obvious threat of unfair foreign trade practices'' or when industries have successfully expanded exports to that market.

Comment: ''When significant changes in restrictive laws or in distribution channels effectively create a new market, these countries should be

considered for funding beyond five years.''

Comment: The five-year limitation on promotional assistance for a specific brand product in a single market does not take into account the dynamic nature of the international marketplace and diminishes the flexibility and impact of the program. The limitation on promotional assistance should be based on factors such as return on investment, product life cycle and market share.

Comment: CCC should continue to provide assistance to all commercial entities in a market until the unfair trade practice is eliminated.

Comment: ''The interim regulations unnecessarily limit the Secretary's authority to waive the five-year limit.''

Response: CCC recognizes that circumstances other than the continued existence of an unfair trade practice or identification of a new unfair trade practice may warrant consideration for assistance to promote a specific brand product in a single market for more than five years. Therefore, CCC eliminated this requirement from the final rule. CCC may provide assistance to promote a specific product in a single market for more than five years when CCC determines that further assistance is necessary to meet the objectives of the program. CCC will apply the five-year limitation to single brand products in a market, not to product lines. However, the Deputy Administrator shall determine, at the Deputy Administrator's discretion, whether two or more brand products in any given country are substantially the same product. These changes are reflected in § 1485.14(d) (2) and (3).

Comment: Generic programs should not be subject to the five-year limit on promotional assistance.

Response: Section 1302(b)(2)(B) of the Omnibus Budget Reconciliation Act of 1993 and, therefore, this final rule, establish a five-year limit on promotional assistance for brand products, not generic products or programs.

Contributions

CCC received four comments on this issue.

Comment: Although it is extremely important for MPP participants to commit their own resources to the program, a strict 10 percent minimum contribution for nonbrand promotion may be a burden to some participants. The regulations should contain a provision which allows CCC to grant exceptions to the 10 percent contribution level.

Response: This contribution requirement is statutorily mandated by section 1302(b)(2)(C) of the Omnibus Budget Reconciliation Act of 1993. CCC cannot change the language of this statute through regulations. Accordingly, the final rule is adopted in this regard.

Comment: State groups should be allowed to count ''in-kind expenses'', i.e., staff time of member State Departments of Agriculture, toward their MPP participant contribution.

Response: Any MPP participant may count, as part of its contribution, time and expenses incurred by member organizations provided such contributions are for the overall administration or management of the participant's entire MPP.

Comment: Clarify the sentence ''CCC may increase the required contribution level in any subsequent year that an eligible trade organization receives assistance for nonbrand promotion.'' What criteria or standards will be used for increasing a participant's contribution level?

Response: This provision is statutorily mandated by section 1302(b)(2)(C) of the Omnibus Budget Reconciliation Act of 1993. Therefore, in deciding whether to increase the required contribution, CCC will consider the participant's ability to increase its contribution above the minimum level. This is explicitly stated in the rule and requires no further clarification.

Comment: Is the 10 percent minimum contribution level calculated on an individual activity basis or on an aggregate basis?

Response: An MPP participant is required to contribute an amount which is not less than 10 percent of total CCC resources expended for nonbrand promotions during the approved activity plan year.

Comment: Does the minimum 10 percent contribution requirement apply to multiyear proposals?

Response: Yes. This requirement applies to single and multiyear funded proposals.

Size Standards and Size Determinations

CCC received 13 comments on this issue.

Comment: CCC should retain the definitions and criteria established by the Small Business Administration (SBA) for size determinations.

Comment: Does the term ''small-sized entity'' apply to both U.S. and foreign entities?

Comment: ''Small'' should be defined as any non-multinational corporation.

Comment: Personnel and sales are not accurate measurements of a company's size.

Comment: What are the criteria for determining the number of employees of an entity?

Comment: CCC should not use SBA's criteria and size standards because the issue of affiliation is complex, difficult to understand, and time-consuming. ''Small-sized entity'' should be defined as ''a business which has less than 500 full-time employees, excluding employees of subsidiaries and affiliates''.

Comment: CCC should not consider a business' affiliation when determining company size. Combining affiliated corporate entities would frustrate the intent of the legislation.

Comment: The regulations should provide flexibility ''to accommodate industries that are 'small' in terms of revenues and total employees [as compared with] their direct industry competitors.''

Comment: Application of the SBA criteria would ''require an inordinate amount of investigation which when completed, [would] still be largely inaccurate in many cases.'' Therefore, CCC should establish standard definitions for ''large'' and ''small'' entities.

Response: The term ''small-sized entity'' applies only to U.S. entities. Use of SBA size standards is an efficient and effective method to resolve business size issues since it relies upon a set of existing standards promulgated by the agency with expertise in this area.

Comment: CCC should not use the size standards and criteria established by the SBA to define ''small-sized entity'' because they do not account for the unique characteristics of farmer cooperatives.

Comment: Member-growers of cooperatives should not be considered affiliates for purposes of size determination unless a member-grower owns a majority share of the cooperative or has a majority voting right in the cooperative.

Comment: Member-growers of cooperatives should not be included in the employee count for purposes of size determination.

Response: The SBA is solely responsible for establishing size standards and determining which concerns qualify as ''small''. However, SBA size standards may not always be appropriate for programs. If a Federal agency decides that the SBA size standard is not appropriate for the program involved, the agency may request SBA approval to establish a more appropriate size standard. CCC

submitted a proposal to the SBA requesting that all agricultural cooperatives be considered ''small-sized entities'' for purposes of the MPP. However, the SBA did not accept this proposal. Consequently, existing SBA rules govern whether a particular cooperative will be considered a small-sized entity. In this regard, SBA considers a cooperative as a single entity.

Priority Assistance

CCC received 22 comments on this issue.

Comment: How will CCC establish ''priorities'' among small-sized entities?

Comment: When establishing priorities, CCC should not penalize industries or sectors that either have no small entities or that have only generic programs.

Comment: The allocation of MPP funds solely on the basis of size is not consistent with normal business practice and discriminates against larger entities. Resources should be allocated to companies based on several criteria including performance, viability of marketing plans and proposals, the ability of applicants to execute plans, and past performance in MPP activities.

Comment: CCC should give priority to small-sized entities based on factors such as the entity's level of production, its level of export resources, its compliance record, and the expected impact of its strategic and activity plan.

Comment: Small-sized entities should be given priority through the reimbursement process.

Comment: CCC should allocate funds to deserving small-sized entities first, with any remaining funds going to ''large'' entities.

Comment: ''Priority'' should not mean a fixed percentage or amount given to small-sized entities, but rather a goal within the industry.

Comment: CCC should not interpret ''priority'' in a way that would set aside a portion of funds for small-sized entities because there may not be a sufficient number of these companies to use the funds.

Comment: CCC should set ''a maximum brand allocation'' per company, irrespective of company size. Evaluations of brand proposals should be based on the merits of the proposal, not on the size of the company seeking funds. Furthermore, funds should not be used for large advertising campaigns due to the limited amount of resources available.

Response: Priority for small-sized entities conducting brand promotions is statutorily mandated by section 1302(b)(2)(A) of the Omnibus Budget Reconciliation Act of 1993. Congress does not define ''priority'' in the law and, therefore, leaves this interpretation to the discretion of CCC. The legislation also does not specifically prohibit participation by medium- and large-sized companies, nor does it preclude the use of criteria, other than size, for allocating resources to private entities. CCC gives priority to small-sized entities by setting aside funds for such entities in the allocation process. An MPP participant who administers a brand program may also establish criteria for recommending priority funding to small-sized entities.

Comment: The regulations should clearly state that ''foreign entities with no U.S. place of business are not eligible for priority funding.''

Response: This is the way in which CCC has interpreted the rule. This operating practice is expressly set forth in the final rule.

Comment: Participants should not be held to the ''anticipated percentage of CCC resources to be made available to small-sized entities for brand promotion'' cited in their MPP applications.

Response: The percentage estimated by an organization in its MPP application is an important factor because, without this information, CCC would not be able to comply with the requirements of the legislation.

Additionality

CCC received 26 comments on this issue.

Comment: CCC should retain the provision requiring MPP participants to certify that MPP funds will supplement but not supplant any private or third party funds or other contributions. However, because of market dynamics and the need to adjust marketing activities, participants should not be held to a rigid standard based on prior-year expenditures.

Comment: The rule does not enumerate specific criteria or documentation requirements that would substantiate a participant's certification of additionality. How will CCC audit this provision?

Comment: In order to determine whether CCC resources received actually supplement or supplant private or third party funds or other contributions to program activities, specific objective criteria must be established and the applicable professional standards must be specified. ''Under professional standards independent accountants may not certify the accuracy of management's representation.''

Comment: Current and continuing participants in the MPP should be required to provide evidence of increased competitiveness of U.S. exporters.

Comment: The regulations should allow brand participants to demonstrate success by showing increases in sales after participating in the program over a finite period.

Comment: Brand participants should be required to demonstrate an increase in the ratio between their total expenditures and government funding in each successive year of the program's life. The ratio should be applied on a market and individual product line basis.

Comment: The additionality requirement ''. . . could hinder [smaller companies in] their effectiveness as they rely on the program for cost sharing (50/50) to further their own marketing budgets.''

Comment: The additionality requirement, although good in its intent, poses major challenges and difficulties in the area of compliance.

Response: The additionality provision is statutorily mandated by section 1302(b)(2)(D) of the Omnibus Budget Reconciliation Act of 1993. CCC cannot eliminate this requirement from the rule. In determining whether federal funds received supplement or supplant private or third party funds or contributions, CCC will consider the participant's overall marketing budget from year to year, variations in promotional strategies within a country and new markets. It will be each participant's responsibility to maintain appropriate records or documentation which substantiate its certification that any CCC resources received supplement, but do not supplant, any private or third party funds or other contributions to program activities.

Comment: When will the additionality provision be audited.

Response: The audit will occur during the normal compliance review process.

Applicability Date

This rule is effective February 1, 1995, but it applies no sooner than the beginning of each participant's 1995 program and corresponding activity plan year. Therefore, present participants will not be required to revise previously approved activity plans in order to comply with the new rules and should have sufficient time to take the new rules into consideration in the planning of future activities.

List of Subjects in 7 CFR Part 1485

Agricultural commodities, Exports.

Accordingly, Part 1485 of Title 7 of the Code of Federal Regulations is revised to read as follows:

PART 1485—COOPERATIVE AGREEMENTS FOR THE DEVELOPMENT OF FOREIGN MARKETS FOR AGRICULTURAL COMMODITIES

Subpart A—[Reserved]

Subpart B—Market Promotion Program

Sec.
1485.10 General purpose and scope.
1485.11 Definitions.
1485.12 Participation eligibility.
1485.13 Application process and strategic plan.
1485.14 Application approval and formation of agreements.
1485.15 Activity plan.
1485.16 Reimbursement rules.
1485.17 Reimbursement procedures.
1485.18 Advances.
1485.19 Employment practices.
1485.20 Financial management, reports, evaluations and appeals.
1485.21 Failure to make required contribution.
1485.22 Submissions.
1485.23 Miscellaneous provisions.
1485.24 Applicability date.
1485.25 Paperwork reduction requirement.

Authority: 7 U.S.C. 5623, 5662–5664 and sec. 1302, Pub. L. 103–66, 107 Stat. 330.

Subpart A—[Reserved]

Subpart B—Market Promotion Program

§ 1485.10 General purpose and scope.

(a) This Subpart sets forth the policies underlying the Commodity Credit Corporation's (CCC) operation of the Market Promotion Program (MPP), and a subcomponent of that program, the Export Incentive Program/Market Promotion Program (EIP/MPP). It also establishes the general terms and conditions applicable to MPP and EIP/MPP agreements.

(b) Under the MPP, CCC enters into agreements with nonprofit trade organizations to share the costs of certain overseas marketing and promotion activities that are intended to develop, maintain or expand commercial export markets for U.S. agricultural commodities and products. MPP participants may receive assistance for either generic or brand promotion activities. EIP/MPP participants are U.S. commercial entities that receive assistance for brand promotion activities.

(c) The MPP and EIP/MPP generally operate on a reimbursement basis, and CCC may, at its option, provide such reimbursement either in cash or in CCC commodity certificates.

(d) CCC's policy is to ensure that benefits generated by MPP and EIP/MPP agreements are broadly available throughout the relevant agricultural sector and no one entity gains an undue advantage. The MPP and EIP/MPP are administered by personnel of the Foreign Agricultural Service.

§ 1485.11 Definitions.

For purposes of this Subpart the following definitions apply:

(a) *Activity*—a specific market development effort undertaken by a participant.

(b) *Activity plan*—a document which details a participant's proposed activities and budget. (''Activity Plan'' is used in lieu of the term ''Marketing Plan'' to avoid administrative confusion with plans submitted under the Cooperator Foreign Market Development Program.)

(c) *Administrator*—the Administrator, FAS, USDA, or designee.

(d) *Agricultural commodity*—an agricultural commodity, food, feed, fiber, wood, livestock or insect, and any product thereof; and fish harvested from a U.S. aquaculture farm, or harvested by a vessel as defined in title 46, United States Code, in waters that are not waters (including the territorial sea) of a foreign country.

(e) *APAR*—activity plan amendment request.

(f) *Attache/Counselor*—the FAS employee representing USDA interests in the foreign country in which promotional activities are conducted.

(g) *Brand promotion*—an activity that involves the exclusive or predominant use of a single company name or logo(s) or brand name(s) of a single company.

(h) *CCC*—the Commodity Credit Corporation.

(i) *Contribution*—the cost-share incurred in support of an approved activity.

(j) *Demonstration projects*—activities involving the erection or construction of a structure or facility or the installation of equipment.

(k) *Deputy Administrator*—the Deputy Administrator, Commodity and Marketing Programs, FAS, USDA, or designee.

(l) *Division Director*—the director of a commodity division, Commodity and Marketing Programs, FAS, USDA.

(m) *EIP/MPP*—the Export Incentive Program/Market Promotion Program.

(n) *EIP/MPP participant*—a U.S. commercial entity which has entered into an EIP/MPP agreement with CCC.

(o) *Eligible commodity*—the agricultural commodity that is represented by an applicant.

(p) *Exported commodity*—an agricultural commodity that is sold to buyers in, or is donated to, a foreign country.

(q) *FAS*—Foreign Agricultural Service, USDA.

(r) *Foreign third party*—a foreign entity that assists, in accordance with an approved activity plan, in promoting the export of a U.S. agricultural commodity.

(s) *Generic promotion*—a promotion that is not a brand promotion.

(t) *Market*—a country in which an activity is conducted.

(u) *MPP*—the Market Promotion Program.

(v) *MPP participant*—an entity which has entered into an MPP agreement with CCC.

(w) *Participant*—a entity which has entered into an agreement with CCC.

(x) *Promoted commodity*—an agricultural commodity whose sale is the intended result of a promotion activity.

(y) *Sales team*—a group of individuals engaged in an approved activity intended to result in specific sales.

(z) *Small-sized entity*—a U.S. commercial entity which meets the small business size standards published at 13 CFR part 121, Small Business Size Regulations.

(aa) *SRTG*—an association of State Departments of Agriculture referred to as State Regional Trade Group(s).

(bb) *STRE*—sales and trade relations expenditures.

(cc) *Supergrade*—a salary level designation that is applicable to certain non-U.S. employees who direct participants' overseas offices.

(dd) *Trade team*—a group of individuals engaged in an approved activity intended to promote the interests of an entire agricultural sector rather than to result in specific sales by any of its members.

(ee) *Unfair trade practice*—an act, policy, or practice of a foreign government that:

(1) violates, is inconsistent with, or otherwise denies benefits to the United States under, any trade agreement to which the United States is a party; or

(2) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce.

(ff) *U.S. commercial entity*—an agricultural cooperative or for-profit firm located and doing business in the United States, and engaged in the export or sale of an agricultural commodity.

(gg) *U.S. industry contribution*—the cost incurred by the U.S industry in support of an approved activity.

(hh) *USDA*—the United States Department of Agriculture.

§ 1485.12 Participation Eligibility.

(a) To participate in the MPP, an entity:

(1) Shall be:

(i) A nonprofit U.S agricultural trade organization;

(ii) A nonprofit state regional trade group;

(iii) A U.S. agricultural cooperative; or

(iv) A State agency; and

(2) Shall contribute:

(i) In the case of generic promotion, at least 10 percent of the value of resources provided by CCC for such generic promotion; or

(ii) In the case of brand promotion, at least 50 percent of the total cost of such brand promotions.

(b) To participate in the EIP/MPP, an entity:

(1) Shall be a U.S. commercial entity that either owns the brand(s) of the agricultural commodity(s) to be promoted or has the exclusive rights to use such brand(s); and

(2) Shall contribute at least 50 percent of the total cost of the brand promotion.

(c) CCC may require a contribution level greater than that specified in paragraphs (a) and (b) of this section. In requiring a higher contribution level, CCC will take into account such factors as past participant contributions, previous MPP funding levels, the length of time an entity participates in the program and the entity's ability to increase its contribution.

(d) CCC may require an EIP/MPP applicant to participate through an MPP participant.

(e) CCC will enter into MPP or EIP/MPP agreements only where the eligible agricultural commodity is comprised of at least 50 percent U.S. origin content by weight, exclusive of added water.

(f) CCC will not enter into an MPP or EIP/MPP agreement for the promotion of tobacco or tobacco products.

§ 1485.13 Application process and strategic plan.

(a) General application requirements.

CCC will periodically publish a Notice in the **Federal Register** that it is accepting applications for participation in MPP and EIP/MPP. Applications shall be submitted in accordance with the terms and requirements specified in the Notice. An application shall contain basic information about the applicant and the proposed program, a program justification and a strategic plan.

(1) Basic applicant and program information.

(i) All MPP and EIP/MPP applications shall contain:

(A) The name and address of the applicant;

(B) The name of the Chief Executive Officer;

(C) The name and telephone number of the applicant's primary contact person;

(D) The name(s) of the person(s) responsible for managing the program;

(E) Type of organization—see § 1485.12(a)(1);

(F) Tax exempt identification number, if applicable;

(G) Activity plan year (mm/dd/yy-mm/dd/yy);

(H) Dollar amount of CCC resources requested for generic activities;

(I) Dollar amount of CCC resources requested for brand activities;

(J) Percentage of CCC resources requested for brand activities that will be made available to small-sized entities;

(K) Total dollar amount of CCC resources requested;

(L) Percentage of CCC resources requested for general administrative costs and overhead; and

(M) Estimated cumulative carryover—i.e., the estimated amount of unexpended funds allocated to the applicant in any prior year;

(ii) Applications submitted by nonprofit entities shall also contain:

(A) A description of the organization;

(B) A description of the organization's membership and membership criteria;

(C) A list of affiliated organizations;

(D) A description of management and administrative capability;

(E) A description of prior export promotion experience;

(F) Value, in dollars, that the applicant will contribute;

(G) Applicant's contribution stated as a percent of 1(i)(K) above;

(H) Value, in dollar, of contributions from other sources;

(2) Program justification.

(i) All MPP and EIP/MPP applications shall contain:

(A) A description of the eligible agricultural commodity(s), its harmonized system code, the commodity aggregate code and the percentage of U.S. origin content by weight, exclusive of added water;

(B) A description of the exported agricultural commodity(s), its harmonized system code, the commodity aggregate code and the percentage of U.S. origin content by weight, exclusive of added water;

(C) A description of the promoted agricultural commodity(s), its harmonized system code, the commodity aggregate code and the percentage of U.S. origin content by weight, exclusive of added water;

(D) A description of the anticipated supply and demand situation for the exported agricultural commodity(s);

(E) The volume and value of the exported agricultural commodity(s) for the most recent 3-year period;

(F) If the proposal is for two or more years, an explanation why the proposal should be funded on a multiyear basis; and

(G) A certification and, if requested by the Deputy Administrator, a written explanation supporting the certification, that any funds received will supplement, but not supplant, any private or third party funds or other contributions to program activities. The justification shall indicate why the participant is unlikely to carry out the activities without Federal financial assistance. In determining whether federal funds received supplemented or supplanted private or third party funds or contributions, CCC will consider the participant's overall marketing budget from year to year, variations in promotional strategies within a country and new markets.

(ii) Applications submitted by a small-sized entity seeking funds under an EIP/MPP agreement shall contain a certification that it is a small business within the standards established by 13 CFR part 121. For purposes of determining size, a cooperative will be considered a single entity.

(iii) Applicants seeking funds for brand promotion shall contain the information required by § 1485.16(g)(1) and (2) in order to justify a rate of reimbursement higher than specified therein.

(3) Strategic plan.

(i) All MPP and EIP/MPP applications shall contain:

(A) A summary of proposed budgets by country and commodity aggregate code;

(B) A description of the world market situation for the exported agricultural commodity;

(C) A description of competition from other exporters, including U.S. firms, where applicable;

(D) A statement of goals and the applicant's plans for monitoring and evaluating performance towards achieving these goals.

(E) For each country, if applicable, five years of:

(*1*) historical U.S. export data;

(*2*) U.S. market share; and

(*3*) MPP funds received;

(F) For each country, three years of projected U.S. export data and U.S. market share;

(G) Country strategy, including constraint(s) impeding U.S. exports, strategy to overcome constraints, previous activities in the country, the projected impact of the proposed program on U.S. exports;

(H) A justification for any new overseas office;

(I) A description of any demonstration projects, if applicable (see § 1485.13(d)(1) through (4));

(J) Data summarizing historical and projected exports, market share and MPP budgets for the world; and

(K) A description of overall program goals for the ensuing 3–5 years; (ii) MPP applications for brand promotion assistance shall also contain:

(A) A description of how the brand promotion program will be publicized to U.S. and foreign commercial entities;

(B) The criteria that will be used to allocate funds to U.S. and foreign commercial entities; and

(C) A justification for conducting a brand promotion program with foreign commercial entities, if applicable.

(b) CCC may request any additional information which it deems necessary to evaluate an MPP or EIP/MPP application. In particular, CCC may require additional performance measurement, as required by the Government Performance and Results Act of 1993.

(c) Eligible contributions.

(1) In calculating the amount of contributions that it will make, and the contributions it will receive from a U.S. industry, a foreign third party or a State agency, the MPP applicant may include the costs (or such prorated costs) listed under paragraph (c)(2) of this section if:

(i) Such costs will be incurred as part of an approved activity, and

(ii) The contributor has not been or will not be reimbursed by any other source for such costs.

(2) Subject to paragraph (c)(1) of this section, eligible contributions are:

(i) Cash;

(ii) Compensation paid to personnel;

(iii) The cost of acquiring materials, supplies or services;

(iv) The cost of office space;

(v) A reasonable and justifiable proportion of general administrative costs and overhead;

(vi) Payments for indemnity and fidelity bond expenses;

(vii) The cost of business cards;

(viii) The cost of seasonal greeting cards;

(ix) Fees for office parking;

(x) The cost of subscriptions to publications;

(xi) The cost of activities conducted overseas;

(xii) Credit card fees;

(xiii) The cost of any independent evaluation or audit that is not required by CCC to ensure compliance with program requirements;

(xiv) The cost of giveaways, awards, prizes and gifts;

(xv) The cost of product samples;

(xvi) Fees for participating in U.S. government activities;

(xvii) The cost of air and local travel in the United States;

(xviii) Payment of employee's or contractor's share of personal taxes; and

(xix) The cost associated with trade shows, seminars, entertainment and STRE conducted in the United States.

(3) The following are not eligible contributions:

(i) Any expenditure on brand promotion, except for expenditures incurred by the MPP participant in administering its brand promotion program;

(ii) Any portion of salary or compensation of an individual who is the target of an approved promotional activity;

(iii) Any expenditure, including that portion of salary and time spent in promoting membership in the participant organization or in promoting the MPP among its members (sometimes referred to in the industry as ''backsell'');

(iv) Any land costs other than allowable costs for office space;

(v) Depreciation;

(vi) The cost of refreshments and related equipment provided to office staff;

(vii) The cost of insuring articles owned by private individuals;

(viii) The cost of any arrangement which has the effect of reducing the selling price of an agricultural commodity;

(ix) The cost of product development, product modifications, or product research;

(x) Slotting fees or similar sales expenditures;

(xi) Membership fees in clubs and social organizations; and

(xii) Any expenditure for an activity prior to CCC's approval of that activity or amendment.

(4) The Deputy Administrator shall determine, at the Deputy Administrator's discretion, whether any cost not expressly listed in this section may be included by the participant as an eligible contribution.

(d) Special rules governing demonstration projects funded with CCC resources. CCC will consider proposals for demonstration projects provided:

(1) No more than one such demonstration project per constraint is undertaken within a market;

(2) The constraint to be addressed in the market is a lack of technical knowledge or expertise;

(3) The demonstration project is a practical and cost effective method of overcoming the constraint;

(4) A third party participates in such project through a written agreement which provides that title to the structure, facility or equipment may transfer to the third party and that the MPP participant may use the structure, facility or equipment for a period specified in the agreement for the purpose of removing the constraint.

§ 1485.14 Application approval and formation of agreements.

(a) General. CCC will, consistent with available resources, approve those applications which it considers to present the best opportunity for developing or expanding export markets for U.S. agricultural commodities. The selection process, by its nature, involves the exercise of judgment. CCC's choice of participants and proposed promotion projects requires that it consider and weigh a number of factors that cannot be mathematically measured—i.e., market opportunity, market strategy and management capability.

(b) Approval criteria.

In assessing the applications it receives and determining which it will approve, CCC considers the following criteria:

(1) The effectiveness of program management;

(2) Soundness of accounting procedures;

(3) The nature of the applicant organization, with greater weight given to those organizations with the broadest base of producer representation;

(4) Prior export promotion or direct export experience;

(5) Previous MPP funding;

(6) Adequacy of the applicant's strategic plan in the following categories:

(i) Description of market conditions;

(ii) Description of, and plan for addressing, market constraints;

(iii) Reasonable likelihood of plan success;

(iv) Export volume and value and market share goals in each country;

(v) Description of evaluation plan and suitability of the plan for performance measurement; and

(vi) Past program results and evaluations, if applicable.

(c) Allocation factors.

After determining which applications to approve, CCC determines how it will allocate resources among participants based on the following factors, in addition to those in paragraph (b) of this section:

(1) Size of the budget request in relation to projected value of exports;

(2) Where applicable, size of the budget request in relation to actual value of exports in prior years;

(3) Where applicable, participant's past projections of exports compared with actual exports;

(4) Level of participant's contribution;

(5) Market share goals in target country(ies);

(6) The degree to which the product to be exported consists of U.S. grown agricultural commodities;

(7) The degree of value-added processing in the U.S.; and

(8) General administrative and overhead costs compared to direct promotional costs.

(9) In the case of a brand promotion program, the percentage of the budget that will be made available to small-sized entities as a means of providing priority assistance to such entities.

(d) Approval decision.

(1) CCC will approve those applications which it determines best satisfy the criteria and factors specified above. In addition, CCC will only approve applications for EIP/MPP when there is sufficient U.S. industry need for a brand promotion and there is no eligible MPP participant interested in or capable of undertaking the brand promotion.

(2) CCC will not provide assistance to promote a specific brand product in a single country for more than five years. This five year period shall not begin prior to the 1994 program or the participant's first activity plan year, whichever is later. In limited circumstances, the five year limitation may be waived if the Deputy Administrator determines that further assistance is necessary in order to meet the objectives of the program.

(3) The Deputy Administrator shall determine, at the Deputy Administrator's discretion, whether two or more brand products in any given country are substantially the same product.

(e) Formation of agreements.

CCC will notify each applicant in writing of the final disposition of its application. CCC will send a program agreement, allocation approval letter and a signature card to each approved applicant. The allocation approval letter will specify any special terms and conditions applicable to a participant's program, including the required level of participant contribution. An applicant that decides to accept the terms and conditions contained in the program agreement and allocation approval letter should so indicate by having its Chief Executive Officer sign the program agreement and by submitting the signed agreement to the Director, Marketing Operations Staff, FAS, USDA. Final agreement shall occur when the Administrator signs the agreement on behalf of CCC. The application, the program agreement, the allocation approval letter and these regulations shall establish the terms and conditions of an MPP or EIP/MPP agreement between CCC and the approved applicant.

(f) Signature cards.

The participant shall designate at least two individuals in its organization to sign program agreements, reimbursement claims and advance requests. The participant shall submit the signature card signed by those designated individuals and by the participant's Chief Executive Officer to the Director, Marketing Operations Staff, FAS, USDA, and shall immediately notify the Director of any changes in signatories and shall submit a revised signature card accordingly.

§ 1485.15 Activity plan.

(a) General.

A participant shall develop a specific activity plan(s) based on its strategic plan and the allocation approval letter and shall submit an activity plan for each year in which it engages in program activities. An activity plan handbook, available from the Division Director, provides suggested formats and codes for activity plans and amendments.

(b) An activity plan shall contain:

(1) A written presentation of all proposed activities including:

(i) A short description of the relevant constraint;

(ii) A description of any changes in strategy from the strategic plan;

(iii) A budget for each proposed activity, identifying the source of funds;

(iv) Specific goals and benchmarks to be used to measure the effectiveness of each activity. This will assist CCC in carrying out its responsibilities under the Government Performance and Results Act of 1993 that requires performance measurement of Federal programs, including the MPP. Evaluation of MPP's effectiveness will depend on a clear statement by participants of goals, method of achievement, and results of activities at regular intervals. The overall goal of the MPP and of individual participants' activities is to achieve additional exports of U.S. agricultural products, that is, sales that would not have occurred in the absence of MPP funding.

(2) A staffing plan for any overseas office, including a listing of job titles, position descriptions, salary ranges and any request for approval of supergrade salaries; and

(3) An itemized administrative budget for any overseas office.

(c) Activity plans for small-sized entities operating through an SRTG shall contain a certification that it is a small-sized entity within the standards established by 13 CFR Part 121.

(d) Requests for approval of ''supergrades''.

(1) Ordinarily, CCC will not reimburse any portion of a non-U.S. citizen employees compensation that exceeds the highest salary level in the Foreign Service National (FSN) salary plan applicable to the country in which the employee works. However, a participant may seek a higher level of reimbursement for a non-U.S. citizen who will be employed as a country director or regional director by requesting that CCC approve that employee as a ''supergrade''.

(2) To request approval of a ''supergrade'', the participant shall include in its activity plan a detailed description of both the duties and responsibilities of the position, and of the qualifications and background of the employee concerned. The participant shall also justify why the highest FSN salary level is insufficient.

(3) Where a non-U.S. citizen will be employed as a country director, the MPP participant may request approval for a ''Supergrade I'' salary level, equivalent to a grade increase over the existing top grade of the FSN salary plan. The ''supergrade'' and its step increases are calculated as the percentage difference between the second highest and the highest grade in the FSN salary plan with that percentage applied to each of the steps in the top grade. Where the non-U.S. citizen will be employed as a regional director, with responsibility for activities and/or offices in more than one country, the MPP participant may request approval for a ''Supergrade II'' salary level which is calculated relative to a ''Supergrade I'' in the same way the latter is calculated relative to the highest grade in the FSN salary plan.

(e) Submission of the activity plan.

A participant shall submit three copies of an activity plan to the Division Director and a copy of the relevant country section(s) to the Attaché/Counselor(s) concerned.

(f) Activity plan approval.

CCC shall indicate in an activity plan approval letter which activities and budgets are approved or disapproved, and shall indicate any special terms and conditions that apply to the participant including any requirements with respect to contributions and program evaluations. A participant may undertake promotional activities directly or through a foreign third party; however, the participant shall be responsible and accountable to CCC for all such promotional activities and related expenditures.

(g) Activity plan changes.

(1) A participant may request changes to an activity plan by submitting one copy of an APAR to each of the Division Director and the Attaché/Counselor(s) concerned.

(2) An APAR for a new activity shall contain the information required in paragraph (b) of this section. All other APAR's shall contain the activity description, the proposed budget and a justification for transfer of funds, if applicable.

§ 1485.16 Reimbursement rules.

(a) A participant may seek reimbursement for an expenditure if:

(1) An expenditure has been made in furtherance of an approved activity;

(2) The participant has transferred funds to pay for the expenditure; and

(3) The participant has not been or will not be reimbursed for such expenditure by any other source.

(b) Subject to paragraph (a) of this section, CCC will reimburse, in whole or in part, the cost of:

(1) Production and placement of advertising in print or electronic media or on billboards or posters;

(2) Production and distribution of banners, recipe cards, table tents, shelf talkers and other similar point of sale materials;

(3) Direct mail advertising;

(4) In-store and food service promotions, product demonstrations to the trade and to consumers, and distribution of promotional samples;

(5) Temporary displays and rental of space for temporary displays;

(6) Fees for participation in retail, trade, and consumer exhibits and shows and booth construction and transportation of related materials to such shows;

(7) Trade seminars including space, equipment rental and duplication of seminar materials;

(8) Publications;

(9) Part-time contractors such as demonstrators, interpreters, translators and receptionists to help with the implementation of promotional activities such as trade shows, in-store promotions, food service promotions, and trade seminars; and

(10) Giveaways, awards, prizes, gifts and other similar promotional materials subject to the limitation that CCC will not reimburse more than $1.00 per item;

(c) Subject to paragraph (a) of this section, but for generic promotion activities only, CCC will also reimburse, in whole or in part, the cost of:

(1) Compensation and allowances for housing, educational tuition, and cost of living adjustments paid to a U.S. citizen employee or a U.S. citizen contractor stationed overseas subject to the limitation that CCC shall not reimburse that portion of:

(i) The total of compensation and allowances that exceed 125 percent of the level of a GS–15 Step 10 salary for U.S. Government employees, and

(ii) Allowances that exceed the rate authorized for U.S. Embassy personnel;

(2) Approved ''supergrade'' salaries for non-U.S. citizens and non-U.S. contractors;

(3) Compensation of a non-U.S. citizen staff employee or non-U.S. contractor subject to the following limitations:

(i) Where there is a local U.S. Embassy Foreign Service National (FSN) salary plan, CCC shall not reimburse any portion of such compensation that exceeds the compensation prescribed for the most comparable position in the FSN salary plan, or

(ii) Where an FSN salary plan does not exist, CCC will not reimburse any portion of such compensation that exceeds locally prevailing levels which the MPP participant shall document by a salary survey or other means.

(4) A retroactive salary adjustment that conforms to a change in FSN salary plans, effective as of the date of such change;

(5) Accrued annual leave at such time when employment is terminated or when required by local law;

(6) Overtime paid to clerical staff;

(7) Daily contractor fees subject to the limitation that CCC will not reimburse any portion of such fee that exceeds the daily gross salary of a GS–15, Step 10 for U.S. Government employees in effect on the date the fee is earned;

(8) Air travel plus passports, visas and inoculations subject to the limitation that CCC will not reimburse any portion of air travel in excess of the full fare economy rate or when the participant fails to notify the Attaché/Counselor in the destination country in advance of the travel unless the Deputy Administrator determines it was impractical to provide such notification;

(9) Per diem subject to the limitation that CCC will not reimburse per diem in excess of the rates allowed under the U.S. Federal Travel Regulations (41 CFR parts 301 through 304);

(10) Automobile mileage at the local U.S. Embassy rate or rental cars while in travel status;

(11) Other allowable expenditures while in travel status as authorized by the U.S. Federal Travel Regulations (41 CFR parts 301 through 304);

(12) An overseas office, including rent, utilities, communications originating overseas, office supplies, accident liability insurance premiums and legal and accounting services;

(13) The purchase, lease, or repair of, or insurance premiums for, capital goods that have an expected useful life of at least one year such as furniture, equipment, machinery, removable fixtures, draperies, blinds, floor coverings, computer hardware and software;

(14) Premiums for health or accident insurance or other benefits for foreign national employees that the employer is required by law to pay;

(15) Accident liability insurance premiums for facilities used jointly with third party participants for MPP activities or for travel of non-MPP participant personnel;

(16) Market research;

(17) Evaluations, if not required by CCC to ensure compliance with program requirements;

(18) Legal fees to obtain advice on the host country's labor laws;

(19) Employment agency fees;

(20) STRE including breakfast, lunch, dinner, receptions and refreshments at approved activities; miscellaneous courtesies such as checkroom fees, taxi fares and tips; and decorations for a special promotional occasion;

(21) Educational travel of dependent children, visitation travel, rest and recuperation travel, home leave travel, emergency visitation travel for U.S. overseas employees allowed under the Foreign Affairs Manual, Foreign Affairs Manual, OIS/RA/PSG, Room B–264 Main State, Washington, D.C. 20520, Telephone: 202–736–4881, FAX: 202–736–7214.

(22) Evacuation payments (safe haven), shipment and storage of household goods and motor vehicles;

(23) Domestic administrative support expenses for the National Association of State Departments of Agriculture and the SRTGs;

(24) Generic commodity promotions (see § 1485.13(e));

(25) Expenditures associated with trade shows, seminars, and educational training conducted in the United States; and

(26) Demonstration projects.

(d) CCC will not reimburse any cost of:

(1) Forward year financial obligations, such as severance pay, attributable to employment of foreign nationals;

(2) Expenses, fines, settlements or claims resulting from suits, challenges or disputes emanating from employment terms, conditions, contract provisions and related formalities;

(3) The design and production of packaging, labeling or origin identification stickers;

(4) Product development, product modification or product research;

(5) Product samples;

(6) Slotting fees or similar sales expenditures;

(7) The purchase, construction or lease of space for permanent displays, i.e., displays lasting beyond one activity plan year;

(8) Rental, lease or purchase of warehouse space;

(9) Coupon redemption or price discounts;

(10) Refundable deposits or advances;

(11) Giveaways, awards, prizes, gifts and other similar promotional materials in excess of $1.00 per item;

(12) Alcoholic beverages that are not an integral part of an approved promotional activity;

(13) The purchase, lease (except for use in authorized travel status) or repair of motor vehicles;

(14) Travel of applicants for employment interviews;

(15) Unused non-refundable airline tickets or associated penalty fees except where travel is restricted by U.S. government action or advisory;

(16) Independent evaluation or audit, including activities of the subcontractor if CCC determines that such a review is needed in order to ensure program compliance;

(17) Any arrangement which has the effect of reducing the selling price of an agricultural commodity;

(18) Goods and services and salaries of personnel provided by U.S. industry or foreign third party;

(19) Membership fees in clubs and social organizations;

(20) Indemnity and fidelity bonds;

(21) Fees for participating in U.S. Government sponsored activities, other than trade fairs and exhibits;

(22) Business cards;

(23) Seasonal greeting cards;

(24) Office parking fees;

(25) Subscriptions to publications;

(26) Home office domestic administrative expenses, including communication costs;

(27) Travel in the United States unless in transit to or from a foreign country in which travel is not restricted;

(28) Payment of U.S. and foreign employees or contractors share of personal taxes, except as legally required in a foreign country, and;

(29) Any expenditure incurred for an activity prior to CCC's approval of that activity or amendment.

(e) The Deputy Administrator may determine, at the Deputy Administrator's discretion, whether any cost not expressly listed in this section will be reimbursed.

(f) For a generic promotion activity involving the use of company names, logos or brand names, the MPP participant must ensure that all companies seeking to promote U.S. agricultural commodities have an equal opportunity to participate in the activity.

(g) For a brand promotion activity, CCC will reimburse at a rate equal to the percentage of U.S. origin content of the promoted agricultural commodity or at a rate of 50 percent, whichever is the lesser, except that CCC may reimburse for a higher rate if:

(1) There has been an affirmative action by the U.S. Trade Representative under Section 301 of the Trade Act of 1974 with respect to the unfair trade practice cited and there has been no final resolution of the case; and

(2) The participant shows, in comparison to the year such Section 301 case was initiated, that U.S. market share of the agricultural commodity concerned has decreased; and

(3) In such case, CCC shall determine the appropriate rate of reimbursement.

(h) CCC will reimburse for expenditures, other than administrative expenditures, made after the conclusion of participant's activity plan year provided:

(1) The activity was approved prior to the end of the activity plan year;

(2) Funds were transferred to pay for a portion of the expenditure(s) prior to the end of the activity plan year; and

(3) Expenditures were incurred not more than 30 calendar days beyond the end of an activity plan year.

§ 1485.17 Reimbursement procedures.

(a) A format for reimbursement claims is available from the Division Director. Claims for reimbursement shall contain the following information:

(1) Activity type—brand or generic;

(2) Activity number;

(3) Commodity aggregate code;

(4) Country code;

(5) Cost category;

(6) Amount to be reimbursed;

(7) If applicable, any reduction in the amount of reimbursement claimed to offset CCC demand for refund of amounts previously reimbursed, and reference to the relevant Compliance Report; and

(8) If applicable, any amount previously claimed that has not been reimbursed.

(b) All claims for reimbursement shall be submitted by the participant's U.S. office to the Director, Marketing Operations Staff, FAS, USDA.

(c) In general, CCC will not reimburse a claim for less than $10,000 except that CCC will reimburse a final claim for a participant's activity plan year for a lesser amount.

(d) CCC will not reimburse claims submitted later than 6 months after the end of a participant's activity plan year.

(e) If CCC reimburses a claim with commodity certificates, CCC will issue commodity certificates with a face value equivalent to the amount of the claim which shall be in full accord and satisfaction of such claim.

(f) If CCC overpays a reimbursement claim, the participant shall repay CCC within 30 days the amount of the overpayment either by submitting a check payable to CCC or by offsetting its next reimbursement claim.

(g) If a participant receives a reimbursement or offsets an advanced payment which is later disallowed, the participant shall within 30 days of such disallowance repay CCC the amount owed either by submitting a check payable to CCC or by offsetting its next reimbursement claim.

(h) The participant shall report any actions having a bearing on the propriety of any claims for reimbursement to the Attache/Counselor and its U.S. office shall report such actions in writing to the Division Director(s).

§ 1485.18 Advances.

(a) Policy.

In general, CCC operates MPP and EIP/MPP on a reimbursable basis. CCC will not advance funds to an EIP/MPP participant or to an MPP participant for brand promotion activities.

(b) Exception.

Upon request, CCC may advance payments to an MPP participant for generic promotion activities. Prior to making an advance, CCC may require the participant to submit security in a form and amount acceptable to CCC to protect CCC's financial interests. Total payments advanced shall not exceed 40 percent of a participant's approved annual generic activity budget. However, CCC will not make any advance to an MPP participant where an advance is outstanding from a prior activity plan year.

(c) Refunds due CCC.

A participant shall expend the advance on approved generic promotion activities within 90 calendar days after the date of disbursement by CCC. A participant shall return any unexpended portion of the advance, plus a prorated share of all proceeds generated (i.e., premiums generated from certificate sales and interest earned), either by submitting a check payable to CCC or by offsetting its next reimbursement claim. All checks shall be mailed to the Director, Marketing Operations Staff, FAS, USDA.

§ 1485.19 Employment practices.

(a) An MPP participant shall enter into written contracts with all employees and shall ensure that all terms, conditions, and related formalities of such contracts conform to governing local law.

(b) An MPP participant shall, in its overseas office, conform its office hours, work week and holidays to local law and to the custom generally observed by U.S. commercial entities in the local business community.

(c) An MPP participant may pay salaries or fees in any currency (U.S. or foreign) if approved by the Attache/Counselor. However, participants are cautioned to consult local laws regarding currency restrictions.

1485.20 Financial management, reports, evaluations and appeals.

(a) Financial Management.

(1) An MPP participant shall implement and maintain a financial management system that conforms to generally accepted principles and standards of accounting.

(2) An MPP participant shall institute internal controls and provide written guidance to commercial entities participating in its activities to ensure their compliance with these provisions. Each participant shall maintain all original records and documents relating to program activities for five calendar years following the end of the applicable activity plan year and shall make such records and documents available upon request to authorized officials of the U.S. Government. An MPP participant shall also maintain all documents related to employment such as employment applications, contracts, position descriptions, leave records and salary changes, and all records pertaining to contractors.

(3) A participant shall maintain its records of expenditures and contributions in a manner that allows it to provide information by activity plan, country, activity number and cost category. Such records shall include:

(i) Receipts for all STRE (actual vendor invoices or restaurant checks, rather than credit card receipts);

(ii) Original receipts for any other program related expenditure in excess of $25.00;

(iii) The exchange rate used to calculate the dollar equivalent of expenditures incurred in a foreign currency and the basis for such calculation;

(iv) Copies of reimbursement claims;

(v) An itemized list of claims charged to each of the participant's CCC resources accounts;

(vi) Documentation with accompanying English translation supporting each reimbursement claim, including original evidence to support the financial transactions such as canceled checks, receipted paid bills, contracts or purchase orders, per diem calculations and travel vouchers. (Credit memos are not acceptable types of documentation for participant reimbursement claims); and

(vii) Documentation supporting contributions must include: the dates, purpose and location of the activity for which the cash or in-kind items were claimed as a contribution; who conducted the activity; the participating groups or individuals; and, the method of computing the claimed contributions. MPP participants must retain and make available for audit documentation related to claimed contributions.

(4) Upon request, a participant shall provide to CCC originals of documents supporting reimbursement claims.

(b) Reports.

(1) End-of-Year Contribution Report.

Not later than 6 months after the end of its activity plan year, a participant shall submit two copies of a report which identifies, by activity and cost category and in U.S. dollar equivalent, contributions made by the participant, the U.S. industry and foreign third parties during that activity plan year. A suggested format of a contribution report is available from the Division Director.

(2) Trip Reports.

Not later than 45 days after completion of travel (other than local travel), an MPP participant shall submit a trip report. The report must include the name(s) of the traveler(s), purpose of travel, itinerary, names and affiliations of contacts, and a brief summary of findings, conclusions, recommendations or specific accomplishments.

(3) Research Reports.

Not later than 6 months after the end of its activity plan year, an MPP participant shall submit a report on any research conducted in accordance with the activity plan.

(4) A participant shall submit the reports required by this subsection to the appropriate Division Director. Trip reports and research reports shall also be submitted to the Attache/Counselor concerned. All reports shall be in English and include the participant's agreement number, the countries covered, date of the report and the period covered in the report.

(5) CCC may require the submission of additional reports.

(6) A participant shall provide to the FAS Compliance Review Staff upon request any audit reports by independent public accountants.

(c) Evaluation.

(1) Policy.

(i) The Government Performance and Results Act (GPRA) of 1993 (5 U.S.C. 306; 31 U.S.C. 1105, 1115–1119, 3515, 9703–9704) requires performance measurement of Federal programs, including MPP. Evaluation of MPP's effectiveness will depend on a clear statement by participants of goals to be met within a specified time, schedule of measurable milestones for gauging success, plan for achievement, and results of activities at regular intervals. The overall goal of the MPP and of individual participants' activities is to achieve additional exports of U.S. agricultural products, that is, sales that would not have occurred in the absence of MPP funding. A participant that can demonstrate additional sales compared to a representative base period, taking into account extenuating factors beyond the participant's control, will have met the overall objective of the GPRA and the need for evaluation.

(ii) Evaluation is an integral element of program planning and implementation, providing the basis for the strategic plan and activity plan. The evaluation results guide the development and scope of a participant's program, contributing to program accountability and providing evidence of program effectiveness.

(iii) An MPP participant shall conduct periodic evaluations of its program and activities and may contract with an independent evaluator to satisfy this requirement. CCC reserves the right to have direct input and control over design, scope and methodology of any such evaluation, including direct contact with and provision of guidance to the independent evaluator.

(2) Types of evaluation.

(i) An activity evaluation is a review of an activity to determine whether such activity achieved the goals specified in the activity plan. Unless specifically exempted in the activity plan, all activity evaluations shall be completed within 90 days following the end of the MPP participant's activity plan year.

(ii) A brand promotion evaluation is a review of the U.S. and foreign commercial entities' export sales to determine whether the activity achieved the goals specified in the activity plan. These evaluations shall be completed within 90 days following the end of the participant's activity plan year.

(iii) A program evaluation is a review of the MPP participant's entire program or any appropriate portion of the program to determine the effectiveness of the participant's strategy in meeting specified goals. An MPP participant shall complete at least one program evaluation each year. Actual scope and

timing of the program evaluation shall be determined by the MPP participant and the Division Director and specified in the MPP participant's activity plan approval letter.

(3) Contents of program evaluation.

A program evaluation shall contain:

(i) The name of the party conducting the evaluation;

(ii) The activities covered by the evaluation (including the activity numbers);

(iii) A concise statement of the constraint(s) and the goals specified in the activity plan;

(iv) A description of the evaluation methodology;

(v) A description of additional export sales achieved, including the ratio of additional export sales in relation to MPP funding received;

(vi) A summary of the findings, including an analysis of the strengths and weaknesses of the program(s); and

(vii) Recommendations for future programs.

(4) An MPP participant shall submit via a cover letter to the Division Director, an executive summary which provides assessment of the program evaluation's findings and recommendations and proposed changes in program strategy or design as a result of the evaluation.

(5) If as a result of an evaluation or audit of activities of a participant under the program, CCC determines that further review is needed in order to ensure compliance with the requirements of the program, CCC may require the participant to contract for an independent audit of the program activities,

(d) Appeals.

(1) The Director, Compliance Review Staff (Director, CRS) will notify a participant through a compliance report when it appears that CCC may be entitled to recover funds from that participant. The compliance report will state the basis for this action.

(2) A participant may, within 60 days of the date of the compliance report, submit a response to the Director, CRS. The Director, CRS, at the Director's discretion, may extend the period for response up to an additional 30 days. If the participant does not respond to the compliance report within the required time period or, if after review of the participant's response, the Director, CRS, determines that CCC may be entitled to recover funds from the participant, the Director, CRS, will refer the compliance report to the Deputy Administrator.

(3) If after review of the compliance report and response, the Deputy Administrator determines that the participant owes any money to CCC he will so inform the participant and provide the basis for the decision. The Deputy Administrator may initiate action to collect such amount pursuant to 7 C.F.R. Part 1403, Debt Settlement Policies and Procedures. Determinations of the Deputy Administrator will be in writing and in sufficient detail to inform the participant of the basis for the determination. The participant may request reconsideration within 30 days of the date of the Deputy Administrator's initial determination.

(4) The Participant may appeal determinations of the Deputy Administrator to the Administrator. An appeal must be in writing and be submitted to the office of the Deputy Administrator within 30 days following the date of the initial determination by the Deputy Administrator or the determination on reconsideration. The participant may request a hearing.

(5) If the participant submits its appeal and requests a hearing, the Administrator, or the Administrator's designee, will set a date and time, generally within 60 days. The hearing will be an informal proceeding. A transcript will not ordinarily be prepared unless the participant bears the cost of a transcript; however, the Administrator may have a transcript prepared at CCC's expense.

(6) The Administrator will base the determination on appeal upon information contained in the administrative record and will endeavor to make a determination within 60 days after submission of the appeal, hearing or receipt of any transcript, whichever is later. The determination of the Administrator will be the final determination of CCC. The participant must exhaust all administrative remedies contained in this subsection before pursuing judicial review of a determination by the Administrator.

§ 1485.21 Failure to make required contribution.

An MPP participant's contribution requirement will be specified in the MPP allocation letter and the activity plan approval letter. If an MPP participant fails to contribute the amount specified in its allocation approval letter, the MPP participant shall pay to CCC in U.S. dollars the difference between the amount it has contributed and the amount specified in the allocation approval letter. An MPP participant shall remit such payment within 90 days after the end of its activity plan year.

§ 1485.22 Submissions.

The participant may make any submissions required by this regulation either by hand delivery to the Director, Marketing Operations Staff, FAS, USDA or by commercial service delivery or U.S. mail. If delivery occurs by commercial ''next-day'' mail service or U.S. regular mail, first class prepaid, the material shall be deemed submitted as of the date of the commercial service or U.S. registered mail receipt. For all other permissible methods of delivery, the material shall be deemed submitted as of the date received by the Director, Marketing Operations Staff, FAS, USDA.

§ 1485.23 Miscellaneous provisions.

(a) Disclosure of Program Information.

(1) Documents submitted to CCC by participants are subject to the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. 552, 7 CFR Part 1, Subpart A—Official Records, and specifically 7 C.F.R. 1.11, Handling Information from a Private Business.

(2) If requested by a person located in the United States, a participant shall provide a copy of any document in its possession or control containing market information developed and produced under the terms of its agreement. The participant may charge a fee not to exceed the costs incurred in assembling, duplicating and distributing the materials.

(3) The results of any research conducted by a participant under an agreement, shall be the property of the U.S. Government.

(b) Ethical Conduct.

(1) A participant shall conduct its business in accordance with the laws and regulations of the country in which an activity is carried out.

(2) Neither an MPP participant nor its affiliates shall make export sales of agricultural commodities and products covered under the terms of the agreement. Neither an MPP participant nor its affiliates shall charge a fee for facilitating an export sale. A participant may, however, collect check-off funds and membership fees that are required for membership in the participating organization. For the purposes of this paragraph, ''affiliate'' means any partnership, association, company, corporation, trust, or any other such party in which the participant has an investment other than in a mutual fund.

(3) An MPP participant shall not limit participation to members of its organization. The MPP participant shall publicize its program and make participation possible for commercial entities throughout the participant's industry or, in the case of SRTGs, throughout the corresponding region.

(4) A participant shall select U.S. agricultural industry representatives to participate in activities such as trade teams, sales teams, and trade fairs based on criteria that ensure participation on an equitable basis by a broad cross section of the U.S. industry. If requested, a participant shall submit such selection criteria to CCC for approval.

(5) All participants should endeavor to ensure fair and accurate fact-based advertising. Deceptive or misleading promotions may result in cancellation or termination of an agreement.

(6) The participant must report any actions or circumstances that have a bearing on the propriety of the program to the Attache/Counselor and its U.S. office shall report such actions in writing to the Division Director.

(c) Contracting Procedures.

(1) Neither the Commodity Credit Corporation (CCC) nor any other agency of the United States Government or any official or employee of the CCC or the United States Government has any obligation or responsibility with respect to participant contracts with third parties.

(2) A participant shall:

(i) Ensure that all expenditures for goods and services reimbursed, in excess of $25.00, by CCC are documented by a purchase order, invoice, or contract and that such documentation demonstrates competition in acquiring the goods or services;

(ii) Ensure that no employee or officer participates in the selection or award of a contract in which such employee or official, or the employee's or officer's family or partners has a financial interest;

(iii) Conduct all contracting in an openly competitive manner. Individuals who develop or draft specifications, requirements, statements of work, invitations for bids and requests for proposals for procurement of any goods or services shall be excluded from competition for such procurement;

(iv) Base solicitations for professional and technical services on a clear and accurate description of the requirements for the services to be procured;

(v) Perform a price or cost analysis for each contract;

(vi) Maintain the following procurement records:

(A) A written justification for each contractor selection or procurement award;

(B) Documentation to demonstrate:

(*1*) If the procurement is for less than $2,500, that the participant has solicited two or more quotations via telephone or advertised to obtain competitive bids;

(*2*) If the procurement is for more than $2,500 but less than $25,000, that the participant has actively solicited competitive bids through normal commercial channels and has received at least three bids or advertised to obtain competitive bids;

(*3*) If the procurement is for more than $25,000, that the participant has advertised to obtain competitive bids. Procurement for goods and services shall not be split in an effort to avoid specified advertising requirements.

(d) Disposable Capital Goods.

(1) Capital goods purchased by the MPP participant and reimbursed by CCC that are unusable, unserviceable, or no longer needed for project purposes shall be disposed of in one of the following ways:

(i) The participant may exchange or sell the goods provided that it applies any exchange allowance, insurance proceeds or sales proceeds toward the purchase of other property needed in the project;

(ii) The participant may, with CCC approval, transfer the goods to other MPP participants and activities, or to a foreign third party; or

(iii) The participant may, upon Attache′/Counselor approval, donate the goods to a local charity, or convey the goods to the Attache/Counselor, along with an itemized inventory list and any documents of title.

(2) A participant shall maintain an inventory of all capital goods with a value of $100 acquired in furtherance of program activities. The inventory shall list and number each item and include the date of purchase or acquisition, cost of purchase, replacement value, serial number, make, model, and electrical requirements.

(3) The participant shall insure all capital goods acquired in furtherance of program activities and safeguard such goods against theft, damage and unauthorized use. The participant shall promptly report any loss, theft, or damage of property to the insurance company.

(e) Contracts between MPP participants and brand participants.

Where CCC approves an application for brand promotion, the MPP participant shall enter into an agreement with each approved brand participant which shall:

(1) Specify a time period for such brand promotion, and require that all brand promotion expenditures be made within the MPP participant's approved activity plan period;

(2 Make no allowance for extension or renewal;

(3) Limit reimbursable expenditures to those made in countries and for activities approved in the activity plan;

(4) Specify the percentage of promotion expenditures that will be reimbursed, reimbursement procedures and documentation requirements;

(5) Include a written certification that the brand participant either owns the brand of the product it will promote or has exclusive rights to promote the brand in each of the countries in which promotion activities will occur;

(6) Require that all product labels, promotional material and advertising will identify the origin of the agricultural commodity as ''Product of the U.S.'', ''Product of the U.S.A.'', ''Grown in the U.S.'', ''Grown in the U.S.A.'', ''Made in America'' or other U.S. regional designation if approved in advance by CCC; that such origin identification will be conspicuously displayed, in a manner that is easily observed; and that such origin identification will conform, to the extent possible, to the U.S. standard of 1/6″ (.42 centimeters) in height based on the lower case letter ''o''. A participant may request an exemption from this requirement. All such requests shall be in writing and include justification satisfactory to the Deputy Administrator that this labelling requirement would hinder a participant's promotional efforts. The Deputy Administrator will determine, on a case by case basis, whether sufficient justification exists to grant an exemption from the labelling requirement;

(7) Specify documentation requirements for a U.S. brand applicant seeking priority consideration for assistance based on eligibility as a small-sized entity;

(8) Require that the U.S. brand participant submit to the MPP participant a statement certifying that any Federal funds received will supplement, but not supplant, any private or third party funds or other contributions to program activities; and

(9) The participant shall require the brand participant to maintain all original records and documents relating to program activities for five calendar years following the end of the applicable activity plan year and shall make such records and documents available upon request to authorized officials of the U.S. Government.

(f) EIP/MPP participants shall ensure that all product labels, promotional material and advertising will identify the origin of the agricultural commodity as ''Product of the U.S.'', ''Product of the U.S.A.'', ''Grown in the U.S.'', ''Grown in the U.S.A.'', ''Made in America'' or other U.S. regional designation if

approved in advance by CCC; such origin identification is conspicuously displayed in a manner that is easily observed, and that, to the fullest extent possible, the origin identification conforms to the U.S. standard of 1/6″ (.42 centimeters) in height based on the lower case letter ''o''. An EIP/MPP participant may request an exemption from this requirement. All such requests shall be in writing and include justification satisfactory to the Deputy Administrator that this labelling requirement would hinder a participant's promotional efforts. The Deputy Administrator will determine, on a case by case basis, whether sufficient justification exists to grant an exemption from the labelling requirement;

(g) Travel shall conform to U.S. Federal Travel Regulations (41 CFR parts 301 through 304) and air travel shall conform to the requirements of the ''Fly America Act (49 U.S.C. 1517).'' The MPP participant shall notify the Attaché/Counselor in the destination countries in writing in advance of any proposed travel.

(h) Proceeds.

Any income or refunds generated from an activity, i.e., participation fees, proceeds of sales, refunds of value added taxes (VAT), the expenditures for which have been wholly or partially reimbursed, shall be repaid by submitting a check payable to CCC or offsetting the participant's next reimbursement claim. However, where CCC reimburses a participant with CCC commodity certificates, such participant may retain any income generated by the sale of such certificates.

§ 1485.24 Applicability date.

This Subpart applies to activities that are approved in accordance with the participant's 1995 program and corresponding activity plan year.

§ 1485.25 Paperwork reduction requirements.

The paperwork and record keeping requirements imposed by this final rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. OMB has assigned control number 05510027 for this information collection.

Signed at Washington, D.C. on January 27, 1995.

Christopher E. Goldthwait,

General Sales Manager and Vice President, Commodity Credit Corporation.

[FR Doc. 95–2477 Filed 1–30–95; 10:09 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Market Promotion Program, Fiscal Year 1995

AGENCY: Commodity Credit Corporation. USDA

ACTION: Notice.

SUMMARY: This notice announces the Market Promotion Program for Fiscal Year 1995.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, Room 4932–S, 14th and Independence Avenue, Washington, D.C. 20250–1042. Telephone: (202) 720–5521.

SUPPLEMENTARY INFORMATION: Section 203 of the Agricultural Trade Act of 1978, as amended, directs the Commodity Credit Corporation (CCC) to ''carry out a program to encourage the development, maintenance and expansion of commercial export markets for agricultural commodities through cost-share assistance to eligible trade organizations that implement a foreign market development program.'' Assistance under this program may be provided in the form of funds of, or commodities owned by, the CCC, as determined appropriate by the Secretary.

The MPP will be implemented in accordance with the regulations set forth in 7 C.F.R. part 1485, January 31, 1995. The Administrator of the Foreign Agricultural Service (FAS), who is Vice President of CCC, is authorized to enter into agreements with nonprofit agricultural trade organizations, nonprofit state regional trade groups, agricultural cooperatives, state agencies and U.S. commercial entities to share the costs of approved overseas marketing and promotion activities that are intended to develop, maintain or expand commercial export markets for U.S. agricultural commodities and products. CCC will enter into agreements only where the eligible agricultural commodity is comprised of at least 50 percent U.S. origin by weight, exclusive of added water. CCC may provide assistance for brand promotion activities.

Eligible entities desiring to participate in the MPP must submit an application (an original and two copies) containing information required by the MPP regulations.

All applications (an original and two copies) must be either hand delivered or sent by postal delivery and must be received by 5:00 p.m. eastern time, March 2, 1995, at the following address:

Hand Delivery: U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, Room 4932–S, 14th and Independence Avenue, S.W., Washington, D.C. 20250–1042.

Postal Delivery: U.S. Department of Agriculture, Marketing Operations Staff, Ag Box 1042, Washington, D.C. 20250–1042.

A final rule was published on January 31, 1995, which adopts the substantive provisions of the Interim Rules published August 16, 1991, (56 FR 40747) and November 17, 1993, (58 FR 60550) with changes to reflect public comments and recent legislative changes to the authorizing statute. All entities should carefully review the final regulations prior to submitting an application.

For more detailed information regarding the application process or other terms and requirements of the MPP, contact the Marketing Operations Staff, FAS, USDA at the address above or telephone (202) 720–5521. Comments regarding the conduct of the MPP may be directed to either address as applicable.

Signed at Washington, D.C. this 27th day of January, 1995.

Christopher E. Goldthwait,

Acting Administrator, Foreign Agricultural Service, and Acting Vice President, Commodity Credit Corporation.

[FR Doc. 95–2476 Filed 1–30–95; 10:08 am]

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federal register

Wednesday
February 1, 1995

Part III

Department of the Treasury

Office of Foreign Assets Control

31 CFR Part 575

Iraqi Sanctions Regulations; Specially Designated Nationals List; Final Rule

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 575

Iraqi Sanctions Regulations; Specially Designated Nationals List

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendments to the list of specially designated nationals.

SUMMARY: The Office of Foreign Assets Control is amending the Iraqi Sanctions Regulations to add 4 banks and 30 individuals to appendix A, Individuals and Organizations Determined To Be Specially Designated Nationals of the Government of Iraq, and to supplement information provided for 6 previously listed Specially Designated Nationals by including additional addresses and aliases. Finally, the amendment adds to the appendices 14 entities and 11 individuals identified as SDNs of Iraq in the comprehensive SDN list published in the **Federal Register** on November 17, 1994, and adds revised information published in the comprehensive SDN list for 1 previously listed vessel.

EFFECTIVE DATE: February 1, 1995.

ADDRESS: Copies of the list of persons whose property is blocked pursuant to the Iraqi Sanctions Regulations are available upon request at the following location: Office of Foreign Assets Control, U.S. Department of the Treasury, Annex, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220. The full list of persons blocked pursuant to economic sanctions programs administered by the Office of Foreign Assets Control is available electronically on *The Federal Bulletin Board* (see Supplementary Information).

FOR FURTHER INFORMATION CONTACT: J. Robert McBrien, Chief, International Programs Division, Office of Foreign Assets Control, tel.: 202/622–2420.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document is available as an electronic file on *The Federal Bulletin Board* the day of publication in the **Federal Register**. By modem dial 202/512–1387 or call 202/512–1530 for disks or paper copies. This file is available in Postscript, WordPerfect 5.1 and ASCII.

Background

The Office of Foreign Assets Control (''FAC'') is amending the Iraqi Sanctions Regulations, 31 CFR part 575 (the ''Regulations''), to add new entries to appendices A and B. Appendix A, Individuals and Organizations Determined to Be Specially Designated Nationals of the Government of Iraq, is a list of individuals and organizations determined by the Director of FAC to be within the definition of the term ''Government of Iraq,'' as set forth in § 575.306 of the Regulations, because they are owned or controlled by or act or purport to act directly or indirectly on behalf of the Government of Iraq. Appendix B, Merchant Vessels Registered, Owned, or Controlled by the Government of Iraq or by Persons Acting Directly or Indirectly on Behalf of the Government of Iraq, is a list of vessels determined by the Director of FAC to be property of the Government of Iraq.

Appendix A to part 575 is amended to provide public notice of the designation of 4 banks and 30 individuals as Specially Designated Nationals. In addition, supplementary information is being provided for 6 previously listed Specially Designated Nationals by including additional addresses and aliases. The amendment adds to appendix A 14 entities and 11 individuals identified as SDNs of Iraq in the comprehensive SDN list published in the **Federal Register** on November 17, 1994, 59 FR 59460. Finally, the amendment adds to appendix B revised information published in the comprehensive SDN list for 1 previously listed vessel.

All prohibitions in the Regulations pertaining to the Government of Iraq apply to the entities and individuals identified in appendices A and B. All transactions with such entities or persons, or transactions in property in which they have an interest, are prohibited unless otherwise exempted or licensed in or pursuant to the Regulations.

Determinations that persons fall within the definition of the term ''Government of Iraq'' and are thus Specially Designated Nationals of Iraq are effective upon the date of determination by the Director of FAC, acting under the authority delegated by the Secretary of the Treasury. Public notice is effective upon the date of publication or upon actual notice, whichever is sooner.

The list of Specially Designated Nationals in appendices A and B is a partial one, since FAC may not be aware of all agencies and officers of the Government of Iraq, or of all persons that might be owned or controlled by, or acting on behalf of the Government of Iraq within the meaning of § 575.306. Therefore, one may not rely on the fact that a person or entity is not listed in appendix A or B as a Specially Designated National as evidence that such person or entity is not owned or controlled by, or acting or purporting to act directly or indirectly on behalf of, the Government of Iraq. The Treasury Department regards it as incumbent upon all persons governed by the Regulations to take reasonable steps to ascertain for themselves whether persons with whom they deal are owned or controlled by, or acting or purporting to act on behalf of, the Government of Iraq, or on behalf of other countries subject to blocking or transactional restrictions administered by FAC.

Section 206 of the International Emergency Economic Powers Act, 50 U.S.C. 1705, provides for civil penalties not to exceed $10,000 for each violation of the Regulations. Criminal violations of the Regulations are punishable by fines of up to $250,000 or imprisonment for up to 10 years per count, or both, for individuals and criminal fines of up to $500,000 per count for organizations. See 50 U.S.C. 1705; 18 U.S.C. 3571. In addition, section 586E of the Iraq Sanctions Act of 1990, Public Law 101–513, provides for civil penalties not to exceed $250,000 and criminal fines of up to $1,000,000 or imprisonment for up to 12 years, or both.

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

List of Subjects in 31 CFR Part 575

Administrative practice and procedure, Banks, Banking, Blocking of assets, Exports, Foreign trade, Imports, Iraq, Loans, Penalties, Reporting and recordkeeping requirements, Securities, Specially designated nationals, Travel restrictions.

PART 575—IRAQI SANCTIONS REGULATIONS

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

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

Authority: 50 U.S.C. 1701–1706; 50 U.S.C. 1601–1651; 22 U.S.C. 287c; Public Law 101–513, 104 Stat. 2047–55; 3 U.S.C. 301; E.O. 12722, 55 FR 31803, 3 CFR, 1990 Comp., p.294; E.O. 12724, 55 FR 33089, 3 CFR, 1992 Comp., p. 317.

2. Appendix A to part 575 is amended by adding the following at the end of the introductory note, which immediately follows the appendix title:

APPENDIX A TO PART 575—INDIVIDUALS AND ORGANIZATIONS DETERMINED TO BE SPECIALLY DESIGNATED NATIONALS OF THE GOVERNMENT OF IRAQ

* * * Note: The abbreviation ''DOB'' means ''date of birth,'' ''a.k.a.'' means ''also known as,'' ''d.b.a.'' means ''doing business as,'' and ''f.k.a.'' means ''formerly known as.''

* * * * *

3. Appendix A to part 575 is amended by adding the following entries in alphabetical order, to read as follows:

APPENDIX A TO PART 575—INDIVIDUALS AND ORGANIZATIONS DETERMINED TO BE SPECIALLY DESIGNATED NATIONALS OF THE GOVERNMENT OF IRAQ

* * * * *

Companies

* * * * *

Agricultural Cooperative Bank, Rashid Street, Baghdad, Iraq

* * * * *

Amd Co. Limited Agency, Al–Tahrir Car Parking Building, Tahrir Sq., Floor 3, Office 33, P.O. Box 8044, Baghdad, Iraq

* * * * *

Babil International, Aeroport D'Orly, 94390 Orly Aerogare, France

* * * * *

Baroon Shipping Company Limited, Haven Court, 5 Library Ramp, Gibraltar

* * * * *

Durand Properties Limited, Haven Court, 5 Library Ramp, Gibraltar

* * * * *

Fartrade Holding S.A., Switzerland

* * * * *

H & H Metalform GMBH, Postfach 1160, Strontianitstrasse 5, 4406 Drensteinfurt, Germany

* * * * *

Helford Directors Limited, Haven Court, 5 Library Ramp, Gibraltar

* * * * *

Industrial Bank of Iraq, (a.k.a. Industrial Bank), P.O. Box 5825, Al–Jamhourya Street, Baghdad, Iraq
Mosul, Iraq
Kirkuk, Iraq
Hilla, Iraq
Kerbala, Iraq
Basrah, Iraq
Arbil, Iraq
Najaf, Iraq
Sulaymania, Iraq

* * * * *

Iraq–Jordan Land Transport Company (a.k.a. IJLTC or Iraqi– Jordanian Land Transport Company or Iraqi–Jordanian Overland Transport Company), P.O. Box 5134, 4th Circle, Jabal, Amman, Jordan

* * * * *

Jaraco S.A. (a.k.a. Soktar, f.k.a. Tradaco S.A.), 45 Rue de Frontenex, CH–1207 Geneva, Switzerland

* * * * *

Midco Finance S.A. (a.k.a. Midco Financial S.A.), 57 Rue du Rhone, CH–1204 Geneva, Switzerland

* * * * *

Montana Management Inc. (d.b.a. Midco Financial S.A., a.k.a. Midco Finance S.A.), c/o Morgan & Morgan, Edificio Torre Swiss Bank, Piso 16, Calle 53 Este, Barbella, Panama City, Republic of Panama
57 Rue du Rhone, CH–1204 Geneva, Switzerland

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Orient Shipping Limited, Lot 18, Bay Street, Kingstown, St. Vincent and the Grenadines

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Rasheed Bank, (a.k.a. Al–Rashid Bank or Al–Rasheed Bank), P.O. Box 7177, Haifa Street, Baghdad, Iraq
Al–Rusafi Branch, No. 505: Al–Masarif Street, Baghdad, Iraq
Credit Commercial Branch, No. 506: Khalid bin Alwaleed Street, Baghdad, Iraq
Basrah Branch, Al Thawrah Street Br. No. 88, P.O. Box 116, Basrah, Iraq
Mosul Branch, No. 3, P.O. Box 183, Mosul, Iraq

* * * * *

Real Estate Bank, Hassan Bin Thabit Street, Baghdad, Iraq

* * * * *

Tariq Abu Shanab Metals Establishment (a.k.a. Tariq Abu Shanab Est. or Tariq Abu Shanab Est. for Trade and Commerce), Musherfeh, P.O. Box 766, Zarka, Jordan

* * * * *

Tigris Trading, Inc., 2 Stratford Place London W1N 9AE, England
5903 Harper Road, Solon, Ohio 44139, U.S.A.
600 Grant Street, 42nd Floor, Pittsburgh, Pennsylvania 15219, U.S.A.

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Individuals

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Abd Al–Ghafur, Humam Abd al–Khaliq, (a.k.a. Humam Abdel Khaleq Abdel Ghafur), Minister of Higher Education and Scientific Research, DOB 1945, Iraq

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Al–Ahmad, Mahmud Dhiyab, (a.k.a. Mahmoud Diab Al–Ahmad), Minister of Housing and Reconstruction, Iraq

* * * * *

Al–Atrush, Abd Al–Wahhab Umar Mirza, (a.k.a. Abdel Wahab Al–Atrushi), a minister of state, DOB 1936, Iraq

* * * * *

Al–Bazzaz, Hikmat Abdallah, (a.k.a. Hikmat Abdullah Al–Bazaz), Minister of Education, Iraq

* * * * *

Al–Dulaimi, Khalaf M. M., Baghdad, Iraq

* * * * *

Al–Hammadi, Hamid Yusif, (a.k.a. Hamed Yussef Hamadi), Minister of Culture and Information, Iraq

* * * * *

Al–Hassan, Anas Malik Dohan, (a.k.a. Malik, Anas or Dohan, Anas Malik or Dohan, Anas or Al–Hassan, Anas), Baghdad, Iraq
Jordan

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Al–Huwaysh, Isam Rashid, Governor of the Central Bank, Iraq

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Al–Jabburi, Sadi Tuma Abbas, Adviser to the President for Military Affairs, DOB 1939, Iraq

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Al–Khafaji, Sabah, 254 Rue Adolphe Pajeaud, 92160 Antony, France

* * * * *

Al–Maliki, Shabib Lazim, (a.k.a. Shebib Lazem Al–Maleki), Minister of Justice, DOB 1936, Iraq

* * * * *

Al–Qasir, Nazar Jumah Ali, (a.k.a. Nizar Jomaa Ali Al–Qassir), Minister of Irrigation, Iraq

* * * * *

Al–Rida, Karim Hasan, (a.k.a. Karim Hassan Rida), Minister of Agriculture, DOB 1944, Iraq

* * * * *

Al–Ruba, Dr. Khadim, Managing Director of Real Estate Bank, Iraq

* * * * *

Al–Sahhaf, Muhammad Said Kazim, (a.k.a. Mohammed Said Al–Sahaf), Minister of Foreign Affairs, DOB 1940, Iraq

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Al–Salih, Muhammad Mahdi, (a.k.a. Mohammed Mahdi Saleh), Minister of Trade, DOB 1947, Iraq

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Al–Zibari, Arshad Muhammad Ahmad Muhammad, a minister of state, DOB 1942, Iraq

* * * * *

Al–Zubaydi, Muhammad Hamsa, (a.k.a. Mohammed Hamza Al–Zubaidi), Deputy Prime Minister, DOB 1938, Iraq

* * * * *

Alkhayoun, Dhiah H., Chairman and General Manager of Rasheed Bank, Iraq

* * * * *

Allawi, Salam, (a.k.a. Abdel–Salam Abdel–Rahman Alawi), General Manager of Industrial Bank of Iraq, Iraq

* * * * *

Atia, Hachim K., Hay Al–Adil, Mahala–645, Zukak–8, No. – 39, Baghdad, Iraq
Lane 15, Area 902, Hai al–Wahda, Baghdad, Iraq
2 Stratford Place, London W1N 9AE, England

* * * * *

Aziz, Tariq Mikhail, Deputy Prime Minister, DOB 1936, Iraq

* * * * *

Buhler, Bruno, 57 Rue du Rhone, CH–1204 Geneva, Switzerland

* * * * *

De Boccard, Phillipe, (a.k.a. Philippe De Boccard), 44 Avenue Krieg, Geneva, Switzerland

* * * * *

Faraj, Samal Majid, Minister of Planning, Iraq

* * * * *

Habib, Mohammed Turki, Baghdad, Iraq

* * * * *

Husayn, Saddam, (a.k.a. Saddam Hussein or Saddam Hussain), President and Prime Minister, DOB 28 April 1937, Iraq

* * * * *

Karaghully, Labeed A., General Manager of Real Estate Bank, Iraq

* * * * *

Khalil, Dr. Ahmad Murtada Ahmad, (a.k.a. Ahmad Murtadha Ahmad Khalil), Minister of Transport and Communications, Iraq

* * * * *

Malik, Assim Mohammed Rafiq Abdul (a.k.a. Abdulmalik, Abdul Hameed or Rafik, Assem), 14 Almotaz Sad Al Deen Street, Al Nozha, Cairo, Egypt

* * * * *

Maruf, Taha Muhyi Al–Din, Vice President, DOB 1924, Iraq

* * * * *

Mubarak, Umid Midhat, (a.k.a. Umid Medhat Mubarak), Minister of Health, DOB ca. 1940, Iraq

* * * * *

Naman, Saalim (a.k.a. Naman, Sam), 5903 Harper Road, Solon, Ohio 44139, U.S.A.
600 Grant Street, 42nd Floor, Pittsburgh, Pennsylvania 15219, U.S.A.
P.O. Box 39, Fletchamstead Highway, Coventry, England
Baghdad, Iraq

* * * * *

Nessi, Ferruccio, Piazza Grande 26, 6600 Locarno, Switzerland

* * * * *

Ramadan, Taha Yasin, (a.k.a. Taha Yassin Ramadan), Vice President and Deputy Prime Minister, DOB 1936, Iraq

* * * * *

Rzooki, Hanna, Chairman of Real Estate Bank, Iraq

* * * * *

Salih, Abd Al–Munim Ahmad, (a.k.a. Abdel Moneim Ahmad Saleh), Minister of Awqaf and Religious Affairs, DOB 1943, Iraq

* * * * *

Samarrai, Ahmad Husayn Khudayir, (a.k.a. Ahmad Hussein Al–Khodair), Minister of Finance, DOB 1941, Iraq

* * * * *

Shanab, Tariq Abu, Musherfeh, P.O. Box 766, Zarka, Jordan

* * * * *

Shanshal, Abd Al–Jabbar Khalil, Minister of State for Military Affairs, DOB 1920, Iraq

* * * * *

Zainal, Akram, Chairman and General Manager of Agricultural Cooperative Bank, Iraq

* * * * *

4. Appendix A to part 575 is amended by removing the listings under ''Individuals'' for Al–Habobi, Dr. Safa Haji J.; Al–Majid, Ali Hassam; Al–Majid, Hussein Kamel Hassan; Al–Takriti, Barzan Ibrahim Hassan; Al–Takriti, Watban; Jasim, Latif Nusayyif, and adding the following entries in alphabetical order, to read as follows:

* * * * *

Al–Majid, General Ali Hasan, (a.k.a. General Ali Hassan Al–Majid), Minister of Defense, DOB 1941, Baghdad, Iraq

* * * * *

Al–Majid, Husayn Kamil Hasan, (a.k.a. Hussein Kamel Hassan Al–Majid), Minister of Industry and Minerals and Adviser to the President, DOB 1955, Baghdad, Iraq

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Al–Tikriti, Barzan Ibrahim Hasan, Adviser to the President, DOB 17 February 1951, Geneva, Switzerland
Iraq

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Al–Tikriti, Watban Ibrahim Al–Hasan, (a.k.a. Watban Ibrahim Al–Hassan), Minister of the Interior, DOB 1952, Baghdad, Iraq

* * * * *

Habubi, Dr. Safa Hadi Jawad, (a.k.a. Dr. Safa Hadi Jawad Al–Habubi or Dr. Safa Hadi Jawad or Dr. Safa Jawad Habubi or Dr. Safa Al–Habobi), Minister of Oil, DOB 1 July 1946, Flat 4D, Thorney Court, Palace Gate, Kensington, England, United Kingdom
Iraq

* * * * *

Jasim, Latif Nusayyif, (a.k.a. Latif Nassif Jassem), Minister of Labor and Social Affairs, DOB 1941, Baghdad, Iraq

* * * * *

5. Appendix B to part 575 is amended by removing the listing for ''129. Seabank'' and adding the following entry in numerical order to read as follows:

APPENDIX B TO PART 575—MERCHANT VESSELS REGISTERED, OWNED, OR CONTROLLED BY THE GOVERNMENT OF IRAQ OR BY PERSONS ACTING DIRECTLY OR INDIRECTLY ON BEHALF OF THE GOVERNMENT OF IRAQ

* * * * *

Vessel name	Ship type	DWT	Call sign	Owner
*	*	*	*	* * *
60a. Baroon MV (a.k.a. Albahr Alarabi, f.k.a. Bahar Al Arabi or Seabank)	fsh/cgo	6,953	V3ML6	Disputed ownership: Baroon Shipping Co. Ltd., Haven Port, Gibraltar, T.L. Dallas & Co., Ltd., Bradford, England, Iraqi State Enterprise for Water Transport, Baghdad, Iraq. (flag: Belize).
*	*	*	*	* * *

Dated: January 25, 1995.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: January 25, 1995.

John Berry,

Deputy Assistant Secretary (Enforcement).

[FR Doc. 95–2612 Filed 1–30–95; 3:34 pm]

BILLING CODE 4810–25–F

federal register

Wednesday
February 1, 1995

Part IV

The President

Executive Order 12948—Amendment to Executive Order No. 12898

Federal Register
Vol. 60, No. 21
Wednesday, February 1, 1995

Presidential Documents

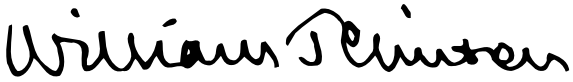
Title 3—

The President

Executive Order 12948 of January 30, 1995

Amendment to Executive Order No. 12898

By the authority vested in me as President by the Constitution and the laws of the United States of America and in order to amend Executive Order No. 12898, it is hereby ordered that section 1–103(e) of that order is amended by deleting the phrase ''Within 12 months of the date of this order,'' and inserting the phrase ''By March 24, 1995,'' in lieu thereof and by deleting, in the second sentence of section 1–103(e), the phrase ''During the 12 month period from the date of this order,'' and inserting the phrase ''From the date of this order through March 24, 1995,'' in lieu thereof.



THE WHITE HOUSE,
January 30, 1995.

[FR Doc. 95–2687
Filed 1–31–95; 10:39 pm]
Billing code 3195–01–P

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Federal Register

Vol. 60, No. 21

Wednesday, February 1, 1995

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FEDERAL REGISTER PAGES AND DATES, FEBRUARY

5997–6382.....1

CFR PARTS AFFECTED DURING FEBRUARY

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.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—FEBRUARY 1995

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A new table will be published in the first issue of each month.

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February 2	February 17	March 6	March 20	April 3	May 3
February 3	February 21	March 6	March 20	April 4	May 4
February 6	February 21	March 8	March 23	April 7	May 8
February 7	February 22	March 9	March 24	April 10	May 8
February 8	February 23	March 10	March 27	April 10	May 9
February 9	February 24	March 13	March 27	April 10	May 10
February 10	February 27	March 13	March 27	April 11	May 11
February 13	February 28	March 15	March 30	April 14	May 15
February 14	March 1	March 16	March 31	April 17	May 15
February 15	March 2	March 17	April 3	April 17	May 16
February 16	March 3	March 20	April 3	April 17	May 17
February 17	March 6	March 20	April 3	April 18	May 18
February 21	March 8	March 23	April 7	April 24	May 22
February 22	March 9	March 24	April 10	April 24	May 23
February 23	March 10	March 27	April 10	April 24	May 24
February 24	March 13	March 27	April 10	April 25	May 25
February 27	March 14	March 29	April 13	April 28	May 30
February 28	March 15	March 30	April 14	May 1	May 30