4–20–95
Vol. 60 No. 76
Pages 19665–19844

federal register

Thursday
April 20, 1995

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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1464

RIN 0560–AD943

Tobacco; Importer Assessments

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule with request for comments:

SUMMARY: This rule provides, with respect to tobacco, authority to implement changes for the budget deficit marketing assessment (BDMA), sometimes referred to as a ''nonrefundable marketing assessment,'' which is provided for in 7 CFR 1464.11 and 7 CFR 1464.102. The rule is needed because of the enactment of Section 422 of the Uruguay Round Agreements Act (P.L. No. 103–465). That section provides for modifications to the BDMA in the event that the President should issue a proclamation establishing a tariff-rate quota (TRQ) pursuant to Article 28 of the General Agreement on Tariffs and Trade (GATT). As yet, no such quota has been issued. However, this rule will allow for rapid implementation of the Section 422 modifications if a TRQ is issued. The modifications provided for in Section 422 are, with respect to imported tobacco, a restriction of the BDMA to certain tobaccos and a change in the BDMA rate. For covered domestic tobaccos, Section 422 would extend the term of coverage through the 1998 crops; otherwise, Section 422 would not change the application of the BDMA to domestic tobacco.

DATES: *Effective Date:* April 20, 1995.

Comment Date: Comments must be received on or before May 22, 1995, in order to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Tobacco and Peanuts Division, Consolidated Farm Service Agency (CFSA), United States Department of Agriculture (USDA), P.O. Box 2415, Washington, D.C. 20013–2415, telephone 202–720–7413. All written comments will be available for public inspection in room 5750, South Building, U.S. Department of Agriculture, 14th St. and Independence Avenue SW., Washington, DC, between 8 a.m. and 5 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Gary Wheeler, Tobacco Marketing Specialist, Tobacco and Peanuts Division, CFSA, at the address listed above, telephone 202–720–7562.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not-significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Commodity Loans and Purchases—10.051.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V published at 48 FR 2915 (June 24, 1983).

Executive Order 12778

This interim rule has been reviewed in accordance with Executive Order 12778. The provisions of this interim rule are not retroactive and preempt state laws to the extent that such laws are inconsistent with the provisions of this interim rule. Before any legal action is brought regarding determinations made under provisions of 7 CFR part 1464, the administrative appeal provisions set forth at 7 CFR part 780 must be exhausted.

Paperwork Reduction Act

The information collection requirements contained in these regulations (7 CFR part 1464) have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0560–0148.

Background

A. Pre-1993 Coverage of Domestic Tobacco

The BDMAs for tobacco are also known as ''nonrefundable marketing assessment'' and are provided for in 7 CFR part 1464 and in particular in 7 CFR 1464.11 and 7 CFR 1464.102.

The BDMAs, for tobacco, are provided for in current law in Sections 106(g) and 106(h) of the Agricultural Act of 1949, as amended (1949 Act). Before 1993, only domestic tobacco was covered and only those domestic tobaccos for which price support was in effect by reason of the approval by producers of production controls.

The per pound BDMA rate that applies to domestic tobacco is the amount which equals 1% of the per pound national price support level for each kind of tobacco. For domestic tobacco, half of the BDMA is paid by the producer; the other half is paid by the first purchaser of the tobacco. The first purchaser either purchases the tobacco from the producer or obtains the tobacco by a purchase from the price support loan inventory.

Tobacco crops are divided into crop years based on the year of production. There is likewise assigned a marketing year for each crop. The marketing year for all but flue-cured tobacco runs from October 1 of the calendar year in which the crop is produced through September 30 of the following year. For flue-cured tobacco, the crop year runs for the 12-month period that begins on July 1 of the year of production.

B. 1993 Extension of BDMAs to Imported Tobacco

In 1993, Congress enacted the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103–66 (1993 Act). The 1993 Act extended the BDMA to all imported tobacco. Implementing rules were published in 7 CFR part 1464. Pursuant to the statute, the rules set the per pound BDMA rate on imported tobacco at a uniform amount equal to the average per pound total (producer and purchaser) BDMA for domestic burley and flue-cured tobacco applicable at the time of the entry of the imported tobacco into the commerce of the United States. The 1993 Act also extended ''no net cost assessments'' (NNCAs) to imported tobacco. However, the imported tobacco NNCAs apply only to imported flue-cured and imported burley tobacco.

C. Remittances of BDMAs

By law, BDMA payments are remitted to the CCC of USDA.

D. Coverage of Crop Years

But for new statutory law, described below, the term of the domestic BDMA ends with the 1995 crops. That for the imported tobacco ends with the 1998 crops.

E. Provisions of the Uruguay Round Agreements Act (URAA)

The 1993 Act measures described above and the other 1993 measures led to a challenge under GATT by countries that export tobacco to the United States. This led to on-going negotiations to establish a TRQ under Article 28 of GATT.

Countries have operated for many years under longstanding GATT provisions sometimes referred to as ''GATT 1947.'' However, recent negotiations among many nations on new, broad-based ''Uruguay Round Agreements'' were completed. The GATT, as so modified, is sometimes referred to as ''GATT 1994.'' This development led in turn to enactment by Congress of the ''Uruguay Round Agreements Act'' (URAA).

URAA Sections 421–423 contain tobacco provisions. Section 422 contains provisions dealing with the BDMA. However, those provisions are not effective unless and until a tobacco TRQ should be proclaimed by the President.

Specifically, Section 422 would revise Section 106 of the 1949 Act to provide that effective for each of the 1994 through 1998 crops of tobacco for which price support is made available under the 1949 Act, each producer and purchaser of such tobacco, and each importer of the same kind of tobacco shall remit to the CCC a non-refundable marketing assessment (BDMA). Section 106(g), as it would be revised by Section 422, provides further that the non-refundable marketing assessment (that is, the BDMA) would be an amount equal to:

(1) in the case of a producer or purchaser of domestic tobacco, .5% of the national price support level for each such crop; and

(2) in the case of an importer of tobacco, 1 percent of the national price support level for the same kind of tobacco.

Accordingly, Section 422, if and when it becomes effective, would limit the imported BDMA to imports with the same or similar characteristics as a price-supported (and BDMA-subject) domestic kind. Also, the rate for imported tobacco would change to that equal to the full amount of the BDMA for the corresponding domestic kind rather than be equal to a burley and flue-cured average.

Further, Section 422(c) allows the President to waive the application to imported tobacco of the BDMA or the NNCA if the President determines that the waiver is necessary or appropriate pursuant to an international agreement entered into by the United States.

As indicated, however, the provisions of Section 422 are not yet effective. That lack of current effectiveness is set out in Section 422(e). That section provides that Section 422 and the amendments made by it will be effective only beginning on the effective date of the Presidential proclamation establishing a TRQ pursuant to Article 28 of the GATT 1947 or the GATT 1994 with respect to tobacco. There is no such TRQ at this time.

F. Need for a Currently Effective Rule

It has been determined that an interim rule should be issued at this time so that there may be an immediate effectiveness under 7 CFR part 1464 of the BDMA modifications upon the proclamation by the President of a triggering TRQ.

G. Current Coverage of the Domestic BDMA

As indicated, Section 422 would tie the imported tobacco BDMA to domestic kinds that pay a BDMA. Those domestic kinds are those that are subject to price support. They are listed below. In the parentheses following each kind are three figures separated by slashes. The first figure is the current per pound national price support level. The second is the amount which would constitute 1% of the support level and thus the full per pound imported BDMA rate for the same kind or that having similar characteristics of a domestic quota kind. The third figure is the second figure expressed as an amount per kilogram. The list of price supported domestic tobaccos, with those three figures for each, is as follows:

(1) flue-cured tobacco ($1.583/$0.015830/$0.034899);
(2) burley ($1.714/$0.017140/$0.037787);
(3) Virginia fire-cured ($1.407/$0.014070/$0.031019);
(4) Kentucky-Tennessee fire-cured ($1.483/$0.014830/$0.032694);
(5) dark air-cured ($1.273/$0.012730/$0.028065);
(6) Virginia sun-cured ($1.245/$0.012450/$0.027447);
(7) cigar filler and binder ($1.084/$0.010840/$0.023899); and
(8) Puerto Rico cigar filler ($0.844/$0.008440/$0.018607).

H. Description of Provisions and Effect of The Interim Rule

Under the interim rule:

(1) *Effectiveness of the new regime.* The new BDMA provisions would be effective only upon: (i) the proclamation by the President of a triggering TRQ and (ii) a determination and announcement by the Executive Vice President of CCC (Executive Vice President) that the TRQ had been proclaimed and that the new BDMA provisions are in effect.

(2) *Timing of calculation of amount due.* The amount due under the new regime would be determined based on the date of entry of the tobacco into the commerce of the United States as determined in accordance with existing rules.

(3) *Effect on prior importations.* Any tobacco entered prior to the effective date of the new regime would be subject to the old regime. The inauguration of the new regime will not effect liabilities under the old regime.

(4) *Waivers.* The rule allows adjustments to be made as might be required due to an exercise of the President's Section 422(c) waiver authority.

(5) *Mixed lots.* Mixed lots (containing differing kinds of tobacco) would be handled as they are for the NNCA. The importer would be responsible for establishing and certifying to the composition of the lot. To the extent that the lot's composition could not be determined, the lot would be considered to be assessable in its entirety at the highest applicable rate.

(6) *Exemption of certain tobaccos.* Tobaccos which have distinct characteristics such as oriental tobacco and are commonly treated in the trade as a different ''kind'' of tobacco would

be, in the new regime, free of the BDMA.

(7) *Burden of proof.* Unlike the old regime, the new regime does not cover all imported tobacco. The importer would have the burden of establishing that the tobacco was not subject to the BDMA or is subject to a lower rate. Importers of all kinds of tobacco, including exempt tobaccos, would be required to maintain all records relevant to the application of the assessments and its exemptions. Such records would be subject to inspection as under the old regime. As under the old regime, failures to keep proper records could be considered as evidence of a failure to make proper payments.

(8) *Authority of the Director of the Tobacco and Peanuts Division.* The Director of the Tobacco and Peanuts Division (Director), CFSA, would have the authority to resolve disputes, request information, and establish additional accounting procedures if needed.

(9) *Rate on imported tobacco.* In accordance with the Section 422, the BDMA rate on imported tobacco would be the lowest rate for a domestic tobacco which is the same kind.

(10) *Kinds of tobacco.* Tobacco could be considered the same kind if, discounting for the place of production, it is classified as the same kind for customs purposes, has similar characteristics, or is treated as the same kind of tobacco in the industry.

(11) *Extension of the domestic BDMA.* The domestic BDMA would be extended through the 1998 crops if a TRQ is issued.

(12) *Changes in coverage of the imported BDMA.* If the list of domestic tobaccos subject to the BDMA changes, the coverage of the imported BDMA would also change accordingly. In any case, the BDMA rate for imported tobacco will change based on changes in the price support level for relevant domestic tobaccos. The applicable rate will, as indicated above, be based on the time of the entry of the tobacco into the commerce of the United States.

(13) *Additional rule changes.* It is anticipated that if and when a TRQ is issued, the rules would be revised to reflect the new regime only. However, as indicated, this will not affect liabilities under the old regime.

I. Current Effectiveness and Comments

This rule is being issued as an interim rule without prior public comment as the change in the BDMA is mandated by law and a delay in implementation would be contrary to the public interest, including the public interest in the administration of foreign trade policy.

Comments both favorable and unfavorable to the rule are solicited. Further consideration of the rule, upon the receipt of the comments, could lead to modifications in the rule.

List of Subjects in 7 CFR Part 1464

Assessments, Loan program, Agriculture, Price support program, Tobacco, Warehouses.

For the reasons set forth in the preamble, 7 CFR part 1464 is amended as follows:

PART 1464—TOBACCO

1. The authority citation for part 1464 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1441, 1445, 1445–1, and 1445–2; 15 U.S.C. 714b, 714c.

2. Section 1464.11 is amended by adding a new paragraph (f) to read as follows:

§ 1464.11 Nonrefundable marketing assessment.

* * * * *

(f) The term for the application of the assessment provided for in this section shall be extended through the 1998 crops if the President issues a Presidential proclamation establishing a tariff-rate quota pursuant to Article XXVIII of the GATT 1947 or GATT 1994 with respect to tobacco. Accordingly, in the event that such a proclamation is issued all obligations which otherwise would terminate with the 1995 crop under this section shall apply equally for subsequent crops through the 1998 crops.

3. Section 1464.102 is amended by adding new paragraphs (c) and (d) to read as follows:

§ 1464.102 Budget deficit marketing assessment.

* * * * *

(c) *Modification of the coverage and rate for imported tobacco.* (1) Notwithstanding the provisions of paragraphs (a) and (b) of this section, the coverage, rates and obligations applicable to imported tobacco under this section shall be as provided in paragraph (d) of this section if:

(i) the President establishes a tariff-rate quota for tobacco; and

(ii) it is determined and announced by the Executive Vice President that a modification of the assessments is being made accordingly pursuant to Section 422 of Pub. L. 103–465.

(2) The effective date of the modification provided for in paragraph (c)(1) of this section shall be the date announced by the Executive Vice President consistent with the provisions of Pub. L. 103–465.

(3) (i) For entries of imported tobacco into the United States prior to the effective date for assessment modifications announced by the Executive Vice President under this paragraph, the rates and coverage of the assessment shall be as provided for in paragraphs (a) and (b) of this section.

(ii) For entries of imported tobacco into the United States after the effective date for assessment modifications announced by the Executive Vice President under this paragraph, the rates and coverage of the assessment shall be as provided for in paragraph (d) of this section.

(d) *Rates and coverage of the modified assessment.* If a modification of the assessments otherwise provided for in this section is announced by the Executive Vice President as provided for in paragraph (c) of this section then:

(1) Imports of tobacco under this section shall apply only to the same kind or tobacco having similar characteristics to a price-supported domestic kind, or considered in the trade to be the same or similar ''kind'', as a domestic tobacco which is, at the time the tobacco is entered into the commerce of the United States, currently subject to an assessment under § 1464.11.

(2) If the tobacco is subject to an assessment under paragraph (d)(1) of this section, then the assessment shall be paid by the importer and remitted to CCC. The amount due for each pound of subject tobacco, shall be the amount equal to 1% of the national price support level that applies for the current marketing year for the corresponding domestic kind of tobacco.

(3) It shall be the responsibility of all importers to establish that imported tobacco is not covered by the BDMA or not subject to a higher BDMA rate than that which is assessed or paid.

(4) In the case of the entry of mixed lots (containing tobacco of different kinds) the importer shall be required to certify to the composition of the lot. In the absence of such certification or in the absence of sufficient evidence to indicate the relevant kind of tobacco for purposes of administration of this section, then the importer shall be liable for the assessment as the highest possible relevant rate for all such tobacco.

(5) Importers of all tobacco, including those which are not subject to the modified BDMA, shall maintain sufficient records to demonstrate compliance with the obligations of this section.

(6) Disputes involving the application of the assessment shall be resolved by the Director.

Signed at Washington, D.C. on April 10, 1995.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 95–9454 Filed 4–19–95; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[IN–117, Amendment Number 94–2]

Indiana Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Indiana permanent regulatory program (hereinafter referred to as the Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of miscellaneous revisions to Indiana's Surface Coal Mining and Reclamation Rules. The amendment is intended to revise the Indiana program to eliminate typographical, clerical, and spelling errors and to amend those instances where the word ''commission'' should be changed to ''director'' in accordance with Indiana Senate Enrolled Act (SEA) 362.

EFFECTIVE DATE: April 20, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204, Telephone (317) 226–6166.

SUPPLEMENTARY INFORMATION:

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

I. Background on the Indiana Program

On July 29, 1982, the Indiana program was made effective by the conditional approval of the Secretary of the Interior. Information pertinent to the general background on the Indiana program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982 **Federal Register** (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 914.10, 914.15, and 914.16.

II. Submission of the Amendment

By letter dated August 25, 1994 (Administrative Record No. IND–1394), Indiana submitted program amendment #94–2 concerning miscellaneous revisions to the Indiana rules to eliminate typographical, clerical, and spelling errors and to amend those instances where the word ''commission'' should be changed to ''director'' in accordance with Indiana SEA 362. OSM approved SEA 362 as a program amendment on August 2, 1991 (56 FR 37016). By letter dated August 30, 1994 (Administrative Record No. IND–1395), Indiana submitted a supplement to the August 25, 1994, submittal which consists of a hard copy of the rules being amended in those instances where ''commission'' should be changed to ''director'' as a response to SEA 362 along with miscellaneous revisions.

OSM announced receipt of the proposed amendment in the September 16, 1994, **Federal Register** (59 FR 47571), and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The comment period closed on October 17, 1994. By letter dated March 20, 1995 (Administrative Record No. IND–1438), Indiana submitted additional typographical and clerical corrections to the proposed amendment in response to comments provided by OSM on February 14, 1995 (Administrative Record No. IND–1437). In addition, Indiana withdrew its proposed change to 310 IAC 12–7–1(c) and reinstated the word ''commissions,'' to this subsection. Therefore, 310 IAC 12–7–1(c) is not part of this amendment.

III. Director's Findings

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

In amendment #94–2, Indiana corrected numerous typographical, clerical, or spelling errors and made numerous changes from the word ''commission'' to ''director.'' The Director finds that the numerous typographical, clerical, and spelling changes are nonsubstantive changes or changes which improve the clarity or accuracy of the Indiana rules.

The Director finds that the changes from ''commission'' to ''director'' more accurately reflect the responsibilities within the Indiana program as provided by SEA 362 which was approved by OSM on August 2, 1991 (56 FR 37016), and that the changes do not render the Indian program less effective than Federal regulations.

IV. Summary and Disposition of Comments

Federal Agency Comments

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i), comments were solicited from various interested Federal agencies. No comments were received.

Public Comments

A public comment period and opportunity to request a public hearing was announced in the September 16, 1995, **Federal Register** (59 FR 47571). The comment period closed on October 17, 1995. No one commented and no one requested an opportunity to testify at the scheduled public hearing so no hearing was held.

Environmental Protection Agency (EPA)

Under 30 CFR 732.17(h)(11)(ii), the Director is required to obtain the written concurrence of the Administrator of the EPA with respect to any provisions of a State 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.*). The Director has determined that this amendment contains no provisions in these categories and that EPA's concurrence is not required.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (Administrative Record No. IND–1403). EPA responded on September 27, 1994 (Administrative Record No. IND–1402) and stated that EPA had no comments.

V. Director's Decision

Based on the findings above, the Director is approving Indiana's program amendment #94–2, concerning miscellaneous revisions to the Indiana rules as submitted by Indiana on August 25, 1994, supplemented on August 30, 1994, and amended on March 20, 1995.

The Federal regulations at 30 CFR Part 914 codifying decisions concerning the Indiana program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards

without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

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

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

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

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon 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.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 13, 1995.

Richard J. Seibel,

Acting Assistant Director, Eastern 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 914—INDIANA

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

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

2. In § 914.15, paragraph (jjj) is added to read as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(jjj) Amendment #94–2 to the Indiana program concerning miscellaneous revisions to the Indiana rules as submitted to OSM on August 25, 1994, supplemented on August 30, 1994, and amended on March 20, 1995, is approved effective April 20, 1995.

[FR Doc. 95–9774 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 914

[IN–112–FOR; Amendment 92–7C]

Indiana Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving, with exceptions, a proposed amendment to the Indiana permanent regulatory program (hereinafter referred to as the Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment is a continuation of an earlier program amendment and consists of revisions to Indiana's Surface Coal Mining and Reclamation Rules concerning the control of subsidence caused by underground mining operations. The amendment is intended to revise the Indiana program to be consistent with SMCRA and to incorporate State initiatives.

EFFECTIVE DATE: April 20, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204, Telephone (317) 226–6166.

SUPPLEMENTARY INFORMATION:

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

I. Background on the Indiana Program

On July 29, 1982, the Indiana program was made effective by the conditional approval of the Secretary of the Interior. Information pertinent to the general background on the Indiana program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982 **Federal Register** (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 914.10, 914.15, and 914.16.

II. Submission of the Amendment

By letter dated December 2, 1992 (Administrative Record No. IND–1175), the Indiana Department of Natural Resources (IDNR) submitted a proposed amendment (#92–7) to the Indiana program. Amendment #92–7 proposed changes to the Indiana surface mining rules concerning subsidence liability.

On May 17, 1993, OSM approved, with two exceptions, amendment #92–7 (58 FR 28775). By letter dated March 18, 1994 (Administrative Record Number IND–1340), Indiana submitted to OSM a notice of the final adoption of amendment #92–7 as published in the Indiana Register, Volume 17, Number 6, pages 1086–1089 (March 1, 1994).

The final adopted language of amendment #92–7 differs in some ways from the language approved by OSM on May 17, 1993. Therefore, OSM reopened the public comment period and invited comment on the substantive differences.

OSM announced receipt of the proposed amendment in the April 22, 1994, **Federal Register** (59 FR 19155),

and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The comment period closed on May 23, 1994.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment to the Indiana program. Nonsubstantive word changes and paragraph notation changes also appear in the final adopted version of amendment #92–7. However, only the substantive changes are discussed below.

1. 310 IAC 12–3–87.1 Subsidence Control Plan

a. 310 IAC 12–3–87.1(c)(2). In the May 17, 1993, **Federal Register** notice which approved most of Indiana amendment #92–7 concerning subsidence, the Director did not fully approve the proposed language at subsection 87.1(c)(2). The language at subsection 87.1(c)(2) was approved except to the extent the provision defers to State law to correct subsidence related material damage.

On October 24, 1992, SMCRA was amended by the addition of new section 720 concerning subsidence. New section 720 provides that underground coal mining operations shall promptly repair, or compensate for, material damage resulting from subsidence caused to any occupied residential dwelling and structures related thereto, or noncommercial building due to underground coal mining operations. The new SMCRA provision does not provide for deference to State law regarding the repair or compensation for material damage resulting from subsidence due to underground coal mining operations. Therefore, in the May 17, 1993, **Federal Register** notice, the Director found the proposed language at 310 IAC 12–3–87.1(c)(2) less effective than the counterpart Federal regulations at 30 CFR 784.20(b) to the extent that the language affords a lesser degree of protection to occupied residential dwellings, related structures, and noncommercial buildings than SMCRA as revised.

The currently proposed 310 IAC 12–3–87.1(c)(2) provides that the subsidence control plan must contain a map of underground workings which includes all areas where the measures described in subdivisions (4) and (5) will be taken ''where appropriate under state law'' to correct subsidence related material damage. The quoted language, ''where appropriate under state law'' is identical to the language which OSM did not approve in the May 17, 1993, **Federal Register** notice.

In its submittal of this final adopted language, Indiana provided two reasons for its retention of the language quoted above. First, Indiana asserts that the language quoted above is substantially identical to the counterpart Federal regulations at 30 CFR 784.20(b). Second, Indiana asserts that a newly enacted statute, IC 13–4.1–9–2.5, which was included in Senate Enrolled Act No. 408 and signed into Indiana law on March 11, 1994, codifies the October 24, 1992, changes made to Federal SMCRA at section 720. Specifically, Indiana asserts that because Indiana law (IC 13–4.1–9–2.5) requires the correction of material subsidence damage to the same degree as amended SMCRA at section 720, the current regulation's (310 IAC 12–3–87.1(c)(2)(B)(ii)) reference to Indiana law is no longer less effective than the requirements of the Federal program.

In response to Indiana's assertions, the Director notes the following. On March 31, 1995 (60 FR 16722–16751), OSM amended the Federal subsidence regulations at 30 CFR 784 to bring those regulations into conformance with SMCRA at new section 720. Currently, neither SMCRA at section 720 nor 30 CFR 784.20(b) provide for deference to State law regarding the repair or compensation for material damage resulting from subsidence due to underground coal mining operations.

However, Indiana State law at IC 13–4.1–9–2.5 provides a counterpart to SMCRA section 720 from June 30, 1994, on.

On April 4, 1995 (60 FR 16985), the Director published an approval of IC 13–4.1–9–2.5, Indiana's new law concerning subsidence control. In that notice, the Director determined that IC 13–4.1–9–2.5 is substantively identical to and no less stringent than SMCRA at new section 720 with one exception. The Indiana law applies only to damage that occurs after June 30, 1994. SMCRA at section 729(a) provides that underground coal mining operations conducted after the date of enactment of section 720 (October 24, 1992) shall comply with each of the requirements of section 720. Therefore, the Director approved IC 13–4.1–9–2.5 to the extent that the Indiana law meets the requirements of SMCRA section 720(a) from June 30, 1994.

In addition, the Director deferred decision on the enforcement of the provisions of SMCRA section 720(a) during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13–4.1–9–2.5 (June 30, 1994). Pursuant to newly promulgated 30 CFR 843.25, OSM intends to publish by July 31, 1995, for each State with a regulatory program, including Indiana, final rule notices concerning the enforcement of the provisions of the Energy Policy Act in those States.

Since, by letter dated March 18, 1994 (Administrative Record IND–1340), Indiana interpreted ''state law'' as used in 310 IACV 12–3–87.1 to mean the provisions found at IC 13–4.1–9–2.5, the Director finds that this provision is no less effective than 30 CFR 784.20(b) and no less stringent than SMCRA section 720, to the extent that IC 13–4.1–9–2.5 meets the requirements of SMCRA section 720 from June 30, 1994. The Director is deferring decision until July 31, 1995, on the enforcement of the provisions of SMCRA section 720 and 30 CFR 784.20 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13–4.1–9–2.5 (June 30, 1994).

b. 310 IAC 12–3–87.1(c)(7). In the second sentence of this subdivision, Indiana is deleting the word ''operator'' and adding in its place the word ''permittee.'' With this change, the permittee is required to include required information in the permit application. The word ''permittee'' is the appropriate word to use in this section on permit application requirements. The Director finds the change to be consistent with and no less effective than the Federal regulations at 30 CFR 784.20 concerning subsidence control plan.

2. 310 IAC 12–5–130.1 Subsidence Control; General Requirements

In the final adopted language at subsection 130.1(c)(2), language appears which is identical to language which OSM did not approve in the May 17, 1993, **Federal Register** notice. Specifically, the language at subsection 130.1(c)(2) provides for the repair or compensation of damage caused by subsidence ''[t]o the extent required under Indiana law.'' In the May 17, 1993 notice at Finding 2, OSM did not approve the language which reads ''[t]o the extent required under Indiana law.''

OSM did not approve the Indiana deference to State law because it afforded a lesser degree of protection to occupied residential dwellings, related structures, and noncommercial buildings than section 720 of SMCRA. See Finding 1, above, for a discussion of section 720 of SMCRA.

In its submittal of this final adopted language, Indiana provided an explanation why the language which defers to State law was retained. Indiana

stated (also see Finding 1, above) that new Indiana law IC 13–4.1–9–2.5 requires the correction of material subsidence damage to the same degree as SMCRA at section 720. Therefore, Indiana asserts, the language at 310 IAC 12–5–130.1(c)(2) which defers to State law is no longer less effective than the requirements of the Federal program.

As discussed in Finding 1 above, the new Indiana law at IC 13–4.1–9–2.5 is substantially identical to and no less stringent than SMCRA at section 720 except to the extent that the Indiana law applies only to damage that occurs after June 30, 1994. SMCRA at section 720(a) provides for such repair or compensation by underground coal mining operations conducted after the date of enactment of section 720 (October 24, 1992). Since, by letter dated March 18, 1994 (Administrative Record No. IND–1340), Indiana interpreted ''state law'' as used in 310 IAC 12–5–130.1(c)(2), to mean the provisions found at IC 13–4.1–9–2.5, the Director finds that this provision is no less effective than 30 CFR 817.121(a)(2) and no less stringent than SMCRA section 720, to the extent that IC 13–4.1–9–2.5 meets the requirements of SMCRA section 720 from June 30, 1994. The Director is deferring decision on the enforcement of the provisions of SMCRA section 720 and 30 CFR 817.121 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13–4.1–9–2.5 (June 30, 1994).

3. 310 IAC 12–5–130.1(g) Suspension of Underground Mining

Indiana added language to this provision after the provision was approved by OSM on May 17, 1993. At subdivision 130.1(g)(2) the words ''under or'' are added. With the added language, the provision provides that the director of INDR shall suspend underground mining activities under or adjacent to industrial or commercial buildings, pipelines, major impoundments, or perennial streams.

In addition, the words ''under any other location'' are added in new subdivision 130.1(g)(3). With this new language, the director of INDR shall suspend underground mining activities under any other location if imminent danger is found to inhabitants of urbanized areas, cities, towns, or communities ''or whenever required or authorized by IC 13–4.1–11–5.''

The quoted language immediately above identifies the third revision to subsection 130.1(g). With this new language, the director of INDR shall also suspend underground mining activities whenever required or authorized by IC 13–4.1–11–5 concerning cessation orders. The Director finds that these changes are consistent with and no less effective than the Federal regulations at 30 CFR 817.121(f).

4. 310 IAC 12–5–130.1(h) Detailed Report of Underground Workings

The changes in this subsection are related to the preparation and certification of the required map of underground workings. Specifically, Indiana has deleted the word ''registered'' immediately preceding the words ''professional engineer.'' Also, the words ''or registered land surveyor'' are added following the words ''professional engineer.'' With these changes, the required map of underground workings shall be prepared by, or under the direction of, and certified by a qualified professional engineer or registered land surveyor with assistance from experts in related fields such as land surveying. The Director finds that the amendments are not inconsistent with and are no less effective than the counterpart Federal regulations at 30 CFR 817.121(g) which provide that the operator shall submit a detailed plan of the underground workings.

5. Repealed Provisions

Indiana proposes to repeal 310 IAC 12–3–87, 310 IAC 12–5–130, 310 IAC 12–5–131, and IAC 12–5–132. The provisions are proposed for repeal because they are replaced by 310 IAC 12–3–87.1, 310 IAC 12–5–130.1, and 10 IAC 12–5–131.1.

The Director is approving the repeal of 310 IAC 12–3–87, 310 IAC 12–5–130, and 310 IAC 12–5–131 because such repeal does not render the Indiana program less effective than the Federal regulations. The director is deferring decision on the repeal of 310 IAC 12–5–132 until July 31, 1995, when OSM will address the enforcement of the provisions of SMCRA section 720 and 30 CFR 784.20 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13–4.1–9–2.5 (June 30, 1994).

IV. Summary and Disposition of Comments

Federal Agency Comments

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i), comments were solicited from various interested Federal agencies. The U.S. Department of Agriculture, Soil Conservation Service (SCS) commented on the amendment (Administrative Record Number IND–1345). The SCS stated that the SCS determined that the changes will not impact SCS programs differently from the existing rules.

Public Comments

The public comment period and opportunity to request a public hearing was announced in the April 22, 1994, **Federal Register** (59 FR 19155). The comment period closed on May 23, 1994. No one requested an opportunity to testify at the scheduled public hearing so no hearing was held.

Ms. Freida K. Harris commented that OSM should not approve the proposed amendments because the amendments contain language which OSM has previously not approved. Specifically, the commenter is referring to Indiana's deference to State law at 310 IAC 12–3–87.1(c)(2)(B)(ii) and 310 IAC 12–5–130.1(c)(2).

As discussed above in Findings 1 and 2, the Director did not fully approve the previously-proposed language at 310 IAC 12–3–87.1(c)(2) and 310 IAC 12–5–130.1(c)(2) to the extent that the proposed language deferred to State law to correct subsidence related material damage. Since the time of that final rule notice, however, Indiana amended its statutes by adding IC 13–4.1–9–2.5 as a counterpart to the new SMCRA provision at section 720 concerning subsidence liability. Upon review of Indiana's new subsidence statute, the Director determined that the subsidence statute is no less stringent than SMCRA at section 720 to the extent that Indiana's statue meets the requirements of SMCRA section 720 from June 30, 1994. As discussed in Findings 1 and 2 above, the Director is deferring, until July 31, 1995, decision concerning the enforcement of the provisions of the Energy Policy Act in Indiana during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13–4.1–9–2.5 (June 30, 1994). In the March 31, 1995, approval of the Federal subsidence regulations (60 FR 16722–16751) OSM stated that it will publish proposed notices and open public comment periods to seek comment on information submitted by States with approved regulatory programs, including Indiana, concerning enforcement of the Energy Policy Act provisions in those States. The public comment period for Indiana closes on May 8, 1995.

Mr. R. Gehres commented on the proposed changes at 310 IAC 12–5–130.1(h). Specifically, the commenter objected to the removal of the term ''registered'' as it appeared before the words ''professional engineer,'' and to the addition of a ''registered land surveyor'' to the language describing who must prepare the required maps of

underground workings. In response, the Director notes that the counterpart Federal regulations at 30 CFR 817.121(g), while requiring the submittal of a detailed plan of the underground workings do not specify the credentials of individuals who may prepare those plans. Therefore, Indiana's amendments at 310 IAC 12–5–130.1(h) do not render the Indiana language less effective than 30 CFR 817.121(g).

Amoco Pipeline Company and Tennico Gas, Inc., pipeline operators, commented that the proposed amendments provide inadequate protection to pipelines from unplanned subsidence. The proposed wording is unnecessarily restrictive without justification the commenter stated.

In response, the Director notes that the proposed Indiana language is patterned after the Federal regulations at 30 CFR 817.121 concerning subsidence control, and SMCRA at section 720 concerning repair or compensation of subsidence damage. On March 31, 1995 (60 FR 16722–16751), OSM published subsidence regulations that are intended to implement the new provisions at SMCRA section 720. In that notice, OSM noted that Congress directed OSM to review existing Federal, State, and local laws, as well as common law related to underground coal mine subsidence and natural gas and petroleum pipeline safety. Since that mandated review and report are not finished, OSM believes that it would be premature to revise existing law at this time.

Environmental Protection Agency (EPA)

Under 30 CFR 732.17(h)(11)(ii), the director is required to obtain the written concurrence of the Administrator of the EPA with respect to any provisions of a State 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.*). The Director has determined that this amendment contains no provisions in these categories and that EPA's concurrence is not required.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (Administrative Record No. IND–1221). EPA responded by letter dated June 21, 1994 (Administrative Record Number IND–1373). In that letter, the EPA concurred without comment.

V. Director's Decision

Based on the findings above, the Director is approving, except as noted below, Indiana's program amendment concerning subsidence as submitted by Indiana on March 18, 1994. As discussed above in Finding 1 concerning 310 IAC 12–3–87.1(c)(2) and Finding 2 Concerning 310 IAC 12–5–130.1(c)(2), the Director is approving the propose deference to State law to the extent that IC 13–4.1–9–2.5 meets the requirements of SMCRA section 720 from June 30, 1994. The Director is deferring decision on the enforcement of the provisions of SMCRA section 720 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13–4.1–9–2.5 (June 30, 1994). As discussed in Finding 5, the Director is deferring decision on the repeal of 310 IAC 12–5–132.

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

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 his oversight of the Indiana program, the Director will recognize only the statutes, regulations and other materials approved by him, together with any consistent implementing policies, directives and other materials, and will require the enforcement by Indiana of only such provisions.

VI. Procedural Determinations

Executive Order 12866

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

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

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

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon 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.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 14, 1995.

Tim L. Dieringer,

Acting Assistant Director, Eastern 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 914—INDIANA

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

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

2. In § 914.15, paragraph (iii) is added to read as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(iii) The following amendment to the Indiana program concerning underground mine subsidence as submitted to OSM on March 18, 1994, is approved, except as noted herein, effective April 20, 1995: 310 IAC 12–3–87.1(c)(2) concerning subsidence control plan, to the extent that IC 13–4.1–9–2.5 meets the requirements of SMCRA section 720 from June 30, 1994. The Director is deferring decision on the enforcement of the provisions of SMCRA section 720 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13–4.1–9–2.5 (June 30, 1994); 310 IAC 12–3–87.1(c)(7) concerning subsidence control plan; 310 IAC 12–5–130.1(c)(2) concerning subsidence control plan, general requirements, to the extent that IC 13–4.1–9–2.5 meets the requirements of SMCRA section 720 from June 30, 1994. The Director is deferring decision on the enforcement of the provisions of SMCRA section 720 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13–4.1–9–2.5 (June 30, 1994); 310 IAC 12–5–130.1(g) concerning suspension of underground mining; 310 IAC 12–5–130.1(h) concerning detailed report of underground workings; the repeal of 310 IAC 12–3–87, 310 IAC 12–5–130, and 310 IAC 12–5–131; decision on the repeal of 310 IAC 12–5–132 is deferred.

[FR Doc. 95–9775 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 144–3–6972b; FRL–5194–2]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Interim Final Determination That State has Corrected Deficiencies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final determination.

SUMMARY: Elsewhere in today's **Federal Register** EPA has published a proposed rulemaking fully approving revisions to the California State Implementation Plan. The revisions concern South Coast Air Quality Management District Rule 1164—Semiconductor Manufacturing. The proposed rulemaking provides the public with an opportunity to comment on EPA's action approving Rule 1164. Based on the proposed approval, EPA is making an interim final determination by this action that the State has corrected the deficiencies for which a sanctions clock was activated on September 29, 1993. This action will defer the application of the offset sanction and defer the application of the highway sanction. Although this action is effective upon publication, EPA will take comment. If comments are received on EPA's proposed approval and this interim final action, EPA will publish a final notice taking into consideration any comments received.

DATES: This interim final determination is effective on April 20, 1995.

Comments must be received by May 22, 1995.

ADDRESSES: Comments should be sent 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.

The state submittal and EPA's analysis for that submittal, which are the basis for this action, are available for public review at the above address and at the following locations:

Environmental Protection Agency, Air Docket 6102, 401 ''M'' Street, S.W., Washington 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95814.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182.

FOR FURTHER INFORMATION CONTACT: Helen Liu, 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) 744–1199.

SUPPLEMENTARY INFORMATION:

I. Background

On May 13, 1991, the State submitted South Coast Air Quality Management (SCAQMD) Rule 1164—Semiconductor Manufacturing, for which EPA published a limited disapproval in the **Federal Register** on September 29, 1993 [58 FR 50850]. EPA's limited disapproval action started an 18-month clock for the application of one sanction (followed by a second sanction 6 months later) under section 179 of the Clean Air Act (CAA) and a 24-month clock for promulgation of a Federal Implementation Plan (FIP) under section 110(c) of the CAA. The State subsequently submitted a revised rule on February 24, 1995. The revised rule was adopted by the SCAQMD on January 13, 1995. In the Proposed Rules section of today's **Federal Register**, EPA has proposed full approval of the State's submittal of SCAQMD Rule 1164—Semiconductor Manufacturing.

Based on the proposed approval set forth in today's **Federal Register**, EPA believes that it is more likely than not that the State has corrected the original disapproval deficiencies. Therefore, EPA is taking this final rulemaking action, effective on publication, finding that the State has corrected the deficiency. However, EPA is also providing the public with an opportunity to comment on this final action. If, based on any comments on this action and any comments on EPA's proposed approval of the State's submittal, EPA determines that the State's submittal is not fully approvable and this final action was inappropriate, EPA will either propose or take final action finding that the State has not corrected the original disapproval deficiency. As appropriate, EPA will also issue an interim final determination or a final determination that the deficiency has not been corrected. Until EPA takes such an action, the application of sanctions will continue to be deferred.

This action does not stop the sanctions clock that started for this area on September 29, 1993. However, this action will defer the application of the offsets sanction and will defer the application of the highway sanction. See 59 FR 39832 (Aug. 4, 1994). If EPA's proposal fully approving the State's submittal becomes final, such action will permanently stop the sanctions

clock and will permanently lift any applied, stayed or deferred sanctions. If EPA receives adverse comments and subsequently determines that the State, in fact, did not correct the disapproval deficiency, the sanctions consequences described in the sanctions rule will apply. See 59 FR 39832, to be codified at 40 CFR 52.31.

II. EPA Action

EPA is taking interim final action finding that the State has corrected the disapproval deficiencies that started the sanctions clock. Based on this action, application of the offset sanction will be deferred and application of the highway sanction will be deferred until EPA takes final rulemaking action fully approving the State's submittal or until EPA takes action proposing or disapproving in whole or part the State submittal. If EPA's proposed rulemaking action fully approving the State submittal becomes final, at that time any sanctions clocks will be permanently stopped and any applied, stayed or deferred sanctions will be permanently lifted.

Because EPA has preliminarily determined that the State has corrected the deficiencies identified in EPA's limited disapproval action, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect.[1] 5 U.S.C. 553(b)(B). EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. EPA has reviewed the State's submittal and, through its proposed action, is indicating that it is more likely than not that the State has corrected the deficiencies that started the sanctions clock. Therefore, it is not in the public interest to initially impose sanctions or to keep applied sanctions in place when the State has most likely done all that it can to correct the deficiencies that triggered the sanctions clock. Moreover, it would be impracticable to go through notice-and-comment rulemaking on a finding that the State has corrected the deficiencies prior to the rulemaking approving the State's submittal. Therefore, EPA believes that it is necessary to use the interim final rulemaking process to temporarily defer sanctions while EPA completes its rulemaking process on the approvability of the State's submittal. Moreover, with respect to the effective date of this action, EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction. See 5 U.S.C. 553(d)(1).

[1] As previously noted, however, by this action EPA is providing the public with a chance to comment on EPA's determination after the effective date and EPA will consider any comments received in determining whether to reverse such action.

III. 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. sections 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.

This action temporarily relieves sources of an additional burden potentially placed on them by the sanctions provisions of the CAA. Therefore, I certify that it does not have an impact on any small entities.

The Office of Management and Budget (OMB) has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental regulations, Reporting and recordkeeping, Ozone, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 11, 1995.

Felicia Marcus,

Regional Administrator.

[FR Doc. 95–9708 Filed 4–19–95; 8:45 am]

BILLING CODE 6560–50–W

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–26

[FPMR Amendment E–276]

RIN 3090–AF09

Removing Federal Supply Service Schedule Ordering Instructions

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This rule amends the Federal Property Management Regulations (FPMR) to remove Federal Supply Service (FSS) schedule ordering instructions. Over time, these instructions have become obsolete. Hence, it is no longer necessary to retain these instructions in the FPMR. Removing these instructions from the FPMR will carry out the principles of the National Performance Review by unburdening all Federal agencies from unnecessary regulations.

EFFECTIVE DATE: April 20, 1995.

FOR FURTHER INFORMATION CONTACT: Nicholas Economou, FSS Acquisition Management Center (703–305–6936).

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866. GSA published a proposed rule to amend the FPMR to remove FSS schedule ordering instructions on February 23, 1994 [59 FR 8587]. Comments were received from three organizations and one executive department. All comments were considered, and no revisions to the rule were made.

Two of the four respondents were pleased with the proposed change, and felt that it was consistent with the National Performance Review (NPR). The other two respondents expressed concerns regarding the transformation of existing regulations governing FSS schedule ordering into ''guiding principles.'' However, this rule only removes Federal Supply Schedule ordering instructions that are obsolete and no longer necessary. GSA has already streamlined the Federal Supply Schedule ordering procedures in FAR Part 8.

Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

List of Subjects in 41 CFR Part 101–26

Government property management.

For the reasons set forth in the preamble, 41 CFR Part 101–26 is amended as follows:

PART 101–26—PROCUREMENT SOURCES AND PROGRAMS

1. The authority citation for Part 101–26 continues to read as follows:

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

Subpart 101–26.5—GSA Procurement Programs

2. Section 101–26.406–7 is redesignated as § 101–26.502 and revised to read as follows:

§ 101–26.502 U.S. Government National Credit Card.

A waiver has been issued by the Government Printing Office to GSA for

the procurement of the printing of Standard Form 149, U.S. Government National Credit Card.

3. Section 101–26.408–4(c) is redesignated § 101–26.503 and revised to read as follows:

§ 101–26.503 Multiple award schedule purchases made by GSA supply distribution facilities.

GSA supply distribution facilities are responsible for quickly and economically providing customers with frequently needed common-use items. Stocking a variety of commercial, high-demand items purchased from FSS multiple award schedules is an important way in which GSA supply distribution facilities meet this responsibility.

4. The heading for Subpart 101–26.4 is revised and the text is removed and reserved to read as follows:

Subpart 101–26.4—Federal Supply Schedules—[Reserved]

5. Section 101–26.507 is revised to read as follows:

§ 101–26.507 Security equipment.

Federal agencies and other activities authorized to purchase security equipment through GSA sources shall do so in accordance with the provisions of this § 101–26.507. Under section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481), the Administrator of GSA has determined that fixed-price contractors and lower tier subcontractors who are required to protect and maintain custody of security classified records and information may purchase security equipment from GSA sources. Delivery orders for security equipment submitted by such contractors and lower tier subcontractors shall contain a statement that the security equipment is needed for housing Government security classified information and that the purchase of such equipment is required to comply with the security provision of a Government contract. In the event of any inconsistency between the terms and conditions of the delivery order and those of the Federal Supply Schedule contract, the latter shall govern. Security equipment shall be used as prescribed by the cognizant security office.

6. Section 101–26.507–3 is revised to read as follows:

§ 101–26.507–3 Purchase of security equipment from Federal Supply Schedules.

To ensure that a readily available source exists to meet the unforeseen demands for security equipment, Federal Supply Schedule contracts have been established to satisfy requirements that are not appropriate for consolidated procurement and do not exceed the maximum order limitations.

Dated: March 17, 1995.

Julia M. Stasch,

Acting Administrator of General Services.

[FR Doc. 95–9744 Filed 4–19–95; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 40

[Docket 50018]

RIN 2105–AC20

Procedures for Transportation Workplace Drug and Alcohol Testing Programs; Procedures for Non-Evidential Alcohol Screening Devices

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule; request for comments.

SUMMARY: When the Department of Transportation published its final alcohol testing rules in February 1994, it said that if non-evidential screening devices were approved, the devices could be used for screening tests in DOT-mandated alcohol testing programs. Several such devices have now been determined by the National Highway Traffic Safety Administration to be capable of detecting the presence of alcohol at the 0.02 or greater level of alcohol concentration. This rule establishes procedures for the use of these devices.

DATES: This rule is effective May 22, 1995. Comments on amendments to §§ 40.59(c), 40.63(d)(1), and 40.63(e)(2) should be received by June 5, 1995. Late-filed comments will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Albert Alvarez, Director, Department of Transportation, Office of Drug Enforcement and Program Compliance, 400 7th Street SW., Washington, DC 20590, Room 9404A, 202–366–3784; or Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, 400 7th Street SW., Room 10424, Washington, DC 20590; 202–366–9306.

SUPPLEMENTARY INFORMATION:

Background

When the Department published its final alcohol testing rules on February 15, 1994 (59 FR 7302 *et seq.*), the Department established breath testing, using evidential breath testing devices (EBTs), as the method to be used. However, in response to comments requesting additional flexibility in testing methods, the Department said that—

> NHTSA [the National Highway Traffic Safety Administration] will develop model specifications (using precision and accuracy criteria), evaluate additional screening devices against them, and periodically publish a conforming products list of those additional screening devices (not exclusively breath testing devices) that meet the model specifications. * * * Please note that the Department will also have to undertake separate rulemaking proceedings to establish procedures for the use of any devices after they are approved. (Id. at 7316.)

NHTSA published model specifications, tested several screening devices and, on December 2, 1994, published a conforming products list (CPL) including four non-evidential breath testing devices and one saliva testing device. As noted in the February 15 common preamble cited above, before these devices can be used in DOT alcohol testing programs, this procedural rule has to be issued. When this rule becomes effective, employers may begin using the approved non-evidential screening devices.

We emphasize that these devices may be used only for alcohol *screening* tests. Confirmation tests must be performed on EBTs. To the greatest extent feasible, we have drafted these procedures to incorporate the same basic requirements as the existing alcohol testing procedures. This makes the procedures simple and achieves the flexibility that is the goal of using non-evidential devices.

Comments and Responses

As of the close of the comment period, the Department received 23 comments on the January 17, 1995, notice of proposed rulemaking (NPRM) for this rule (60 FR 3371). Ten of these comments were from employers or employer associations, another 10 were from manufacturers or distributors of breath testing equipment, and three were from other testing industry participants. The comments focused on several issues.

Interval Between Screening and Confirmation Tests

In the NPRM leading to the February 15, 1994, final rule on alcohol testing procedures (57 FR 59416; December 15, 1992), the Department proposed a 15-minute waiting period before the confirmation test. The purpose of this waiting period was to ensure that residual mouth alcohol did not artificially raise the confirmation test result. The Department had considered,

and asked for comment on, the idea of requiring such a waiting period before all screening tests, but we decided against proposing such a requirement because it would waste employers' and employees' time in the great majority of screening tests that we expect to be negative. Because the Department believed, and notable forensic experts in the alcohol testing field agreed, that the confirmation test should follow the screening test as immediately as possible, the Department proposed a maximum of 20 minutes (i.e., no more than 5 minutes beyond the 15-minute waiting period) between the two tests. The NPRM said that—

> The purpose of establishing a maximum limit for the waiting period is to prevent the manipulation of confirmation results by affording time for the metabolism of alcohol so that results will be lower than first recorded on the initial test. Should there be greater flexibility in the timing of confirmation tests? (Id.)

In the final rule (59 FR 7351; February 15, 1994), the Department retained the 15–20-minute interval between the screening and confirmation tests. The preamble discussion of this issue was as follows:

> There were 29 comments concerning the waiting period before the confirmation test, fifteen of which supported the 15-minute minimum time proposed in the NPRM. Four comments wanted a shorter interval (e.g., two or five minutes) and four supported a longer interval (e.g., 20 or 30 minutes). Two comments opposed any requirement concerning an interval. Six comments either wanted no maximum waiting time or preferred to rely on the employer's or EBT manufacturer's discretion.
>
> The waiting period is important. It is intended to give the employee the opportunity to ensure that any residual mouth alcohol does not influence the result of the confirmation test. According to the Department's information, fifteen minutes is the minimum period after which one can be confident that any residual mouth alcohol has disappeared. A shorter interval is not feasible for this reason. At the same time, waiting a long period between tests can be costly in terms of lost employee time and could influence the outcome of the confirmation test. In order to guard against lengthy delays in the performance of confirmation tests, which can allow alcohol concentration levels to fall, the final rule retains the 20-minute maximum. It should be pointed out that failing to observe the minimum 15-minute period is a ''fatal flaw'' (see § 40.79(a)), automatically invalidating a test. This is because the Department believes it is important to prevent artificially high readings due to mouth alcohol residue. However, taking longer than 20 minutes between tests is not a ''fatal flaw.'' The Department is aware that circumstances may sometimes result in stretching the time between tests for a few additional minutes. (Id.)

In establishing the 15–20-minute interval, then, the Department considered and decided the issue based on a specific request for and review of comments.

In the NPRM leading to this final rule, the Department again addressed this issue.

> Confirmation tests must be performed on EBTs, within 20 minutes of the screening test, as provided in existing 49 CFR 40.65(b). The Department is aware that increasing this interval for situations in which non-evidential devices are used could provide additional flexibility to employers, by increasing the distance that a non-evidential screening test could be conducted away from a confirmation EBT. However, as noted in the preamble to the February 15, 1994, final Part 40 rule, conducting the confirmation test within a brief time from the screening test is important to prevent metabolization of alcohol over time from negating what would otherwise be ''positive'' test results. This is no less true in a case where the screening test is conducted on a non-evidential device than where the screening test is conducted on an EBT. For this reason, the Department is not proposing to increase this interval, though we seek comment on the degree to which an increased interval between screening and confirmation tests could increase the utility of non-evidential devices, without concomitant loss of otherwise positive tests. (60 FR 3371; January 17, 1995.)

The Department received 11 comments on this issue. Four of these comments, all from breath testing equipment manufacturers or distributors, recommended retaining the 15–20-minute timeframe for completing tests. One commented that even a brief increase (e.g., five minutes) in the interval could result in losing otherwise positive results. Seven comments (5 employers or employer associations and 2 testing service providers) recommended increasing the interval. The longer intervals they suggested included 30 minutes, one hour, and two hours. Their basic rationale was that if employers had to get an employee from a field site where a non-evidential device was used for a screening test to a site where an EBT was available within 20 minutes, it would deter the use of non-evidential screening devices and limit the cost savings and increased flexibility that would result from using such devices. Two of the comments said that the loss of otherwise positive tests could be a small one.

The Department established consequences for employees testing at the .02 and .04 alcohol concentration levels because even these low levels of alcohol concentration can adversely affect the performance of safety-sensitive functions by transportation employees. If, because long periods of time intervene between screening and confirmation tests, significant numbers of individuals with such alcohol concentrations are able to avoid the consequences of their conduct, the deterrent effects and safety benefits of the alcohol testing rules will be reduced. Consequently, to help determine its response to the comments on this issue, the Department obtained further information about the effects of lengthier delays on tested alcohol concentration.

According to this information, most people (male and female) appear to eliminate alcohol in a range between 0.01 and 0.02 percent per hour. This is the range most forensically accepted and commonly cited. Individual employees' results will, of course, have individual differences based on such factors as gender, body weight, acquired tolerance for alcohol, etc. The following chart displays this data. The chart starts with a screening test alcohol concentration, at the moment the screening test result is obtained. It then shows what the predicted range of confirmation tests results would be after a 30–120 minute interval, assuming (as is very likely to be the case in most instances) that the individual's alcohol concentration is in the declining phase at the time of the screening test.

SCREENING TEST ALCOHOL CONCENTRATION

Interval	.06	.05	.04	.03
20 minutes	.053–.056	.043–.046	.033–.036	.023–.026
30 minutes	.050–.055	040–.045	.030–.035	.020–.025
40 minutes	.046–.053	.036–.043	.026–.033	<.02–.023
60 minutes	.040–.050	.030–.040	.020–.030	<.02–.020
120 minutes	.020–.040	<.02–.030	<.02–.020	<.02

The chart shows that at any of the alcohol concentration levels shown, the longer intervals (e.g., 1–2 hours) suggested by some commenters would often result in loss of what would otherwise be valid ''positive'' tests, or even the loss of the ability to remove individuals from safety-sensitive functions for eight hours (24 hours in the case of the motor carrier industry). The Department does not have data that allow us to predict the distribution of various levels of screen positives among tested employees (e.g., what percentage of employees would screen at .02, .04, .08, 1.0, etc.). Consequently, we do not know what overall percentage of screen positives would be lost as the result of longer intervals. Nevertheless, it is clear that the effect of longer intervals would be to effectively immunize persons with alcohol concentrations in the .03–.06 range from the consequences stated in the regulations. Procedural flexibility of this magnitude would nullify the intended substantive impact of the rules.

The Department does not believe that it is appropriate to establish a provision which it knows, in advance, would make it more likely that someone who had violated the Department's regulations could avoid accountability for his or her actions. Nor would it be appropriate to increase significantly the opportunities for violators to manipulate the system to their advantage. Based on three years of rulemaking, participants had reason to know that the Department has consistently expected confirmation tests to follow screening tests as soon as possible. For these reasons, the Department is not going to increase the interval to the extent some commenters requested.

However, the data show that an individual whose alcohol concentration at the time of the screening test was .05–.06 would still, on average, test at .04 or above after a 30-minute interval. An individual whose alcohol concentration at the time of the screening test was .04 would test, on average, below .04 after a 30-minute interval, but this individual would also test below .04 after the present 20-minute interval. Consequently, increasing the interval from 20 to 30 minutes is unlikely to have a marked adverse effect on achieving the regulation's objectives. Such an increase would permit employers some additional degree of flexibility. Because the Department's regulatory policy is to provide appropriate flexibility to regulated parties, where doing so does not adversely affect the safety objectives of a rule, the Department has decided to increase the interval between the tests from 20 to 30 minutes. This change, to § 40.65(b), also affects the interval between EBT screening and confirmation tests.

One question that some comments raised is what the consequences are if a confirmation test is not conducted within 30 minutes of the screening test. First, the Department reemphasizes that a test conducted more than 30 minutes later than the screening test is not fatally flawed. For example, if an individual's confirmation test result is .04 or above, the test is valid and its consequences apply even though the confirmation test was conducted more than 30 minutes after the screening test. Second, an employer that conducts confirmation tests more than 30 minutes after screening tests—particularly if the employer has a pattern or practice of doing so—is subject to being found in violation of an operating administration's regulation. This has similar consequences to any other finding by an operating administration that an employer is failing to implement the regulation properly. To allow operating administrations to determine whether employers are meeting this requirement, the Department is adding a sentence to § 40.65(b) instructing the BAT conducting the confirmation test to note, in the remarks section of the form, any occasion on which the confirmation test is late and the reason for the delay.

Observation During Transit

The use of non-evidential screening devices would often occur at a site removed from the site of the EBT confirmation test. In this situation, the NPRM proposed that the employee would have to be observed by the saliva testing technician (STT) or an employer representative while traveling between the two sites. Two breath testing equipment manufacturers agreed with this proposal, while one employer association opposed it, saying it was unnecessary. The Department will retain this provision. Clearly, it is not appropriate for someone who has just tested at .02 or above to drive himself or herself to the next testing site. Someone else will necessarily be responsible for the employee's transportation. That someone else should be an individual with a stake in the success of the testing process (i.e., an STT or an employer representative), who can ensure that the employee arrives at the confirmation testing site safely and in a timely manner and reduce the probability that the employee could engage in behavior that might result in a refused or invalid test. This person should also be responsible for monitoring the employee with respect to observing the 15-minute deprivation period between the initial and confirmation tests. (The Department's view is that the time the employee spends in transit between tests, if the employee is under observation as provided in this section, counts toward the mandatory 15-minute deprivation period.) The final rule applies this same requirement to the situation in which an EBT without printing capability is used for the screening test and the employee is taken to a confirmation EBT for the confirmation test.

Procedures for Screening Tests

One commenter noted that the NPRM failed to require (as existing Part 40 requires for breath tests) that the STT inform the employee about the procedures to be followed in the test. The final rule adds this requirement.

The NPRM provided that the STT would take the reading from the saliva device in the time frame specified by the manufacturer. This led to comments that the testing process could be unnecessarily delayed, since the manufacturer's instructions on the only saliva device now approved by NHTSA appeared to call for a 2–15 minute period for reading the device. The Department discussed this matter with the manufacturer, which said that the device may always be read after two minutes. After 15 minutes, the result begins to degrade. Consistent with this understanding of the device, the final rule requires STTs to take a reading two minutes after inserting the swab into the device. The fatal flaws section now provides that a test is invalid if the reading is taken less than two or more than 15 minutes after insertion of the swab into the device.

One of the issues addressed in the NPRM was what the STT should do when a saliva test fails (e.g, the device indicates that a sample is unacceptable, the swab falls on the floor). The NPRM proposed that, in this case, the STT would first administer another saliva test, using a new saliva device. There were no comments on this provision, which the Department will retain. The Department will add one safeguard to this provision. The Department understands that, at least in some cases, companies may pre-place saliva packages in workplaces (e.g., in the glove compartment of a truck). Such a device might be used for the initial saliva test. If that test is not successfully completed, the final rule provides that the STT must use a new device that has been in the STT's (or employer's) possession prior to the test, rather than under the control of the employee. This

safeguard will help to preclude questions about whether environmental degradation or tampering could have affected the result of the screening test.

The NPRM proposed that if there were two consecutive failures of saliva tests, the employee would be referred for a breath test. The NPRM sought comment on whether this breath test should be on an EBT. Two breath testing equipment manufacturers favored using an EBT under these circumstances; two employer groups and a consortium thought doing so was unnecessary (i.e., that another non-evidential test was adequate). The Department has concluded that it makes the most sense to resort to an EBT in these circumstances. As noted in the NPRM preamble, going, after two saliva tests, to another non-evidential breath testing device, and then having to go to an EBT for confirmation, would unnecessarily lengthen the procedure and could result in the loss of what would otherwise be a positive test. The Department believes that keeping the procedure compact is most consistent with the objectives of the program.

There were several miscellaneous comments about testing procedures. One asked for more specificity about the type of gloves an STT should use if the STT is swabbing an employee's mouth. The Department believes that reference to a surgical glove—the kind that doctors and dentists use in examining patients—is adequate, though we have made the requirement more specific by deleting the NPRM's reference to other types of hand protection. Comments from two breath testing equipment manufacturers suggested that there should be serial numbers for each saliva device on the package and on the device itself, which if mismatched would result in a fatal flaw. Given that the procedures call for the STT to open the package in the presence of the employee, matching serial numbers seems superfluous and a likely source of unnecessary problems in the collection process. Another commenter suggested allowing the employee to select his or her own saliva device from among several that the STT would offer. The Department has no objection to this practice, but it seems unnecessary to require STTs to proceed in this fashion.

The NPRM called for the STT to use a logbook in connection with a non-evidential breath testing device. This proposed requirement paralleled the existing Part 40 requirement for situations in which an EBT without printing and sequential numbering capability is used for a screening test. The proposal did not apply to saliva devices, since a logbook traveling with the device makes no sense in the context of a disposable device.

In reexamining this requirement in the context of this rulemaking, the Department has determined that the paperwork burden involved is not justified by the utility of the requirement to the program. It essentially duplicated material required to be entered on the form. For this reason, the Department will not make the proposed requirement final with respect to non-evidential breath testing devices. The same logic applies to the existing requirement for using a logbook in connection with EBTs that do not have printout and sequential numbering capabilities. Consequently, the Department is withdrawing this requirement as well. The amendments to § 40.59, 40.63(d)(1), and 40.63(e)(3) remove references to this requirement. One of the amendments to § 40.63(e) corrects a codification error in this section resulting from the Department's August 19, 1994, amendment to part 40 (see 59 FR 43001). This action redesignates the presently codified paragraph (e)(3) as (e)(4), and adds the proper (e)(3)—modified to delete the reference to the logbook—back into the section. There is also an editorial correction to delete a substantively duplicative reference to the ''quantitative result.'' The section already requires entry of the ''displayed result.'' Because the Department did not propose to do so in the NPRM, we will seek comments on these amendments, which reduce paperwork burdens, for 45 days.

Forms

The NPRM suggested that STTs conducting non-evidential breath tests would use the existing breath testing form, while STTs conducting saliva tests would use a modified form. Four commenters suggested having one form for all tests rather than having separate forms. One of these commenters provided a suggested modification of the existing alcohol testing form that included boxes to check for what sort of test was involved. Three other commenters approved the idea of a separate form for saliva testing. One of these suggested adding blocks in which the starting and ending times of screening and confirmation tests would be noted, and also suggested adding other information to the form, such as initials by the observer who traveled to the confirmation site with the employee, the serial number of the saliva device, and the expiration date of the saliva device.

The Department is persuaded that for the sake of simplicity and avoiding confusion in the program, it is preferable to have only one form used in DOT alcohol testing. The Department believes that some of the suggestions commenters made—particularly including boxes to check off indicating the testing method and the inclusion of starting and ending times of tests—have merit. The Department is also aware, however, that it is important to issue this rule as soon as possible so that those employers who choose to do so can begin using non-evidential devices. Redesigning a form, securing Office of Management and Budget approval for it, and printing it all take a good deal of time. Consequently, the Department is making an interim solution part of this final rule. For now, employers will continue to use the existing alcohol form. The rule will direct STTs to note in the remarks section of the form that a non-evidential breath or saliva device, as applicable, was used for the screening test.

Subsequently, the Department intends to revise the alcohol testing form, incorporating some of the ideas proposed in the NPRM and in the comments responding to it. After the revised form is published, we anticipate permitting employers to exhaust stocks of existing forms before being required to use it.

STT Training

One employer and nine breath testing equipment manufacturers or distributors commented on the NPRM's proposal to require training for STTs, using a modified version of the Department's BAT training course. The employer wanted to be sure that STTs would be trained in how to operate the non-evidential devices they would use. The NPRM and final rule both provide that this must be the case. Of the remaining commenters, six favored the NPRM's concept of using a modified, shorter version of the BAT course for training of STTs, while the other three appeared to favor a closer integration of BAT and STT training.

The Department is aware that, while many people who have trained as BATs will also operate as STTs, there may also be many situations in which, in order to gain flexibility and reduce costs, employers may wish to use people who will only administer non-evidential screening tests. For this reason, we believe it is reasonable to establish training requirements for individuals who will be STTs only, and who will not train as BATs. The Department has prepared an STT training course, which will be the basis for training STTs. This will be made available to the public at a modest

charge from the Government Printing Office. Training for STTs (as well as for BATs who will conduct non-evidential screening tests) must include hands-on training in the use of the specific non-evidential devices they will use. If the screening device used is a disposable, single-use device that requires the STT to evaluate a color change, some criteria for correct judgments should be included in the training.

Quality Assurance Plans (QAPs)

One commenter, a manufacturer of standards for calibrating alcohol testing devices, suggested that there be QAPs for calibration devices. There is a NHTSA conforming products list for such devices, and the Department is not convinced that additional requirements are needed now. Another commenter asked who is responsible for compliance with the QAP. The manufacturer is responsible for creating the QAP and getting NHTSA approval for it, and the employer or its agent is responsible for operating the equipment in conformity with it. A breath testing manufacturer recommended that saliva device QAPs call for periodic testing of each lot of devices. The commenter said that environmental conditions (e.g., storage conditions) could affect the accuracy of the devices, perhaps leading to an unacceptable number of false negatives. The Department is concerned that periodic testing of large numbers of disposable devices may not be feasible and could be overly costly and burdensome. Employers are required to comply with manufacturers' QAPs, which will provide for appropriate storage conditions. While the Department will not impose such a requirement as part of this final rule, the Department can revisit this issue if experience suggests that false negatives with a particular type of device become a serious problem.

One of the requirements of a QAP for disposable devices is that they include the shelf life of the devices. With the QAP, the Department wishes manufacturers to submit the data on which the shelf life determination for the device is based (e.g., tests over time of devices drawn from manufacturers' lots).

Regulatory Analyses and Notices

This is not a significant rule under Executive Order 12866 or under the Department's Regulatory Policies and Procedures. It does not impose costs on regulated parties. It facilitates the use of devices that may increase flexibility, and decrease costs, for employers who choose to use them. There are not sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The Department certifies that this rule will not have a significant economic impact on a substantial number of small entities. To the extent that there is any such impact, it is expected to be a small favorable impact, since some small entities may be able to conduct screening tests at a lower cost.

List of Subjects in 49 CFR Part 40

Drug testing, Alcohol testing, laboratories, Reporting and recordkeeping requirements, Safety, Transportation.

Issued this 5th day of April, 1995, at Washington, DC.

Federico Peña,

Secretary of Transportation.

For the reasons set forth in the preamble, 49 CFR Part 40 is amended as follows:

PART 40—[AMENDED]

1. The authority citation for Part 40 continues to read as follows:

Authority: 49 U.S.C. 102,301,322; 49 U.S.C. app. 1301nt., app. 1434nt., app. 2717, app. 1618a.

§ 40.51 [Amended]

2. Section 40.51(c) is amended by adding the words ''or non-evidential alcohol screening device'' after the word ''EBT''.

§ 40.59 [Amended]

3. The heading of § 40.59 is revised to read ''The breath alcohol testing form''.

4. Section 40.59(c) is removed.

5. Section 40.63(d)(1) is revised to read as follows:

§ 40.63 Procedures for screening tests.

* * * * *

(d)(1) If the EBT does not meet the requirements of § 40.53(b) (1) through (3), the BAT shall ensure, before a screening test is administered to each employee, that he or she and the employee read the sequential test number displayed on the EBT. The BAT shall record the displayed result, test number, testing device, serial number of the testing device, and time in Step # of the form.

* * * * *

6. In § 40.63, paragraph (e)(4) is removed, paragraph (e)(3) is redesignated as paragraph (e)(4), and a new paragraph (e)(3) is added, to read as follows:

§ 40.63 Procedures for screening tests.

* * * * *

(e) * * *

(3) If the employee does not sign the certification in Step 4 of the form for a test, it shall not be considered a refusal to be tested. In this event, the BAT shall note the employee's failure to sign in the ''Remarks'' section of the form.

* * * * *

7. A new § 40.63(h) is added, to read as follows:

§ 40.63 Procedures for screening tests.

* * * * *

(h) If the confirmation test will be conducted at a different site from the screening test, the employer or its agent shall ensure that—

(1) The employee is advised against taking any of the actions mentioned in the first sentence of § 40.65(b) of this Part;

(2) The employee is advised that he or she must not drive, perform safety-sensitive duties, or operate heavy equipment, as noted in Block 4 of the alcohol testing form; and

(3) The employee is under observation of a BAT, STT, or other employer personnel while in transit from the screening test site to the confirmation test site.

8. In § 40.65(b), the third sentence is revised to read: ''The confirmation test shall be conducted within 30 minutes of the completion of the screening test.''

§ 40.65 [Amended]

9. In § 40.65, paragraph (b) is amended by adding, at the end thereof, to read: ''If the BAT conducts the confirmation test more than 30 minutes after the result of the screening test has been obtained, the BAT shall note in the ''Remarks'' section of the form the time that elapsed between the screening and confirmation tests and the reason why the confirmation test could not be conducted within 30 minutes of the screening test.''

10. A new Subpart D of Part 40 is added, to read as follows:

Subpart D—Non-Evidential Alcohol Screening Tests

40.91—Authorization for use of non-evidential alcohol screening devices
40.93—The screening test technician
40.95—Quality assurance plans for non-evidential screening devices
40.97—Locations for non-evidential alcohol screening tests
40.99—Testing forms
40.101—Screening test procedure
40.103—Refusals to test and uncompleted tests
40.105—Inability to provide an adequate amount of breath or saliva
40.107—Invalid tests
40.109—Availability and disclosure of alcohol testing information about individual employees
40.111—Maintenance and disclosure of records concerning non-evidential testing devices and STTs.

Subpart D—Non-Evidential Alcohol Screening Devices

§ 40.91 Authorization for use of non-evidential alcohol screening devices.

Non-evidential alcohol screening tests, performed using screening devices included by the National Highway Traffic Safety Administration on its conforming products list for non-evidential screening devices, may be used in lieu of EBTs to perform screening tests required by operating administrations' alcohol testing regulations. Non-evidential screening devices may not be used for confirmation alcohol tests, which must be conducted using EBTs as provided in Subpart C of this Part.

§ 40.93 The screening test technician.

(a) Anyone meeting the requirements of this Part to be a BAT may act as a screening test technician (STT), provided that the individual has demonstrated proficiency in the operation of the non-evidential screening device he or she is using.

(b) Any other individual may act as an STT if he or she successfully completes a course of instruction concerning the procedures required by this Part for conducting alcohol screening tests. Only the Department of Transportation model course, or a course of instruction determined by the Department of Transportation's Office of Drug Enforcement and Program Compliance to be equivalent to it, may be used for this purpose.

(c) With respect to any non-evidential screening device involving changes, contrasts, or other readings that are indicated on the device in terms of color, STTs shall, in order to be regarded as proficient, be able to discern correctly these changes, contrasts or readings.

(d) The STT shall receive additional training, as needed, to ensure proficiency, concerning new or additional devices or changes in technology that he or she will use.

(e) The employer or its agent shall document the training and proficiency of each STT it uses to test employees and maintain the documentation as provided in § 40.83.

(f) The provisions of § 40.51(b) and (c); § 40.57; § 40.59; § 40.61; § 40.63 (e)(1)–(2), (f), (g), and (h); § 40.69; and § 40.81; and other provisions, as applicable, of this Part apply to STTs as well as to BATs.

§ 40.95 Quality assurance plans for non-evidential screening devices.

(a) In order to be used for alcohol screening tests subject to this part, a non-evidential screening device shall have an approved quality assurance plan (QAP) developed by the manufacturer and approved by the National Highway Traffic Safety Administration (NHTSA).

(1) The plan shall designate the method or methods to be used to perform quality control checks; the temperatures at which the non-evidential screening device shall be stored and used, as well as other environmental conditions (*e.g.*, altitude, humidity) that may affect the performance of the device; and, where relevant, the shelf life of the device.

(2) The QAP shall prohibit the use of any device that does not pass the specified quality control checks or that has passed its expiration date.

(b) The manufacturers' instructions on or included in the package for each saliva testing device shall include directions on the proper use of the device, the time frame within which the device must be read and the manner in which the reading is made.

(c) The employer and its agents shall comply with the QAP and manufacturer's instructions for each non-evidential screening device it uses for alcohol screening tests subject to this Part.

§ 40.97 Locations for non-evidential alcohol screening tests.

(a) Locations for non-evidential alcohol screening tests shall meet the same requirements set forth for breath alcohol testing in § 40.57 of this Part.

(b) The STT shall supervise only one employee's use of a non-evidential screening device at a time. The STT shall not leave the alcohol testing location while the screening test procedure for a given employee is in progress.

§ 40.99 Testing forms.

STTs conducting tests using a non-evidential screening device shall use the alcohol testing form as provided in § 40.59 and Appendix B of this Part for the screening test.

§ 40.101 Screening test procedure.

(a) The steps for preparation for testing shall be the same as provided for breath alcohol testing in § 40.61 of this Part.

(b) The STT shall complete Step 1 on the form required by § 40.99. The employee shall then complete Step 2 on the form, signing the certification. Refusal by the employee to sign this certification shall be regarded as a refusal to take the test.

(c) If the employer is using a non-evidential breath testing device, the STT shall follow the same steps outlined for screening tests using EBTs in § 40.63.

(d) If the employer is using a saliva testing device, the STT shall take the following steps:

(1) The STT shall explain the testing procedure to the employee.

(2) The STT shall check the expiration date of the saliva testing device, show the date to the employee, and shall not use a device at any time subsequent to the expiration date.

(3) The STT shall open an individually sealed package containing the device in the presence of the employee.

(4) The STT shall offer the employee the opportunity to use the swab. If the employee chooses to use the swab, the STT shall instruct the employee to insert the absorbent end of the swab into the employee's mouth, moving it actively throughout the mouth for a sufficient time to ensure that it is completely saturated, as provided in the manufacturer's instructions for the device.

(5) If the employee chooses not to use the swab, or in all cases in which a new test is necessary because the device did not activate (see paragraph (d)(8) of this section), the STT shall insert the absorbent end of the swab into the employee's mouth, moving it actively throughout the mouth for a sufficient time to ensure that it is completely saturated, as provided in the manufacturer's instructions for the device. The STT shall wear a surgical grade glove while doing so.

(6) The STT shall place the device on a flat surface or otherwise in a position in which the swab can be firmly placed into the opening provided in the device for this purpose. The STT shall insert the swab into this opening and maintain firm pressure on the device until the device indicates that it is activated.

(7) If the procedures of paragraph (d)(3)–(d)(5) of this section are not followed successfully (e.g., the swab breaks, the STT drops the swab on the floor or another surface, the swab is removed or falls from the device before the device is activated), the STT shall discard the device and swab and conduct a new test using a new device. The new device shall be one that has been under the control of the employer or STT prior to the test. The STT shall note in the remarks section of the form the reason for the new test. In this case, the STT shall offer the employee the choice of using the swab himself or herself or having the STT use the swab. If the procedures of paragraph (d)(3)–(d)(5) of this section are not followed successfully on the new test, the collection shall be terminated and an

explanation provided in the remarks section of the form. A new test shall then be conducted, using an EBT for both the screening and confirmation tests.

(8) If the procedures of paragraph (d)(3)–(d)(5) of this section are followed successfully, but the device is not activated, the STT shall discard the device and swab and conduct a new test, in the same manner as provided in paragraph (d)(7) of this section. In this case, the STT shall place the swab into the employee's mouth to collect saliva for the new test.

(9) The STT shall read the result displayed on the device two minutes after inserting the swab into the device. The STT shall show the device and its reading to the employee and enter the result on the form.

(10) Devices, swabs, gloves and other materials used in saliva testing shall not be reused, and shall be disposed of in a sanitary manner following their use, consistent with applicable requirements.

(e) In the case of any screening test performed under this section, the STT, after determining the alcohol concentration result, shall follow the applicable provisions of § 40.63 (e)(1)–(2), (f), (g), and (h). The STT shall also enter, in the ''Remarks'' section of the form, a notation that the screening test was performed using a non-evidential breath testing device or a saliva device, as applicable. Following completion of the screening test, the STT shall date the form and sign the certification in Step 3 of the form.

§ 40.103 Refusals to test and uncompleted tests.

(a) Refusal by an employee to complete and sign the alcohol testing form required by § 40.99 (Step 2), to provide a breath or saliva sample, to provide an adequate amount of breath, or otherwise to cooperate in a way that prevents the completion of the testing process, shall be noted by the STT in the remarks section of the form. This constitutes a refusal to test. The testing process shall be terminated and the STT shall immediately notify the employer.

(b) If the screening test cannot be completed, for reasons other than a refusal by the employee, or if an event occurs that would invalidate the test, the STT shall, if practicable, immediately begin a new screening test, using a new testing form and, in the case of a test using a saliva screening device, a new device.

§ 40.105 Inability to provide an adequate amount of breath or saliva.

(a) If an employee is unable to provide sufficient breath to complete a test on a non-evidential breath testing device, the procedures of § 40.69 apply.

(b) If an employee is unable to provide sufficient saliva to complete a test on a saliva screening device (e.g., the employee does not provide sufficient saliva to activate the device), the STT, as provided in § 40.101 of this Part, shall conduct a new test using a new device. If the employee refuses to complete the new test, the STT shall terminate testing and immediately inform the employer. This constitutes a refusal to test.

(c) If the new test is completed, but there is an insufficient amount of saliva to activate the device, STT shall immediately inform the employer, which shall immediately cause an alcohol test to be administered to the employee using an EBT.

§ 40.107 Invalid tests.

An alcohol test using a non-evidential screening device shall be invalid under the following circumstances:

(a) With respect to a test conducted on a saliva device—

(1) The result is read before two minutes or after 15 minutes from the time the swab is inserted into the device;

(2) The device does not activate;

(3) The device is used for a test after the expiration date printed on its package; or

(4) The STT fails to note in the remarks section of the form that the screening test was conducted using a saliva device;

(b) With respect to a test conducted on any non-evidential alcohol testing device, the STT has failed to note on the remarks section of the form that the employee has failed or refused to sign the form following the recording on the form of the test result.

§ 40.109 Availability and disclosure of alcohol testing information about individual employees.

The provisions of § 40.81 apply to records of non-evidential alcohol screening tests.

§ 40.111 Maintenance and disclosure of records concerning non-evidential testing devices and STTs.

Records concerning STTs and non-evidential testing devices shall be maintained and disclosed following the same requirements applicable to BATs and EBTs under § 40.81 of this Part.

[FR Doc. 95–9552 Filed 4–19–95; 8:45 am]

BILLING CODE 4910–62–P

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 94–104; Notice 2]

RIN 2127–AF45

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment

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

ACTION: Final rule.

SUMMARY: This notice amends the Federal motor vehicle safety standard on lighting to allow the photometric conformance of rear center highmounted stop lamps to be determined by a grouping of test points. This action is consistent with the agency's requirements for other lamps and will lessen the testing burden for manufacturers.

DATES: The effective date of the final rule is May 22, 1995.

FOR FURTHER INFORMATION CONTACT: Richard Van Iderstine, Office of Rulemaking, NHTSA (202–366–5280).

SUPPLEMENTARY INFORMATION: Dennis Moore of Livermore, California, petitioned for rulemaking to amend Standard No. 108 to allow ''a 'Zonal' approach * * * for Compliance Photometric Testing of 3rd Brake Lights which has already been adopted for Tail Lights, Regular Brake Lights and Turn Signals.'' Under S5.1.1.6 of Standard No. 108, taillamps and parking lamps need not meet the minimum photometric values specified for each of the test points of the relevant SAE Standards incorporated by reference, provided that the sum of the minimum candlepower measured at the test points is not less than that specified for each group listed in Figure 1c. In addition, the more recent SAE Standards for stop lamps and turn signal lamps that have been incorporated into Standard No. 108 no longer specify values for individual test points (though including them as photometric design guidelines). Instead, they specify required values for ''zones'' only.

In contrast, the applicable photometric values for center highmounted stop lamps (CHMSLs) are those of Figure 10 of Standard No. 108 and are for individual test points. Moore viewed this as an anomaly. He believes that laboratory test results vary so greatly that CHMSLs must be overdesigned to ensure compliance at each test point. As a result, they draw more power and have a shorter life expectancy. He argued that because

CHMSL bulbs burn out faster ''and are generally located in an area that is inconvenient'', they are not replaced.

NHTSA granted Mr. Moore's petition and published a notice of proposed rulemaking on November 25, 1994 (59 FR 60596). The notice proposed a revised Figure 10 which would establish zonal photometrics that are the sums of the minimum current photometric test point values. Comments on the proposal were submitted by Truck-Lite, Stanley Electric Co. Ltd., Ford Motor Co., General Motors, Chrysler Corporation, Mercedes-Benz of North America, Volkswagen of America, and American Automobile Manufacturers Association. Comments were received after the due date from Koito Mfg., Transportation Safety Equipment Institute (TSEI), and Advocates for Highway and Auto Safety (Advocates).

All commenters except Advocates supported the proposal, many noting that it was reasonable and consistent with the needs for motor vehicle safety. They concurred with NHTSA's conclusion that the change would reduce design and testing burdens.

Truck-Lite and TSEI recommended that NHTSA also reference SAE J1957 JUN93, a standard specifically written for CHMSLs required by Standard No. 108. In its opinion, the only major difference is that the SAE specifies a maximum intensity of 130 cd while Standard No. 108 allows 160 cd. The lower maximum is that established by Canada. An amendment would permit homologation with the requirements of that country.

NHTSA has decided not to adopt J1957 as the referenced standard on CHMSLs. An amendment is not necessary to permit a lamp to be designed and sold in both the Canadian and U.S. markets. This is, in fact, being done, according to Truck-Lite, simply by designing to the lower maximum level of 130 cd. SAE J1957 does not address light truck CHMSLs, which are required by NHTSA. Finally, much of the sections on ''Installation Requirements'' and ''Guidelines'' differ from the requirements of Standard No. 108 and, in some instances, are likely to increase the burden upon vehicle manufacturers. These manufacturers have not been given notice and an opportunity to comment upon a possible adoption of SAE J1957. If a manufacturer wishes to submit a formal petition for rulemaking to substitute SAE J1957, NHTSA will consider the matter further.

Advocates argued that NHTSA should not make the proposed change because the agency had not verified that zonal compliance rather than test point compliance would not derogate from safety. Relying on the petitioner's claim that CHMSL's are overdesigned, Advocates believes that the production performance level establish the safety norm which CHMSLs should meet.

The Federal motor vehicle safety standards set minimum performance levels requisite for safety. Lamp manufacturers generally design somewhat above the minimum photometric levels to ensure that all production units comply, rather than designing at the minimum where the vagaries of production could result in some production lamps being below the minimum. It may be this design philosophy to which the petitioner refers. But production lamps manifesting a design above the minimum is true for other lamps as well, including those for which zonal compliance is already permitted. The agency has concluded that Advocates' point is not well made.

Effective Date

The effective date of the final rule is May 22, 1995. Since the final rule is, in essence, permissive and relaxes a regulatory burden, it is hereby found for good cause shown that an effective date for the amendment to Standard No. 108 that is earlier than 180 days after its issuance is in the public interest.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This action has not been reviewed under Executive Order 12866. It has been determined that the rulemaking action is not significant under Department of Transportation regulatory policies and procedures. The purpose of the rulemaking action is to simplify compliance with Standard No. 108. Since the rule does not have any significant cost or other impacts, preparation of a full regulatory evaluation is not warranted.

Regulatory Flexibility Act

The agency has also considered the impacts of this rulemaking action in relation to the Regulatory Flexibility Act. I certify that this rulemaking action will not have a significant economic impact upon a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles and stop lamps, those affected by the rulemaking action, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Further, small organizations and governmental jurisdictions will not be significantly affected because the price of new vehicles and stop lamps will not be affected.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. It is not anticipated that the final rule will have a significant effect upon the environment. The design and composition of center highmounted stoplamps will not change from those presently in production.

Executive Order 12612 (Federalism)

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

Civil Justice

The final rule will not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 30163 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

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

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 continues to read as follows:

Authority: 49 U.S.C. 30111, 30115, 30162; delegation of authority at 49 CFR 1.50.

2. Section 571.108 is amended by revising Figure 10 as follows:

§ 571.108 Motor Vehicle Safety Standard No. 108 Lamps, Reflective Devices, and Associated Equipment.

FIGURE 10.—PHOTOMETRIC REQUIREMENTS FOR CENTER HIGH-MOUNTED STOP LAMPS

Individual test points	Minimum intensity (candela)	Zones (test points within zones, see note 2)	Minimum total for zone (canadela)
10U–10L	8	Zone I (5U–V, H–5L, H–V, H–5R, 5D–V)	125
–V	16		
–10R	8		
5U–10L	16	Zone II (5U–5R, 5U–10R, H–10R, 5D–10R, 5D–5R)	98
–5L	25		
–V	25		
–5R	25		
–10R	16		
5D–10L	16	Zone III (5U–5L, 5U–10L, H–10L, 5D–10L, 5D–5L)	98
–5L	25		
–V	25		
–5R	25		
–10R	16		
H–10L	16	Zone IV (10U–10L, 10U–V, 10U–10R)	32
–5L	25		
–V	25		
–5R	25		
–10R	16		
See Note 1	[1] 160		

Note 1: The listed maximum shall not occur over any area larger than that generated by a ¼ degree radius within an solid cone angle within the rectangle bounded by test points 10U–10L, 10U–10R, 5D–10L, and 5D–10R.

Note 2: The measured values at each test point shall not be less than 60% of the value listed.

[1] Maximum intensity (Candela).

Issued on: April 14, 1995.

Ricardo Martinez,

Administrator.

[FR Doc. 95–9839 Filed 4–19–95; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

[Docket No. 950203035–5091–02; I.D. 120594C]

RIN 0648–AH44

Snapper-Grouper Fishery Off the Southern Atlantic States; Hogfish, Cubera Snapper, Gray Triggerfish Regulatory Amendment

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

ACTION: Final rule.

SUMMARY: In accordance with the framework procedure for adjusting management measures of the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), NMFS establishes a daily recreational bag limit of five hogfish per person; limits the harvest and possession of cubera snapper measuring 30 inches (76.2 cm) in total length, or larger, to 2 per day; and establishes a minimum size limit for gray triggerfish of 12 inches (30.5 cm), total length. These measures apply only in the exclusive economic zone (EEZ) off the Atlantic coast of Florida. The intended effects of this rule are to rebuild the snapper-grouper resources and enhance enforcement.

EFFECTIVE DATE: May 22, 1995.

FOR FURTHER INFORMATION CONTACT: Peter J. Eldridge, 813–570–5305.

SUPPLEMENTARY INFORMATION: Snapper-grouper species in the Atlantic Ocean off the southern Atlantic states are managed under the FMP. The FMP was prepared by the South Atlantic Fishery Management Council (Council) and is implemented through regulations at 50 CFR part 646 under the authority of the Magnuson Fishery Conservation and Management Act.

In accordance with the framework procedure of the FMP, the Council recommended and NMFS published a proposed rule to change the management measures applicable to certain snapper-grouper species in the EEZ off the Atlantic coast of Florida (60 FR 8620, February 15, 1995). That proposed rule specified the recommended changes and described the need and rationale for the recommended changes. Those descriptions are not repeated here.

No comments were received on the proposed rule. Accordingly, the proposed rule is adopted as final with one change. As a technical change, the title ''Secretary'' is revised to read ''Assistant Administrator'' where it appears in the snapper-grouper regulations. ''Secretary'' and ''Assistant Administrator'' are defined at 50 CFR 620.2 to mean ''the Secretary of Commerce, or a designee'' and ''the Assistant Administrator for Fisheries, NOAA, or a designee,'' respectively. This change more clearly specifies the responsible official.

Classification

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

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when this rule was proposed that it would not have a significant economic impact on a substantial number of small entities. The reasons were summarized in the preamble to the proposed rule (60 FR 8620, February 15, 1995). As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 646

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 13, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 646 is amended as follows:

PART 646—SNAPPER-GROUPER FISHERY OFF THE SOUTHERN ATLANTIC STATES

1. The authority citation for part 646 continues to read as follows:

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

2. In § 646.2, under the definition for ''authorized statistical reporting agent'' paragraphs (a) and (b) are redesignated as paragraphs (1) and (2) respectively; and a new definition of ''Off Florida'' is added, in alphabetical order, to read as follows:

§ 646.2 Definitions.

* * * * *

Off Florida means the waters off the east coast from a line extending directly east from the seaward terminus of the Georgia/Florida boundary (30°42′45.6″ N. lat.) to the boundary between the Atlantic Ocean and the Gulf of Mexico, as specified in § 601.11(c) of this chapter.

* * * * *

3. In § 646.7, paragraphs (pp)(2) and (pp)(3) are redesignated as paragraphs (pp)(3) and (pp)(4), respectively; in newly designated paragraph (pp)(4), the reference to ''§ 646.25(e)'' is revised to read ''§ 646.25(d)''; paragraph (bb) is added; and new paragraph (pp)(2) is added to read as follows:

§ 646.7 Prohibitions.

* * * * *

(bb) Harvest or possess cubera snapper measuring 30 inches (76.2 cm) in total length, or larger, in or from the EEZ off Florida in excess of the limits specified in § 646.21(k)(1).

* * * * *

(pp) * * *

(2) Cubera snapper, as specified in § 646.21(k)(3);

* * * * *

4. In § 646.21, paragraphs (a)(1)(ix) and (k) are added to read as follows:

§ 646.21 Harvest limitations.

(a) * * *

(1) * * *

(ix) Gray triggerfish off Florida—12 inches (30.5 cm), total length.

* * * * *

(k) *Cubera snapper harvest and possession limit.* (1) No person may harvest in the EEZ off Florida more than 2 cubera snapper measuring 30 inches (76.2 cm) in total length, or larger, per day and no more than 2 such cubera snapper in or from the EEZ off Florida may be possessed on board a vessel at any time.

(2) A person who fishes in the EEZ off Florida may not combine the harvest and possession limit specified in paragraph (k)(1) of this section with the bag and possession limit applicable to Florida's waters.

(3) A cubera snapper measuring 30 inches (76.2 cm) in total length, or larger, taken in the EEZ off Florida may not be transferred at sea, regardless of where such transfer takes place; a cubera snapper measuring 30 inches (76.2 cm) in total length, or larger, may not be transferred at sea in the EEZ off Florida, regardless of where such cubera snapper was taken.

5. In § 646.23, paragraph (b)(2) is revised and paragraph (b)(6) is added to read as follows:

§ 646.23 Bag and possession limits.

* * * * *

(b) * * *

(2) Snappers, excluding cubera snapper measuring 30 inches (76.2 cm) in total length, or larger, in or from the EEZ off Florida and excluding vermillion—10, of which no more than 2 may be red snapper. (See § 646.21(k) for limitations on cubera snapper measuring 30 inches (76.2 cm) in total length, or larger, in or from the EEZ off Florida.)

* * * * *

(6) Hogfish in or from the EEZ off Florida—5.

* * * * *

6. Section 646.25 is revised to read as follows:

§ 646.25 Commercial limitations.

(a) *Trip limits.* Persons who are not subject to the bag limits and who fish in the EEZ on a trip are subject to the following vessel trip limits. (See § 646.23(a)(1) for applicability of the bag limits.)

(1) Snowy grouper (whole weight or gutted weight, that is, eviscerated but otherwise whole):

(i) Until the fishing year quota specified in § 646.24(b) is reached, 2,500 lb (1,134 kg).

(ii) After the fishing year quota specified in § 646.24(b) is reached, 300 lb (136 kg).

(2) Golden tilefish (whole weight or gutted weight, that is, eviscerated but otherwise whole):

(i) Until the fishing year quota specified in § 646.24(c) is reached, 5,000 lb (2,268 kg).

(ii) After the fishing year quota specified in § 646.24(c) is reached, 300 lb (136 kg).

(b) *Reduction of trip limits.* When a commercial quota specified in § 646.24(b) or (c) is reached, or is projected to be reached, the Assistant Administrator will file a notification to that effect with the Office of the Federal Register. On and after the effective date of such notification, for the remainder of the fishing year, the appropriate trip limit applies.

(c) *Combination of trip limits.* A person who fishes in the EEZ may not combine a trip limit under this section with any trip or possession limit applicable to state waters.

(d) *Transfer at sea.* A snowy grouper or golden tilefish taken in the EEZ may not be transferred at sea, regardless of where such transfer takes place; a snowy grouper or golden tilefish may not be transferred at sea in the EEZ, regardless of where such snowy grouper or golden tilefish was taken.

(e) *Sale/purchase of excess fish.* Snowy grouper or golden tilefish in excess of an applicable trip limit specified in paragraph (a) of this section may not be sold, purchased, traded, or bartered, or attempted to be sold, purchased, traded, or bartered.

§ 646.6 [Amended]

6a. In § 646.6, the undesignated text at the end of the section is added to the end of paragraph (g).

§§ 646.2, 646.6, 646.22 [Amended]

7. The title ''Secretary'' is removed and the title ''Assistant Administrator'' is added in its place where it appears in the following places:

(a) Section 646.2, in the definition of ''authorized statistical reporting agent, paragraph (2);

(b) Section 646.6(g); and

(c) Section 646.22(b) and (c)(1).

[FR Doc. 95–9641 Filed 4–19–95; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 76
Thursday, April 20, 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.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 94–027P]

RIN 0583–AB84

Transporting Undenatured Poultry Feet to Other Establishments for Processing Prior to Export

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the poultry products inspection regulations to permit the transportation of undenatured poultry feet from one federally inspected poultry establishment to another establishment for further processing before the feet are exported. Establishments would be permitted to ship undenatured poultry feet to another establishment for export provided that the receiving establishment maintains records that identify the incoming undenatured poultry feet, their source, and their location at all times during processing. The receiving establishment would be required to certify in writing that the poultry feet have not been, nor will be, commingled with other products intended for human consumption within the United States. We are initiating this rulemaking in response to a petition submitted to the Agency by DanD Food Marketing, Inc., Springfield, MO.

DATES: Comments must be received on or before June 19, 1995.

ADDRESSES: Submit written comments in triplicate to Diane Moore, Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 3171–S, Washington, DC 20250–3700. Please refer to docket number 94–027P in your comments. Any person desiring an opportunity for oral presentation of views as provided under the Poultry Products Inspection Act should contact Dr. Paula M. Cohen at (202) 720–7164 so that arrangements can be made. All comments submitted in response to this proposal will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 1:00 p.m., and 2:00 p.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. Paula M. Cohen, Director, Regulations Development, Policy, Evaluation and Planning Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700; (202) 720–7164.

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the Poultry Products Inspection Act (21 U.S.C. 458) prohibits the sale, [or] transportation, * * * from an official establishment, [of] any slaughtered poultry from which the * * * feet * * * have not been removed * * * except as may be authorized by regulations of the Secretary. Section 381.147(b) of the poultry products inspection regulations (9 CFR 381.147(b)) permits the processing of poultry feet for use as human food when handled in a manner approved by the [FSIS] Administrator in specific cases. 9 CFR 381.190(b) permits poultry feet collected and handled in an acceptable manner at an official establishment to be shipped from the official establishment and in commerce directly for export for further processing as human food, if they have been examined, found to be suitable for such purpose, and labeled as prescribed.

In 1994, DanD Food Marketing, Inc., Springfield, MO, a poultry slaughterer and processor, petitioned FSIS to amend the poultry products inspection regulations to permit the transportation of undenatured poultry feet from one or more establishments to another establishment, where the feet would be further processed for export. The petitioner provided FSIS with documents that set forth the procedures and safeguards that would be used by the receiving establishment when handling and processing the undenatured poultry feet. FSIS has reviewed the information submitted by the petitioner and has determined that the proposed procedures would ensure that the undenatured poultry feet are neither diverted to nor commingled with any product intended for domestic use.

The foreign demand for poultry feet continues to increase. However, as currently written, 9 CFR 381.190(b) does not permit an exporter of poultry feet to ship undenatured product from one slaughter establishment to a central establishment for processing before export. To prevent the possible commingling of the poultry feet with poultry products intended for domestic consumption, exporters must ship the poultry feet directly overseas from the original slaughter establishment. As a result, it is difficult for the exporters to keep up with the foreign demand for the poultry feet due to a lack of space and manpower in some slaughter establishments. As long as the establishment official at the receiving processing establishment remains accountable for the location of the poultry feet at all times before their export, this proposal would allow them to use a central establishment for pre-export processing. Furthermore, when poultry feet are handled in accordance with 9 CFR 381.190(c), sanitary transportation conditions are maintained, and the possibility of the product becoming contaminated or adulterated while en route to another establishment for processing prior to export is minimized. Therefore, we are proposing to amend the regulations to allow the transportation of undenatured poultry feet from one or more establishments to another official establishment for further processing before export.

Section 381.175(a) of the poultry products inspection regulations requires that every person, firm, or corporation engaged in certain activities related to poultry production and distribution maintain records which fully and correctly disclose all transactions involved in the business. Section 381.175(b) details the kinds of records that must be maintained, but does not specify the format for such recordkeeping. ''Transactions'' have been traditionally interpreted by FSIS to be sales, purchases, transportation, receipt, or handling of poultry products that would demonstrate the sources of the poultry products.

This proposal would require those processing establishments that receive undenatured poultry feet from slaughter establishments for further processing

before export overseas to maintain records that identify the incoming product, i.e, poultry feet, and their source, and identify the location of the product at all times during the processing and preparation for export. In addition, an establishment official would certify that the poultry feet have not been and will not be commingled with any products intended for human consumption within the United States.

These recordkeeping requirements would enable FSIS and the receiving processing establishments to accurately identify and locate the undenatured poultry feet intended for export while still in the central establishment. FSIS could then determine that the product has not been commingled with any products intended for domestic consumption.

Executive Order 12866

This proposed rule has been determined to be not significant and therefore has not been reviewed by the Office of Management and Budget.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. States and local jurisdictions are preempted under the Poultry Products Inspection Act (PPIA) from imposing any marking or packaging requirements on federally inspected poultry products that are in addition to, or different than, those imposed under the PPIA. States and local jurisdictions may, however, exercise concurrent jurisdiction over poultry products that are outside official establishments for the purpose of preventing the distribution of poultry products that are misbranded or adulterated under the PPIA, or, in the case of imported articles, which are not at such an establishment, after their entry into the United States. Under the PPIA, States that maintain poultry inspection programs must impose requirements on State inspected products and establishments that are at least equal to those required under the PPIA. These States may, however, impose more stringent requirements on such State inspected products and establishments.

This proposed rule is not intended to have retroactive effect.

There are no applicable administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this proposed rule. However, the administrative procedures specified in 9 CFR 381.35 must be exhausted prior to any judicial challenge of the application of the provisions of this proposed rule, if the challenge involves any decision of an FSIS employee relating to inspection services provided under the PPIA.

Effect on Small Entities

The Administrator has made an initial determination that this proposed rule would not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). This proposal would require establishments that receive undenatured poultry feet for processing prior to export to record the source of the incoming product, identify its location at all times during processing and preparation for export, and certify that the product has not been, nor will be, commingled with any product intended for domestic use. While some establishments may have to change their current recordkeeping practices and make changes to their production practices to accommodate the proposed recordkeeping requirements, no significant economic impact would be imposed on the establishments.

Paperwork Requirements

Under this proposed rule, receiving poultry processing establishments would be required to maintain records that indicate the source of the incoming undenatured poultry feet, and track the poultry feet through processing and preparation for export. In addition, an official of the receiving establishment would certify in writing that the feet have not been, nor will be, commingled with any product intended for consumption in the United States. Establishments would develop their own systems for gathering and maintaining this information. These recordkeeping requirements have been submitted to the Office of Management and Budget for approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 381

Exports, Poultry and poultry products, Reporting and recordkeeping requirements, Transportation.

For the reasons set forth in the preamble, FSIS is proposing to amend 9 CFR part 381 as follows:

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

1. The authority citation for part 381 would continue to read as follows:

Authority: 7 U.S.C. 138f; 7 U.S.C. 450; 21 U.S.C. 451–470; 7 CFR 2.17, 2.55.

2. Section 381.190 would be amended by revising the phrase ''in subpart C or T'' in the first sentence of paragraph (b) to read ''in this subsection and subpart C or T'' and disignating that sentence as paragraph (b)(1); revising the second sentence and designating it and the final two sentences of paragraph (b) as paragraph (b)(2), and adding a new paragraph (b)(3) to read as follows:

§ 381.190 Transactions in slaughtered poultry and other poultry products restricted; vehicle sanitation requirements.

* * * * *

(b)(1) * * *

(2) Poultry heads and feet that are collected and handled at an official establishment in an acceptable manner may be shipped from the official establishment directly for export as human food, if they have been examined and found to be suitable for such purpose, by an inspector and are labeled as prescribed in this paragraph. * * *

(3) Poultry heads and feet that are collected and handled at an official establishment in an acceptable manner may be shipped from the official establishment and in commerce directly to another official establishment for processing before export, provided the receiving establishment maintains records that:

(i) Identify the source of the incoming undenatured poultry feet;

(ii) Identify the location of the product at all times during processing and preparation for export; and

(iii) Contain a written certification from an official of the receiving establishment that the undenatured poultry feet intended for export have not been, and will not be, commingled with any product intended for consumption in the United States. The receiving establishment may only ship the undenatured poultry feet intended for export in accordance with the inspection and labeling requirements of paragraph (b)(2) of this section.

* * * * *

Dated: April 12, 1995.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 95–9665 Filed 4–19–95; 8:45 am]

BILLING CODE 3410–DM–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Public Meeting on Results of Pilot Site Visits and Revision to Maintenance Inspection Guidance

AGENCY: Nuclear Regulatory Commission.

ACTION: Announcement of meeting.

SUMMARY: The United States Nuclear Regulatory Commission (USNRC) will hold a public workshop to discuss the results of nine pilot site visits which were conducted to assess the adequacy of the draft maintenance rule inspection procedure developed for use by NRC inspectors to verify the implementation of the maintenance rule. This document is necessary to inform the public that the meeting is open to the public as observers.

DATES: The meeting will be held on June 27, 1995, from 9:00 am to 5:00 pm. The workshop will provide the participants an opportunity to ask questions, make comments during the discussion, or submit written comments for NRC consideration. Written comments received from interested parties unable to attend the workshop will also be considered through July 15, 1995.

ADDRESSES: The meeting will be held at the Stouffers Concourse (Airport) Hotel, 9801 Natural Bridge Road, St. Louis, MO 63134, (Fax) (314) 429–3466. Written comments may be provided at this meeting or submitted after the meeting. Registration forms or further information should be addressed to Ronald Frahm (See **FOR FURTHER INFORMATION CONTACT**).

To ensure that adequate seating is available, persons planning to attend the workshop are requested to either call the contact designated below or complete and forward the attached registration form to the same contact by May 30, 1995. A block of rooms has been reserved at the Stouffers Concourse Hotel, St. Louis, Missouri, (314) 429–1100, for the convenience of meeting attendees. These rooms will be available at a reduced group rate until May 22, 1995. Attendees should identify themselves with the NRC Maintenance Workshop NRC–0626 to ensure the group rate. The NRC, however, does not encourage nor support frequenting this or any other specific establishment.

The original draft procedure ''Maintenance Inspection Procedure XXXXX'' (dated July 25, 1994) is publicly available at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555–0001. A revised draft revision of the inspection procedure, including changes from the previous workshop (March 31, 1994), and lessons learned from the pilot site visits will be made available at the workshop for discussion.

FOR FURTHER INFORMATION CONTACT: Ronald Frahm, Jr. M/S 010–A19 U.S. Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, Telephone (301) 415–2986; FAX 301–415–2260; INTERNET:RKF@NRC.GOV

SUPPLEMENTARY INFORMATION: The draft NRC Inspection Procedure ''Maintenance Inspection Procedure XXXXX'' was developed for inspectors to ascertain whether licensees have satisfactorily implemented the requirements of the maintenance rule. The procedure is also structured to verify conformance with the maintenance rule for licensees using NUMARC 93–01, ''Industry Guidance for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants,'' as implementing guidance.

At the workshop, NRC representatives will present an overview of the pilot site visit program, revisions to the draft inspection procedure and, as applicable, issues related to the maintenance rule and the NUMARC 93–01 industry guidance. NRC regional inspection representatives will be available to participate in the discussions. The workshop will conclude with a summary of the major issues identified at the meeting.

On July 10, 1991 (56 FR 31306), the NRC published the ''Requirements for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants'' as § 50.65 of 10 CFR 50 ''Domestic Licensing of Production and Utilization Facilities.'' The maintenance rule will become effective on July 10, 1996. The five year period to implement the rule permits time to develop implementation guidance, inspection procedures, and sufficient time for licensees to have in place the necessary controls that ensure conformance with the rule requirements. The Commission's determination that a maintenance rule was needed arose from the conclusion that proper maintenance is essential to plant safety, especially as plants age. Shortly after the maintenance rule was published, the NRC and the Nuclear Management and Resource Council (NUMARC) embarked on parallel efforts to develop rule implementation guidance. The NRC staff review of the NUMARC document found that it provided an acceptable method for licensees to implement the requirements of the maintenance rule. In June 1993, the Commission issued Regulatory Guide 1.160 which endorsed the NUMARC guidance NUMARC 93–01, ''Industry Guideline for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants,'' dated May 1993. Subsequently a verification and validation (V & V) program was also conducted by NUMARC, with NRC staff observation, to test its guidance on several representative systems by eight nuclear utilities at nine nuclear units. The V & V effort concluded that the guidelines were adequate to implement the maintenance rule.

The NRC staff developed a draft inspection procedure to be used by NRC inspectors to verify the implementation of the maintenance rule requirements. The NRC staff, with NEI representatives observing, validated the inspection procedure during pilot inspection visits at nine volunteer nuclear power facilities between September 1994 and March 1995. After considering the comments obtained from the previous maintenance rule inspection procedure workshop conducted in March 1994, and information gathered during the pilot site visits, the NRC staff revised the inspection procedure and is conducting this workshop to provide interested parties another opportunity to participate in discussions on the lessons learned from the pilot site visits and the final revision of the inspection procedure.

Dated at Rockville, Maryland, this 14th day of April 1995.

For the Nuclear Regulatory Commission.

Richard Correia,

Chief, Reliability and Maintenance Section, Quality Assurance and Maintenance Branch, Division of Technical Support, Office of Nuclear Reactor Regulation.

BILLING CODE 7590–01–M

ATTACHMENT TO PUBLIC MEETING ON RESULTS OF PILOT SITE VISITS AND REVISION TO MAINTENANCE INSPECTION GUIDANCE

REGISTRATION FORM

UNITED STATES NUCLEAR REGULATORY COMMISSION
MAINTENANCE RULE INSPECTION PROCEDURE WORKSHOP

June 27, 1995

(PLEASE PRINT)

NAME: _____
(LAST) (FIRST) (MI)

COMPANY/ ORGANIZATION: _____

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POSITION/TITLE: _____

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ADDRESS: _____

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TELEPHONE NUMBER: _____

Send registration form to:

Ronald Frahm, Jr. M/S O-10-A-19
U.S. Nuclear Regulatory Commission
Washington D.C. 20555

[FR Doc. 95–9764 Filed 4–19–95; 8:45 am]
BILLING CODE 7590–01–C

FEDERAL RESERVE SYSTEM

12 CFR Part 215

[Regulation O; Docket No. R–0875]

Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks; Loans to Holding Companies and Affiliates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is proposing an amendment to Regulation O to conform the definition of unimpaired capital and unimpaired surplus in the regulation's definition of lending limit to the definition of capital and surplus recently adopted by the Office of the Comptroller of the Currency in calculating the limit on loans by a national bank to a single borrower. The proposed rule would reduce the recordkeeping burden for member banks monitoring lending to their insiders and their related interests.

DATES: Comments should be submitted on or before May 22, 1995.

ADDRESSES: Comments should refer to Docket No. R–0875, and 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 NW. (between Constitution Avenue and C Street) at any time. Comments may be inspected in Room MP–500 of the Martin Building between 9 a.m. and 5 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding availability of information.

FOR FURTHER INFORMATION CONTACT: Gregory Baer, Managing Senior Counsel (202/452–3236), or Gordon Miller, Attorney (202/452–2534), Legal Division; or William G. Spaniel, Assistant to the Director (202/452–3469), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION:

Background

The Board's Regulation O (12 CFR Part 215) implements the insider lending prohibitions of section 22(h) of the Federal Reserve Act. Section 215.2(i) of the regulation (12 CFR 215.2(i)) defines the limit for loans to any insider of a member bank and insider of the bank's affiliates as an amount equal to the limit on loans to a single borrower established by the National Bank Act (12 U.S.C. 84). That amount is 15 percent of the bank's unimpaired capital and unimpaired surplus for loans that are not fully secured, and an additional 10 percent of the bank's unimpaired capital and unimpaired surplus for loans that are fully secured by certain readily marketable collateral.[1]

Although Regulation O adopts the percentage limits used in the National Bank Act, Regulation O provides its own definition of what constitutes unimpaired capital and unimpaired surplus. Unimpaired capital and unimpaired surplus are equal to the sum of (i) ''total equity capital'' as reported on the bank's most recent consolidated report of condition, (ii) any subordinated notes and debentures that comply with requirements of the bank's primary regulator for inclusion in the bank's capital structure and are reported on the bank's most recent consolidated report of condition, and (iii) any valuation reserves created by charges to the bank's income and reported on the bank's most recent consolidated report of condition. 12 CFR 215.2(i).

The Office of the Comptroller of the Currency (OCC) has recently revised its regulatory definition of unimpaired capital and unimpaired surplus for purposes of implementing the single borrower limit of the National Bank Act. *See* 59 FR 8533, February 15, 1995. Under that revised definition, a national bank's ''capital and surplus'' are equal to Tier 1 and Tier 2 capital included in the calculation of the bank's risk-based capital together with the amount of the bank's allowance for loan and lease losses not included in this calculation. 12 CFR 32.2(b).

The Board is proposing to amend Regulation O to conform its definition of unimpaired capital and unimpaired surplus to the OCC's revised definition of capital and surplus. In substantially all cases, the Board believes that calculating the insider lending limits of Regulation O using the revised definition would not significantly increase or decrease a bank's insider lending limit. The elimination of the separate definition of unimpaired capital and unimpaired surplus in Regulation O therefore is expected to create minimal disruption in lending by member banks to their insiders and to insiders of their affiliates, while eliminating duplication in the calculation of lending limits for national banks and for state member banks with state lending limits identical to national bank lending limits.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to publish an initial regulatory flexibility analysis with any notice of proposed rulemaking. Two of the requirements of an initial regulatory flexibility analysis (5 U.S.C. 603(b))—a description of the reasons why the action by the agency is being considered and a statement of the objectives of, and legal basis for, the proposed rule—are contained in the supplementary information above.

Another requirement for the initial regulatory flexibility analysis is a description of, and where feasible, an estimate of the number of small entities to which the proposed rule will apply. The proposed rule would apply to all member banks, regardless of size. The Board has determined that its proposed rule would impose no additional reporting or recordkeeping requirements, and that there are no relevant federal rules that duplicate, overlap, or conflict with the proposed rule. In addition, the proposed rule is not expected to have a negative economic impact on small institutions. Instead, the proposed rule is expected to relieve the regulatory burden on a large majority of member banks.

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507; 5 CFR 1320.13), the Board will review its proposed amendment to Regulation O under authority delegated to the Board by the Office of Management and Budget after considering comments received during the public comment period.

List of Subjects in 12 CFR Part 215

Credit, Federal Reserve System, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR part 215 as set forth below:

PART 215—LOANS TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS (REGULATION O)

1. The authority citation for part 215 continues to read as follows:

[1] The lending limit also includes any higher amounts that are permitted by the exceptions included in 12 U.S.C. 84. Where state law establishes a lower lending limit for a state member bank, that lower lending limit is the lending limit for the state member bank.

Authority: 12 U.S.C. 248(i), 375a(10), 375b (9) and (10), 1817(k)(3) and 1972(2)(G)(ii); Pub. L. 102–242, 105 Stat. 2236.

2. Section 215.2 is amended as follows:

a. The last sentence of paragraph (i) introductory text is revised;

b. Paragraphs (i)(1) and (i)(2) are revised; and

c. Paragraph (i)(3) is removed.

The revisions read as follows:

§ 215.2 Definitions.

* * * * *

(i) * * * A member bank's unimpaired capital and unimpaired surplus equals:

(1) A bank's Tier 1 and Tier 2 capital included in the bank's risk-based capital under the capital guidelines of the appropriate Federal banking agency, based on the bank's most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3); and

(2) The balance of a bank's allowance for loan and lease losses not included in the bank's Tier 2 capital for purposes of the calculation of risk-based capital by the appropriate Federal banking agency, based on the bank's most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3).

* * * * *

By order of the Board of Governors of the Federal Reserve System, April 14, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–9737 Filed 4–19–95; 8:45 am]

BILLING CODE 6210–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: National Credit Union Administration (NCUA) Rules and Regulations prohibit officials and certain employees of federally insured credit unions from receiving either incentive pay or outside compensation for certain activities related to credit union lending. The regulations are ambiguous in places and have proved difficult to interpret. Further, the regulations may be too restrictive in some instances and too broad in others. The NCUA Board is proposing to amend the regulations to make them clearer, to authorize lending-related compensation in certain situations where it is currently prohibited, and to prohibit it in other situations. If amended as proposed, it should be easier for credit unions to determine when incentives may be paid and easier for officials and employees to determine whether they may accept compensation for outside activities.

DATES: Comments must be postmarked or posted on NCUA's electronic bulletin board by June 19, 1995.

ADDRESSES: Mail comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428. Send comments to Ms. Baker via the bulletin board by dialing 703–518–6480.

FOR FURTHER INFORMATION CONTACT: Lisa Henderson, Staff Attorney, (703) 518–6561, at the above address.

SUPPLEMENTARY INFORMATION:

Background

Section 701.21(c)(8) of the NCUA Rules and Regulations, 12 CFR 701.21(c)(8), prohibits federal credit unions from making a loan if, either directly or indirectly, any commission, fee, or other compensation is to be received by the credit union's directors, committee members, senior management employees, loan officers, or any immediate family members of such individuals, in connection with underwriting, insuring, servicing, or collecting the loan. However, non-commission salary may be paid to employees. As a condition of federal insurance pursuant to Section 741.3(a) of the Regulations, 12 CFR 741.3(a), the prohibition applies to federally insured state-chartered credit unions. The purpose of Section 701.21(c)(8) is to ensure that an individual who is in a position of authority in a credit union does not put self-interest ahead of the credit union's interest in making good loans and providing good service to its members. The provision prohibits compensation from third parties and from the credit union itself, in the form of commissions, incentive pay, or bonuses.

Under the current regulation, a ''loan officer'' is an individual who has the authority to approve a loan. A loan officer may or may not be involved in taking and processing loan applications. ''Underwriting the loan'' means approving or disapproving it. Thus, an individual who has any part in approving a loan is prohibited for receiving incentive pay in connection with that loan. An individual who is involved in processing a loan, but who has no role in its approval or disapproval, may receive incentive pay in connection with the loan.

The prohibition against making a loan if a commission or fee is to be received by a loan officer in connection with insuring the loan means, for example, that the individual who has the authority to approve a loan may not receive an incentive for selling credit life or disability insurance on it.

Noting that credit union management had become increasingly interested in implementing lending-related incentive pay programs, the NCUA Board, on March 9, 1994, issued a Request for Comment on whether § 701.21(c)(8) should be amended to permit loan officers and/or senior management to receive incentive pay for underwriting and insuring loans, 59 FR 11937 (March 15, 1994). A total of 252 comments was received, 177 of which expressed support for allowing incentive pay for loan officers. Most of the latter suggested that incentive pay be permitted only with controls in place.

A number of commenters described the success their credit unions had had with incentive programs involving employees other than loan officers; they argued that even greater benefits would accrue from paying incentives to loan officers. Most of these programs seem to have been implemented in the past few years, however, and some of the information submitted to the Board raises questions about whether they will be successful in the long run.

For example, information submitted by one commenter cites research which has shown that incentive programs can fail in the long term because employees become preoccupied with meeting goals and fail to carry out their normal routines. When management sets a specific goal, and offers a reward for meeting it, work or problems that do not relate to that goal are ignored. Cooperative spirit between people often diminishes because each has different goals and becomes wrapped up in his or her own work. Incentive pay can actually work to undermine an employee's internal motivation to perform well, as employees end up working for the incentive rather than the satisfaction of the work itself. Employees can also be demoralized by the underlying assumption that they are not working hard and need incentives to perform.

One credit union commenter learned about the risks of incentive programs the hard way. He reported that his credit union's incentive program for loan officers was unsuccessful for the following reasons: (1) Despite controls being in place, some loan officers exceed their authority in approving

loans. The commenter noted that even if a loan officer can be disciplined for poor judgment, ''once a loan is made, you can't take it back.''; (2) Incentives caused disputes among loan officers, each of whom thought the others were receiving more favorable treatment from management by having more creditworthy loans routed to them; and (3) Incentives caused some animosity between employees who were eligible for incentive pay, such as those in the loan department, and those who were not.

Other commenters argued that incentives are not necessary for successful loan programs. One commenter provided details of how his credit union had dramatically improved productivity after *eliminating* all incentives. He reported that the credit union's consumer loan approval ratio had increased from 62% to 84% as a result of centralizing the origination function and implementing a credit scoring system. The credit union also improved service to members by providing loan decisions within 24 hours and making the terms and pricing of its products more competitive. In two years, the consumer loan portfolio increased by 38% while loan delinquencies and charge-off ratios remained better than the credit union's peer group. As a result of improved terms and pricing of mortgage products, originations increased from $62 million in 1991 to $161 million in 1993.

Despite misgivings about incentive pay, the Board recognizes the strong arguments made by many commenters that if incentive pay can be offered in a manner that protects against abuses, the decision whether to do so should be a management decision, not one that is precluded by an overly restrictive regulation. Therefore, the Board is proposing to allow credit unions to provide incentive pay to some employees, including loan officers, in certain circumstances, as described below.

Proposed Regulation

The proposed rule changes the structure of the regulation to a broad prohibition, with specific exceptions, against an official or employee receiving compensation in connection with any loan made by the credit union. The Board believes that this structure will be easier to interpret and administer. It has proved difficult to determine, in the current regulation, whether certain activities are part of ''underwriting, insuring, servicing, or collecting'' a loan, particularly ''underwriting'' and ''insuring.'' Proposed paragraph 8(i) only requires that an activity be determined to be ''in connection with'' a loan. NCUA would take a reasonableness approach to that determination.

For example, suppose an official owns a company that manufactures forms. In this example, a credit union could purchase loan application forms from the company, even if it resulted in compensation to the official, since the purchase of loan application forms is not reasonably ''in connection with'' making a loan.[1] On the other hand, if an official owned a credit bureau, a credit union could not obtain credit reports from the company, resulting in compensation to the official, because providing credit reports is reasonably ''in connection with'' making a loan.

Similarly, a credit union could finance a home built by a construction company owned by an official, as long as the credit union was not financing the construction of the home, as building a home is not reasonably in connection with making a loan. However, a credit union would be prohibited from referring a member to the construction company to have a home built, as in that case, the construction would be in connection with making a loan.

In the context of incentive pay, rather than outside compensation, loan processing and making credit decisions on loans are clearly activities in connection with making loans. Thus, an employee would be prohibited from receiving incentive pay for performing those activities unless covered by an exception.

Exception (A) would allow credit unions to pay salary to employees who perform activities in connection with making loans. This is in the current regulation and needs no discussion.

Exception (B) would clarify that an incentive may be paid to an employee based on the overall financial performance of the credit union, which of course depends in part on its lending activities. While it could be argued that such an incentive is not truly ''in connection with'' a loan made by the credit union, the Board has included the exemption to avoid confusion. The Board believes that this type of incentive presents fewer problems than does an incentive based on the performance of a single individual, as it is focused on the interests of the credit union as a whole. However, incentives based on an organization's overall performance must still be monitored closely to avoid the problems discussed above. NCUA of course reserves the right to take exception to overall performance related incentive plans for safety and soundness reasons, for example, and plans where incentive pay is based on asset growth with no consideration of factors such as capital and asset quality.

Despite the concerns raised about incentives based on an individual's performance, the Board is proposing to allow credit unions to develop incentive programs with that feature. The Board is responsive to the significant interest on the part of credit unions to implement such programs. Proposed exceptions (C), (D), and (E) would allow credit unions to make incentive payments to employees for processing loans, making recommended or final decisions to approve or disapprove loans, and collecting loans, respectively. In order for an employee to be eligible for an incentive, there must be a supervisory level above the employee that does not receive incentive pay for the activity in question. Furthermore, a senior management employee may not receive incentive pay for any of the activities. Supervisors and senior management employees are excluded from direct incentive pay in the interests of sound internal control. However, the proposed rule would allow such employees to receive bonuses based on broad measures of management skill, such as profitability.

Credit unions already have the authority to provide incentive pay for processing and collecting loans. The real change is the proposal to allow loan officers to receive incentive pay. To address the concern regarding loan quality, the proposed rule provides that incentives for making recommended or final decisions to approve or disapprove loans may not be based on the number or dollar amount of loans approved. The Board requests comment on this restriction. Commenters who believe that it is not necessary should provide evidence to that effect.

The proposed rule also requires that there be sufficient controls in place to prevent an increase in problem loans. A credit union would have the responsibility of structuring its incentive pay program to meet this requirement.

Finally, proposed paragraph (8)(iv) of the regulation would require that the board of directors establish written policies and controls for any incentive plan and monitor compliance on at least a quarterly basis.

[1] Other legal restrictions would apply, however. For example, common law principles would require that the transaction be at arms length and in the credit union's best interest, and the standard FCU Bylaws would require that the interested director recuse himself or herself from the decision to purchase the forms.

Policy Changes

In addition to allowing incentive pay for loan officers under certain circumstances, the proposed rule would make additional policy changes. The current regulation has been interpreted to permit a credit union official or employee to receive compensation for acting as an agent in the sale of property securing a loan made by a credit union, on the rationale that listing or selling a property on which a loan is granted is not included in underwriting, insuring, servicing, or collecting the loan. Under this interpretation, an official or employee not only could receive a commission from an outside party for selling property financed by the credit union, he or she could also act as listing agent for the credit union's sale of foreclosed properties financed by the credit union. While listing or selling property financed by a credit union is not included in underwriting, insuring, etc., it is reasonably ''in connection with'' a loan made by the credit union. Thus, compensation for such activity would be prohibited unless the activity is covered by an exception. Since compensating an official or employee for listing or selling property financed by the credit union presents potential conflicts of interest, no exception is provided.

The current regulation also permits employees who are not senior managers or loan officers to receive incentives, from either the credit union or an insurance company, for selling credit life and disability insurance. Senior managers and loan officers may not receive such incentives because of the prohibition against compensation for ''insuring'' a loan. Since selling credit insurance is an activity reasonably ''in connection with'' a loan, the proposed rule prohibits all employees from receiving compensation for the activity, unless it is covered by an exception. The Board believes members should be allowed to make their own informed decisions about credit insurance and should not be pressured into purchasing it by employees who are motivated by incentive pay. Accordingly, no exception is provided. Lest there be any misunderstanding, however, credit unions are allowed to sell credit insurance and to generate income for the credit union from the activity.

The proposed regulation also clarifies another issue related to insuring loans. The current regulation has always been interpreted to prohibit, for example, a credit union official from owning an insurance company that sells car insurance to members who finance their cars at the credit union. Recently, it has been argued that the regulatory language prohibits compensation in connection with insuring the loan but not in connection with insuring collateral securing the loan. Under this argument, the regulation clearly would apply to credit life and disability insurance but would not appear to apply to ordinary car or homeowners insurance. NCUA is concerned about the inherent conflict that arises if an owner of an insurance agency that insures collateral securing loans made by a credit union serves as a credit union official, because of the opportunity to ''steer'' members to the official's agency. Since insuring collateral is reasonably ''in connection with'' a loan, the proposed regulation continues the prohibition against a director receiving compensation for such activity.

The Board also notes that ''insuring the loan'' recently has been interpreted to include the sale of vehicle warranties (also called insured vehicle service contracts and mechanical breakdown insurance) in states in which such products are considered insurance. Thus, credit union employees have been prohibited from receiving incentive pay for selling vehicle warranties in those states. Since such products generally are sold at the time a loan is made, they are reasonably ''in connection with'' a loan. Therefore, the proposed regulation would prohibit the payment of incentives to employees for the sale of these products, regardless of whether they are considered insurance in a particular state.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board certifies that this final rule will not have a significant impact on a substantial number of small credit unions (those under $1 million in assets). Accordingly, a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

This proposed rule, if adopted, will impose no additional collection requirements and, therefore, need not be sent to the Office of Management and Budget for approval.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. It states that: ''Federal action limiting the policy-making discretion of the states should be taken only where constitutional authority for the action is clear and certain, and the national activity is necessitated by the presence of a problem of national scope.'' The risks to federally insured credit unions are concerns of national scope. The NCUA Board believes that the protection of the NCUSIF warrants this rule. It will not unduly burden federally insured state-chartered credit unions. This rule does not impose additional costs or burdens on the state, nor does it affect the states' ability to discharge traditional state government functions.

The benefits provided and protection afforded by the NCUSIF are the same for federally insured state-chartered credit unions as for federally chartered credit unions. It is protection afforded through a federal system. The responsibility for administering that system lies with the NCUA Board. The NCUA Board believes that all federally insured credit unions should continue to be subject to the same conflict provisions in the area of lending. The NCUA Board, pursuant to Executive Order 12612, has determined that this rule may have an occasional direct effect 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. However, the potential risk to the NCUSIF without these changes justifies them.

List of Subjects in 12 CFR Part 701

Credit unions.

By the National Credit Union Administration Board on April 13, 1995.

Becky Baker,

Secretary of the Board.

For the reasons set forth in the preamble, NCUA proposes to amend 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 USC 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789, and Public Law 101–73. Section 701.6 is also authorized by 31 USC 3717. Section 701.31 is also authorized by 15 USC 1601, et seq., 42 USC 1981, and 42 USC 3601–3610. Section 701.35 is also authorized by 12 USC 4311–4312.

2. Section 701.21(c)(8) is revised to read as follows:

§ 701.21 Loans to members and lines of credit to members.

* * * * *

(c) * * *

(8) Prohibited fees; exceptions.

(i) Except as otherwise provided in this section, no official or employee of a Federal credit union, or immediate family member of an official or

employee of a Federal credit union, may receive, directly or indirectly, from an outside party or the credit union, any commission, fee, or other compensation in connection with any loan made by the credit union.

(ii) For the purposes of this section:

(A) *Compensation* includes non monetary items.

(B) *Employee* includes an independent contractor.

(C) *Immediate family member* means a spouse or other family member living in the same household.

(D) *Loan* includes line of credit and workout loan.

(E) *Official* means any member of the board of directors or a volunteer committee.

(F) *Senior management employee* means the credit union's chief executive officer (typically, this individual holds the title of President or Treasurer/Manager), any assistant chief executive officers (e.g., Assistant President, Vice President, or Assistant Treasurer/Manager), the chief financial officer (Comptroller), and any other employee who sets policy for the credit union.

(G) *Workout loan* means a loan which has had its original terms changed due to nonperformance or anticipated nonperformance.

(iii) This section does not prohibit a Federal credit union from paying:

(A) Salary to employees;

(B) An incentive or bonus to an employee based on the credit union's overall financial performance;

(C) An incentive or bonus to an employee in connection with processing loans, provided that no such incentive or bonus is paid to a supervisor of the employee, a senior management employee, or an immediate family member of a supervisor or senior management employee;

(D) An incentive or bonus to an employee in connection with making recommended or final decisions to approve or disapprove loans, provided that:

(*1*) No such incentive or bonus is paid to a supervisor of the employee, a senior management employee, or an immediate family member of a supervisor or senior management employee; and

(*2*) The incentive or bonus may not be based on the number or dollar amount of loans approved and must be structured in a manner that demonstrably protects against an increase in problem loans;

(E) An incentive or bonus to an employee in connection with collecting loans, provided that no such incentive or bonus is paid to a supervisor of the employee, a senior management employee, or an immediate family member of a supervisor or senior management employee.

(iv) The board of directors of a Federal credit union shall establish and implement written policies, procedures, and internal controls for any payment of incentives or bonuses to employees in connection with loans made by the credit union. At least quarterly, the board shall monitor compliance with such policies, procedures, and controls. Documentation of such monitoring shall be made available to the supervisory committee and NCUA.

* * * * *

[FR Doc. 95–9616 Filed 4–19–95; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–131–AD]

Airworthiness Directives; British Aerospace Model BAe 146–100A, –200A, and –300A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all British Aerospace Model BAe 146–100A, –200A, and –300A airplanes. This proposal would require repetitive inspections for cracking of fuselage frame 29, and repair, if necessary. This proposal is prompted by testing that revealed fatigue cracking in the web and inboard flange of frame 29. The actions specified by the proposed AD are intended to prevent reduced structural integrity of the fuselage, due to fatigue cracking in frame 29.

DATES: Comments must be received by May 31, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–131–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Avro International Aerospace, Inc., 22111 Pacific Blvd., Sterling, Virginia 20166. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 94–NM–131–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–131–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on all British Aerospace Model BAe 146–100A, –200A, and –300A airplanes. The CAA advises that, during fatigue testing of the fuselage, cracking was discovered in the web and inboard flange of frame 29 between stringers 12

and 18 on the left and right side of the fuselage. The cracking emanated from bolt holes in these areas. Such fatigue cracking, if not detected and corrected in a timely manner, could result in reduced structural integrity of the fuselage of the airplane.

Avro International Aerospace has issued Inspection Service Bulletin S.B. 53–130, dated May 10, 1994, which describes procedures for repetitive visual inspections of frame 29 between stringers 12 and 18 on the left and right side of the fuselage. The Avro International Aerospace inspection service bulletin also references procedures for accomplishing a modification at each affected bolt position that would eliminate the need for the repetitive inspections when those modifications are installed at the time specified in the service bulletin. (Specific procedures for this modification are described in Repair Instruction Leaflet HC536H9159.) The CAA classified this inspection service bulletin as mandatory.

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

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require repetitive visual inspections to detect cracking of the fuselage at frame 29. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The proposed AD would also require that all findings of cracking be repaired in accordance with a method approved by the FAA. Additionally, the proposed AD would also provide for optional terminating action for the repetitive inspections. Terminating action would consist of modification of each affected bolt position in accordance with the service bulletin described previously, provided that the modification is accomplished no later than the applicable time specified in that service bulletin.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long standing requirement.

The FAA estimates that 43 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 9 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $23,220, or $540 per airplane, per inspection cycle.

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 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 the following new airworthiness directive:

British Aerospace Regional Aircraft Limited, Avro International Aerospace Division (Formerly British Aerospace, PLC, British Aerospace Commercial Aircraft Limited) Docket 94–NM–131–AD.

Applicability: All Model BAe 146–100A, –200A, and –300A airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously. To prevent reduced structural integrity of the fuselage of the airplane, due to fatigue cracking in frame 29, accomplish the following:

(a) Perform a detailed visual inspection for cracking of frame 29 between stringers 12 and 18 on the left and right side of the fuselage, in accordance with Avro International Aerospace Inspection Service Bulletin S.B. 53–130, dated May 10, 1994. If the polymer coating on frame 29 prevents a detailed visual inspection, perform a surface eddy current inspection for cracking in accordance with the service bulletin. Perform the inspections at the time specified in paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable.

(1) For Model BAe 146–100A airplanes: Perform the inspection within 6 months after the effective date of this AD, or prior to the accumulation of 30,000 total landings, whichever occurs later. Repeat the inspection thereafter at intervals not to exceed 6,000 landings.

(2) For Model BAe 146–200A airplanes, and for Model BAe 146–300A airplanes other than those airplanes identified in paragraph (a)(3) of this AD: Perform the inspection within 6 months after the effective date of this AD, or prior to the accumulation of 24,000 total landings, whichever occurs later. Repeat the inspection thereafter at intervals not to exceed 6,000 landings.

(3) For Model BAe 146–300A airplanes having serial numbers E3207, E3212, E3214, E3216, E3218, E3219, and E3222: Perform the inspection within 6 months after the effective date of this AD, or prior to the accumulation of 13,000 total landings, whichever occurs later. Repeat the inspection thereafter at intervals not to exceed 4,000 landings.

(b) If any cracking is found during any inspection required by paragraph (a) of this AD, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(c) Accomplishment of the modification of each affected bolt position in accordance with Avro International Aerospace Inspection Service Bulletin S.B. 53–130, dated May 10, 1994, prior to the embodiment times shown in Table 'A' of that service bulletin, constitutes terminating action for the repetitive inspections required by paragraph (a) of this AD.

Note 2: Repair Instruction Leaflet (RIL) HC536H9159 provides detailed instructions for modification of all bolt positions in the affected areas of frame 29.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on April 14, 1995.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9770 Filed 4–19–95; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 811

[Docket No. R–95–1779; FR–3692–P–01]

RIN 2502–AG33

Refunding of Tax-Exempt Obligations Issued to Finance Section 8 Housing

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the Department's regulations to provide the policy and procedural guidelines for Section 8 bond refundings under which local agency issuers of Section 11(b) tax-exempt bonds are encouraged to refinance projects at lower interest rates.

DATES: Comments due date June 19, 1995.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Office of General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC, 20410. Facsimile (FAX) are not acceptable. A copy of each communication submitted will be available for public inspection and copying on weekdays between 7:30 a.m. and 5:30 p.m. at the above address.

FOR FURTHER INFORMATION CONTACT: James B. Mitchell, Director, Financial Services Division, Department of Housing and Urban Development, 470 L'Enfant Plaza East, room 3120, Washington, DC 20024; telephone (202) 755–7450, ext. 125 (TDD number for the hearing- and speech-impaired (202) 708–4594).

SUPPLEMENTARY INFORMATION:

I. Background

Since May 1989, the Department has conducted on an ad hoc basis a program of Section 8 assisted housing bond refundings, under which local agency issuers of Section 11(b) tax-exempt bonds (24 CFR part 811, subpart A) are encouraged to refinance projects at lower interest rates to reduce Section 8 subsidy. To date, over 400 bond refunding transactions have closed in which bonds issued during the interest rate peak years of 1980–1983 are prepaid by a new bond issue at substantially lower interest cost, resulting in subsidy recapture of over $500 million.

The Section 11(b) regulations under which HUD issues its Notification of Tax Exemption were designed for the original financing of new construction or substantial rehabilitation of 100 percent or partially subsidized Section 8 rental housing. These rules do not in all particulars fit a refinancing transaction where construction funding is not an element. Therefore, each refunding closing transaction has required that bond counsel for the issuing agency obtain from the Assistant Secretary for Housing-FHA Commissioner a Notification of Tax Exemption that waives several sections of 24 CFR part 811, subpart A. This waiver process elevates to the Assistant Secretary level a programmatic approval that has become routine and perfunctory in recent years. In addition, an Office of Inspector General finding (Interim Audit Report 93–HQ–119–0004) has criticized the excessive reliance on regulatory waivers to accomplish bond refundings.

In view of the relatively low interest rate environment that has prevailed since 1987, HUD has determined that bond refundings should be treated as an operational program, rather than a temporary market intervention dependent upon the economic cycle. The proposed rule would codify the policy and procedural guidelines that have governed Section 8 bond refundings since 1989, and would provide a self-contained refunding regulation intended to dispense with the need for most waivers.

II. Other Matters

A. Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 50.20(k) of the HUD regulations, the policies and procedures contained in this proposed rule relate only to HUD administrative procedures and, therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

B. Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this proposed rule will not have federalism implications and, thus, are not subject to review under that order.

C. Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has

determined that this proposed rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the order. No significant change in existing HUD policies or programs will result from promulgation of this proposed rule, as those policies and programs relate to family concerns.

D. Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act has reviewed and approved this proposed rule, and in so doing certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. There are no anti-competitive discriminatory aspects of the rule with regard to small entities, and there are not any unusual procedures that would need to be complied with by small entities.

E. Regulatory Agenda

This proposed rule was listed as sequence number 1779 in the Department's Semiannual Agenda of Regulations published on November 14, 1994 (59 FR 57632, 57634) in accordance with Executive Order 12866 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 811

Public housing, Securities, Taxes.

Accordingly, 24 CFR part 811 would be amended as follows:

PART 811—TAX EXEMPTION OF OBLIGATIONS OF PUBLIC HOUSING AGENCIES AND RELATED AMENDMENTS

1. The authority citation for 24 CFR part 811 would be revised to read as follows:

Authority: 42 U.S.C. 1437, 1437a, 1437c, 1437f, and 3535(d).

2. A new § 811.119 would be added to subpart A, to read as follows:

§ 811.119 Refunding of obligations issued to finance Section 8 projects.

(a) This section states the terms and conditions under which HUD will approve tax-exempt financing or defeasance of outstanding permanent obligations issued under Section 11(b) of the Act or the Internal Revenue Code to refund outstanding permanent obligations which financed new construction or substantial rehabilitation of Section 8 projects, including fully and partially assisted projects.

(b) Other sections of part 811, subpart A, shall not apply to bond refundings except that compliance with the following is required: §§ 811.101, 811.102, 811.103, 811.104, 811.105, 811.106(d), 811.108(a)(2)(ii), 811.108(a)(2)(iii), 811.108(b)(3)(ii), 811.108(b)(3)(iii), and 811.114(d), except as applicable provisions are modified in this section.

(c) Compliance with §§ 811.104 and 811.105 shall not be required for refunding obligations which derive tax exemption from authority other than Section 11(b) of the Act. In the case of bonds issued by State Agencies qualified under 24 CFR part 883 to refund bonds which financed projects assisted pursuant to 24 CFR part 883, compliance with the provisions of 24 CFR part 883 shall be required to the extent bond counsel finds such provisions applicable to a bond refunding transaction, as distinguished from requirements related to original financing of new construction or substantial rehabilitation of Section 8 housing. HUD requires compliance with the prohibition on duplicative fees contained in § 883.606 of this chapter.

(d) No agency shall issue obligations to refund outstanding 11(b) obligations until the Office of the Assistant Secretary for Housing sends the financing agency a Notification of Tax Exemption based on approval of the proposed refunding's terms and conditions as conforming to this subpart A's requirements, including continued operation of the project as housing for low-income families, and where possible, reduction of Section 8 assistance payments through lower contract rents or equivalent means. The agency shall submit such documentation as HUD determines is necessary for review and approval of the refunding transaction. Upon conclusion of the sale of refunding bonds, the results must be certified to HUD by bond counsel, including a schedule of the specific amount of savings in Section 8 assistance where applicable, and a final statement of Sources and Uses.

(e) (1) HUD approval of the terms and conditions of a Section 8 refunding proposal requires evaluation by HUD Central Office of the reasonableness of the terms of the Agency's proposed financing plan, including projected reductions in project debt service where warranted by market conditions and bond yields. This evaluation shall determine that the proposed amount of refunding obligations is the amount needed to pay off outstanding bonds, fund a debt service reserve to the extent required by bond rating agencies which rate the credit quality of the refunding bonds, pay credit enhancement fees acceptable to HUD and pay transaction costs as approved by HUD according to a sliding scale ceiling based on par amount of refunding bond principal. Exceptions may be approved by HUD, if consistent with applicable statutes, in the event that an additional issue amount is required for project purposes.

(2) The repayment term of the refunding bonds may not exceed the remaining term of the project mortgage, or in the absence of a mortgage, the remaining term of the Housing Assistance Payments Contract (the ''HAPC'').

(3) The bond yield may not exceed by more than 75 basis points the 20 Bond General Obligation Index published by the Daily Bond Buyer for the week immediately preceding the sale of the bonds. An amount not to exceed one-fourth of one percent annually of the bonds may be allowed for servicing and trustee fees.

(f) For projects placed under HAPC between January 1, 1979, and December 31, 1984 (otherwise known as ''McKinney Act Projects''), for which a State or local agency initiates a refunding, the Secretary shall make available to an eligible issuing agency 50 percent of the Section 8 savings of a refunding, as determined by HUD on a project-by-project basis, to be used by the agency in accordance with the terms of a Refunding Agreement executed by the Agency and HUD which incorporates the Agency's Housing Plan for use of savings to provide decent, safe, and sanitary housing for very low-income households. The Housing Plans submitted for HUD review and approval shall address the physical condition of the projects participating in the refunding which generate the McKinney Act savings and, if necessary, provide for correction of existing deficiencies which cannot be funded completely by existing project replacement reserves and/or by a portion of refunding bond proceeds (including reserves released from the refunded bond's indenture), as approved by HUD.

(g) For refundings of Section 8 projects other than McKinney Act Projects, and for all transactions which substitute collateral for, but do not redeem, outstanding obligations, the Office of Housing in consultation with HUD Field Office Counsel will review the HAPC, the Trust Indenture for the outstanding obligations, and the applicable part 811 Regulations to determine what HUD approvals are required. In particular, HUD approval must be obtained for the release of reserves from the trust indenture of the bonds that are being refunded, defeased, or pre-paid. If the proposal contemplates distribution to a non-

Federal entity of benefits of the refinancing, such as debt service savings and/or balances in reserves held under the original Trust Indenture, such proposal shall be referred to the Office of the Assistant Secretary for Housing for further review. HUD will consent to release reserves, as provided by the Trust Indenture, in an amount remaining after correction of project physical deficiencies and/or replenishment of replacement reserves, where needed, upon execution by the project owner of a use agreement, and amendment of a regulatory agreement, if applicable, to extend low-income tenant occupancy for ten years after expiration of the HAPC. Proposed use of benefits shall be consistent with applicable appropriations law, the HAPC, and other requirements applicable to the original project financing, and the proposed financing terms must be reasonable in relation to bond market yields and transaction fees, as approved by HUD Central Office.

(h) Agencies shall have wide latitude in the design of specific delivery vehicles for use of McKinney Act savings, subject to HUD audit of each Agency's performance in serving the targeted income eligible population. Savings shall be used for shelter costs of providing housing, rental, or owner-occupied, to very low-income households through new construction, rehabilitation, repairs, and acquisition with or without rehab, including assistance to very low-income units in mixed-income developments. Self-sufficiency services in support of very low-income housing are also eligible, specifically, homeownership counseling, additional security measures in high-crime areas, construction job training for residents' repair of housing units occupied by very low-income families, and empowerment activities designed to support formation and growth of resident entities. Except for the cost of providing third-party program audit reports to HUD, eligible costs exclude consultant fees or reimbursement of Agency staff expenses, even though the services may involve programs of assistance to very low-income families.

(i) Refunding bonds, including interest thereon, approved under this Section shall be exempt from all taxation now or hereafter imposed by the United States, and the notification of approval of tax exemption shall not be subject to revocation by HUD. Such bonds shall be prepaid during the HAPC term only under such conditions as HUD shall require.

Dated: March 20, 1995.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 95–9727 Filed 4–19–95; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

[IL–091]

Illinois Abandoned Mine Land Reclamation Plan

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

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Illinois Abandoned Mine Land Reclamation Plan (hereinafter referred to as the ''Illinois plan'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment pertains to the merger of the Illinois Abandoned Mined Lands Reclamation Council into the newly created Illinois Department of Natural Resources, Office of Mines and Minerals. The Amendment is intended to provide formal notification to OSM of this pending reorganization.

DATES: Written comments must be received by 4:00 p.m., C.D.T., May 22, 1995. If requested, a public hearing on the proposed amendment will be held on May 15, 1995. Requests to speak at the hearing must be received by 4:00 p.m., C.D.T., on May 5, 1995.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to James F. Fulton, Director, at the addresses listed below.

Copies of the Illinois plan, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Springfield Field Office.

James F. Fulton, Director, Springfield Field Office, Office of Surface Mining Reclamation and Enforcement, 511 West Capitol, Suite 202, Springfield, Illinois 62704, Telephone: (217) 492–4495.

Illinois Abandoned Mined Lands Reclamation Council, 928 South Spring Street, Springfield, Illinois 62704, Telephone: (217) 782–0588.

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Director, Springfield Field Office, Telephone: (217) 492–4495.

SUPPLEMENTARY INFORMATION:

I. Background on the Illinois Plan

Title IV of SMCRA established an Abandoned Mine Land Reclamation (AMLR) program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. As enacted in 1977, lands and waters eligible for reclamation were those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which they were no continuing reclamation responsibility under State or Federal law. The AML Reclamation Act of 1990 (Pub. L. 101–508, Title VI, Subtitle A, Nov. 5, 1990, effective Oct. 1, 1991) amended SMCRA, 30 U.S.C. 1231 *et. seq.*, to provide changes in the eligibility of project sites for abandoned mine land expenditures. Title IV of SMCRA now provides for reclamation of certain mine sites where the mining occurred after August 3, 1977. These include interim program sites where bond forfeiture proceeds were insufficient for adequate reclamation and sites affected any time between August 4, 1977, and November 5, 1990, for which there were insufficient funds for adequate reclamation due to the insolvency of the bond surety. Title IV provides that a State with an approved AMLR plan has the responsibility and primary authority to implement the program.

On June 1, 1982, the Secretary of the Interior approved the Illinois plan. Background information on the Illinois plan, including the Secretary's findings, the disposition of comments, and the approval of the plan can be found in the June 1, 1982, **Federal Register** (47 FR 23886). Subsequent actions concerning the conditions of approval and amendments to the plan can be found at 30 CFR 913.25.

The Secretary adopted regulations at 30 CFR Part 884 that specify the content requirements of a State reclamation plan and the criteria for plan approval. The regulations provide that a State may submit to the Director proposed amendments or revisions to the

approved reclamation plan. If the amendments or revisions change the scope of major policies followed by the State in the conduct of its reclamation program, the Director must follow the procedures set out in 30 CFR 884.14 in approving or disapproving an amendment or revision.

II. Description of the Proposed Amendment

By letter dated April 10, 1995 (Administrative Record No. IL–800–AML), Illinois submitted a proposed amendment to its plan pursuant to SMCRA. Illinois submitted the proposed amendment at its own initiative. In accordance with 30 CFR 884.15, Illinois notified OSM that effective July 1, 1995, the authority and administrative responsibility for the Illinois plan will be transferred from the Abandoned Mined Lands Reclamation Council to the Illinois Department of Natural Resources, Office of Mines and Minerals, Abandoned Mined Lands Reclamation Division.

Specifically, the Abandoned Mined Lands Reclamation Council will be merged into the Illinois Department of Natural Resources by virtue of Executive Order Number 2 (1995) signed by the Governor of Illinois on March 1, 1995. Article V, Section 11 of the Constitution of the State of Illinois authorizes the Governor to reassign functions among or reorganize executive agencies to simplify the organizational structure of the Executive Branch, to improve accountability, to increase accessibility, and to achieve efficiency and effectiveness in operation.

Illinois specified that all rights, powers, and duties vested in the Abandoned Mined Lands Reclamation Council under the Illinois plan, including existing laws, rules, and statements of policy, would be administered by the Abandoned Mined Lands Reclamation Division of the Office of Mines and Minerals in accordance with the requirements of Title IV of SMCRA and consistent with all applicable Federal rules and guidelines.

The Executive Order contains the following applicable provisions:

Part I, paragraph C, provides that ''[t]he Department of Natural Resources shall have within it an Office of Mines and Minerals which shall be responsible for the functions previously vested in * * * the Abandoned Mined Lands Reclamation Council and such other related functions and responsibilities as may be appropriate;''

Part II, paragraph D, transfers the Abandoned Mined Lands and Water Reclamation Act (20 ILCS 1920 *et seq.*), section 6a–1–a of the Illinois Purchasing Act (30 ILCS 505/6a–1–a), section 21(r)(2) of the Environmental Protection Act (415 ILCS 5/21(r)(2)), section 2 of the Surface Coal Mining Fee Act (20 ILCS 1915/2), section 1–3 of the Build Illinois Act (30 ILCS 750/1–3), and section 67.35 of the Civil Administrative Code (20 ILCS 405/67.35) from the Abandoned Mined Lands Reclamation Council to the Department of Natural Resources along with all rights, powers, and duties incidental to these Acts;

Part III, paragraph A abolishes the Abandoned Mined Lands Reclamation Council, and paragraph C transfers personnel previously assigned to the Abandoned Mined Lands Reclamation Council to the Department of Natural Resources; and

Part IV, paragraph F, provides that ''[t]his Executive Order shall not affect the legality of any rules in the Illinois Administrative Code that are in force on the effective date of this Executive Order that have been duly adopted by the agencies reorganized under this Order. As soon as practicable hereafter, the Department of Natural Resources * * * shall propose and adopt under the Illinois Administrative Procedure Act such rules as may be necessary to consolidate and clarify the rules of the various reorganized agencies that will now be administered by the successor agency.''

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 884, OSM is seeking comments on whether the proposed amendment satisfies the program approval criteria of 30 CFR 884.14. If the amendment is deemed adequate, it will become part of the Illinois plan.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Springfield Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., C.D.T., on May 5, 1995. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

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

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State and Tribal abandoned mine land reclamation plans and revisions thereof since each such plan is drafted and promulgated by a specific State or Tribe, not by OSM. Decisions on proposed abandoned mine land reclamation plans and revisions thereof submitted by a State or Tribe are based

on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and 30 CFR Parts 884 and 888.

National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State or Tribal abandoned mine land reclamation plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

Paperwork Reduction Act

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

Regulatory Flexibility Act

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

List of Subjects in 30 CFR Part 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 14, 1995.

Tim L. Dieringer,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 95–9773 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 164

[CGD 93–022]

RIN 2115–AE41

Automated Dependent Surveillance Shipborne Equipment: Incorporation by Reference

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the incorporation by reference provisions or the Automated Dependent Surveillance (ADS) Shipborne Equipment. Due to the development of new Differential Global Positioning System (DGPS) standards, the existing standard incorporated by reference, Radio Technical Commission for Maritime Services' (RTCM) Recommended Standards for Differential NAVSTAR GPS Service, Version 2.0 contained in 33 CFR 164.03, has been superseded by new standards contained in Version 2.1. The Coast Guard proposes to replace Version 2.0 by incorporating the new standards contained in Version 2.1.

Additionally, Digital Selective Calling (DSC) standards for use with Vessel Traffic Services (VTS) and Maritime Mobile Services have recently been developed by the International Telecommunication Union Radiocommunication Bureau (ITU–R) and are also being proposed as a new incorporation by reference.

The new DGPS standards will ensure that ADS is compatible with the Coast Guard national DGPS network. The standards will also provide additional user safety information such as differential station health indicators.

The new DSC standards will ensure that the Automated Dependent Surveillance Shipborne Equipment (ADSSE), built by various manufacturers, will provide the same message in an internationally accepted format.

DATES: Comments must be received on or before June 19, 1995.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 93–022), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to Room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

A copy of the material proposed for ''Incorporation by Reference'' is available for inspection at Room 1409, U.S. Coast Guard Headquarters. It may also be obtained from the sources listed in the proposed rule.

FOR FURTHER INFORMATION CONTACT: Irene Hoffman, Project Manager, Vessel Traffic Services Division. The telephone number is 202–267–6277.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 93–022) and the specific section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

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

Drafting Information

The principal persons involved in drafting this document are Irene Hoffman, Project Manager, Vessel Traffic Services Division and Nicholas Grasselli, Project Counsel, Office of Chief Counsel.

Background and Purpose

Section 5004 of the Oil Pollution Act of 1990, as codified in 33 U.S.C. 2374, directed the Coast Guard to acquire, install, and operate additional equipment, as necessary, to provide surveillance of tank vessels carrying oil

from the Trans-Alaskan Pipeline through Prince William Sound.

While endeavoring to meet the requirements of the Act, the Coast Guard investigated various types of surveillance systems, including radar and dependent surveillance systems. The Coast Guard determined an ADS system that uses DGPS would meet the Coast Guard's requirements without being cost prohibitive to the Government and the user. The shipboard portion of the system, ADSSE, includes a 12 channel all-in-view DGPS receiver, a marine radiobeacon band receiver capable of receiving DGPS error correction messages, a VHF/FM transceiver using DSC, and a control unit.

On July 17, 1992, the Coast Guard published a final rule, Prince William Sound Automated Dependent Surveillance System, in the **Federal Register** (57 FR 31660). This final rule amended the Prince William Sound VTS regulations by incorporating the use of ADS using DGPS. The regulation requires tank vessels of 20,000 DWT or more, transiting Prince William Sound, to carry operating ADSSE.

Since the publication of this regulation, the Coast Guard has determined that the use of ADS may expand beyond Prince William Sound. In order to facilitate future expansion into other areas of the U.S., the final rule amending the National VTS Regulations (59 FR 36316), divided the Prince William Sound Automated Dependent Surveillance System rule into two sections: (a) A navigation equipment rule (§ 164.43); and (b) a vessel operating rule for Prince William Sound (§ 165.1704). VTS Reporting Exemptions for vessels equipped with an operating ADSSE are set forth in § 161.23(c). The ''Incorporation by Reference'' section (§ 161.109) associated with this rule has been redesignated as § 164.03(b)(2).

Discussion of Proposed Rules

Due to the development of new DGPS standards, the existing standard incorporated by reference, RTCM Recommended Standards for Differential NAVSTAR GPS Service, Version 2.0 RTCM Paper 134–89/SC 104–68 incorporated in 33 CFR 164.03, has been superseded. Differential NAVSTAR GPS Service, Version 2.0 will be replaced with the new standards, RTCM Recommended Standards for Differential NAVSTAR GPS Service, Version 2.1 RTCM Paper 194–93/SC 104–STD, which have been developed with industry input and approved by RTCM.

Additionally, DSC standards for use with VTS and Maritime Mobile Service, Optional Expansion of the DSC System for use in the Maritime Mobile Service, ITU–R Recommendation 821 and Characteristics of a Transponder System using DSC Techniques for use with VTS and Ship-to-Ship Identification, ITU–R Recommendation 825, have been developed by the ITU–R with industry input and will also be incorporated by reference.

Incorporation by Reference

The proposed material would be incorporated by reference in § 164.03. Copies of the material are available for inspection where indicated under **ADDRESSES**. Copies of the material are also available from the sources listed in § 164.03.

Before publishing a final rule, the Coast Guard will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The upgrade of DGPS receivers from Version 2.0 RTCM Paper 134–89/SC 104–68, to Version 2.1 RTCM Paper 194–93/SC 104–STD requires only a firmware upgrade. At least one manufacturer has indicated that this upgrade is available at no cost to the user. Additionally, recent indications are that the cost to initially outfit tank vessels with DGPS equipment may be less than the original estimate of $50,000 per vessel. A more reasonable estimate now would be approximately $15,000 per vessel. The cost is expected to drop further as dependent surveillance is implemented in other U.S. ports and worldwide.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include: (1) Small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields; and (2) governmental jurisdictions with populations of less than 50,000. This regulation will only affect owners and operators of tank vessels of 20,000 or more DWT operating in Prince William Sound and carrying oil from the Trans-Alaska Pipeline. The construction and operating costs of vessels of this size is such that their owners tend to be major corporations or subsidiaries of major corporations. Business entities with the capital and operating costs of this magnitude do not meet the definition of ''small entities.''

Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

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

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2 of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation.

This rulemaking is intended to improve accuracy and reliability of vessel tracking equipment. It may benefit the environment by reducing the potential for catastrophic oil spills which may result from tank vessels involved in groundings, rammings, or collisions. While this rulemaking may have a positive effect on the environment by minimizing the risk of environmental harm resulting from collisions and groundings, the impact is not expected to be significant enough to warrant further documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 164

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways, Incorporation by reference.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 164 as follows:

PART 164—NAVIGATION SAFETY REGULATIONS

1. The authority citation for part 164 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. 2103, 3703; 49 CFR 1.46. Sec. 164.13 also issued under 46 U.S.C. 8502 sec. 4114(a), Pub.L. 101–380, 104 Stat. 517 (46 U.S.C. 3703 note). Sec. 164.61 also issued under 46 U.S.C. 6101.

2. Section 164.03 paragraph (b) is revised to read as follows:

§ 164.03 Incorporation by Reference

* * * * *

(b) The materials approved for incorporation by reference in this part and the sections affected are:

International Maritime Organization (IMO)	
4 Embankment, London, SE1 7SR, U.K	
Recommendation on Performance Standards for Automatic Pilots, Resolution A.342(IX), adopted November 12, 1975	164.13
Radio Technical Commission For Maritime Services (RTCM)	
655 Fifteenth St., N.W., Suite 300, Washington, D.C. 20005	
Minimum Performance Standards (MPS) Marine Loran C Receiving Equipment, RTCM Paper 12–78/DO–100, 1977	164.41
RTCM Recommended Standards for Differential NAVSTAR GPS Service, Version 2.1, RTCM Paper 194–93/SC 104–STD, 1994	164.43
International Telecommunication Union Radiocommunication Bureau (ITU–R)	
Place de Nations CH–1211 Geneva 20 Switzerland	
Optional Expansion of the Digital Selective-Calling System for use in the Maritime Mobile Service, ITU–R Recommendation 821, 1992	164.43
Characteristics of a Transponder System using Digital Selective-Calling Techniques for use with Vessel Traffic Services and Ship-to-Ship Identification, ITU–R Recommendation 825, 1992	164.43

Dated: March 30, 1995.

G.A. Penington,

Rear Admiral, U.S. Coast Guard Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 95–9713 Filed 4–19–95; 8:45 am]

BILLING CODE 4910–14–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 144–3–6972a; FRL–5194–1]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from semiconductor manufacturing.

The intended effect of proposing approval of this rule is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this notice of proposed rulemaking (NPRM) will incorporate these rules into the federally approved SIP. EPA has evaluated each of these rules and is proposing to approve them under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: Comments must be received on or before May 22, 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 revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

Environmental Protection Agency, Air Docket 6102, ANR 443, 401 ''M'' Street, S.W., Washington 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95814.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182.

FOR FURTHER INFORMATION CONTACT: Helen Liu, 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) 744–1199.

SUPPLEMENTARY INFORMATION:

Applicability

The rule being proposed for approval into the California SIP is the South Coast Air Quality Management District (SCAQMD) Rule 1164—Semiconductor Manufacturing. This rule was submitted by the California Air Resources Board (CARB) to EPA on February 24, 1995.

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 CAA or pre-amended Act), that included the Los Angeles-South Coast Air Basin Area (South Coast Area). 43 FR 8964; 40 CFR 81.305. Because this area was unable to meet the statutory attainment date of December 31, 1982, California requested under section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987. [40 CFR 52.222] On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the pre-amended Act, that the above district's portion of the California SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies. Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.[1] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment

[1] 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); and the existing control technique guidelines (CTGs).

areas. The South Coast Area has been designated as extreme [2]; therefore, this area was subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules for incorporation into its SIP on February 24, 1995, including the rule being acted on in this document. This document addresses EPA's proposed action for SCAQMD Rule 1164. SCAQMD adopted Rule 1164 on January 13, 1995. This submitted rule was found to be complete on March 10, 1995 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V [3] and are being proposed for approval into the SIP.

SCAQMD Rule 1164 controls the VOC emissions during the operations of semiconductor manufacturing. VOCs contribute to the production of ground-level ozone and smog. This rule was adopted as part of the SCAQMD's efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for this rule.

EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to ''fix-up'' their RACT rules. See section 182(a)(2)(A). EPA has not yet developed a CTG to outline control requirements for the semiconductor manufacturing source category. Therefore, interpretations of EPA policy are found in the Blue Book, referred to in footnote 1, and the Region IX/CARB document entitled, *Guidance Document for Correcting VOC Rule Deficiencies*. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

SCAQMD Rule 1164—Semiconductor Manufacturing includes the following significant changes from the current SIP:

- Section (b)(1) includes an appropriate definition for *approved emission control system* which requires the system to have an overall efficiency of at least 90 percent.
- Section (b)(14) includes an equation to determine VOC composite partial pressure.
- Other definitions were added or altered for clarity.
- Sections (e)(1) and (e)(2) list the test methods for determining VOC content of any VOC-containing materials or vapors. These methods include EPA Test Method 24, SCAQMD Method 303, SCAQMD Method 304, SCAQMD Method 308.
- Section (e)(3) includes test methods for determining the efficiency of the emission control systems. These methods include the EPA method cited in 55 **Federal Register** 26865, EPA Test Methods 25, 25A, 18, ARB 422, or SCAQMD Method 25.1.
- Section (e)(4) ensures that a violation of any requirement of this rule established by any one of the specified test methods shall constitute a violation of the rule when more than one test method is specified for any testing.

EPA has evaluated the submitted rule and has determined that it is consistent with the CAA, EPA regulations, and EPA policy. Therefore, SCAQMD Rule 1164 is being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D.

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

Regulatory Process

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

SIP approvals under sections 110 and 301 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry 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).

The OMB has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 11, 1995.

Felicia Marcus,

Regional Administrator.

[FR Doc. 95–9709 Filed 4–19–95; 8:45 am]

BILLING CODE 6560–50–W

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40 CFR Part 372

[OPPTS–400092; FRL–4946–2]

Monosodium Methanearsonate and Disodium Methanearsonate; Toxic Chemical Release Reporting; Community Right-to-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Denial of petition.

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[2] The South Coast Area retained its designation of nonattainment and classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

[3] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

SUMMARY: EPA is denying a petition to delist monosodium methanearsonate (MSMA, CAS No. 2163–80–6) and disodium methanearsonate (DSMA, CAS No. 144–21–8) from the reporting requirements under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). This action is based on EPA's conclusion that neither monosodium methanearsonate or disodium methanearsonate meet the deletion criteria of EPCRA section 313(d)(3). Specifically, EPA is denying this petition because: (1) Monosodium methanearsonate and disodium methanearsonate are known to cause toxic effects in experimental animals as a result of chronic exposure to either of these substances; and (2) monosodium methanearsonate and disodium methanearsonate can reasonably be anticipated to cause cancer in humans.

FOR FURTHER INFORMATION CONTACT: Maria J. Doa, Petitions Coordinator, 202–260–9592, for specific information regarding this document. For further information on EPCRA section 313, contact the Emergency Planning and Community Right-to-Know Information Hotline, Environmental Protection Agency, Mail Stop 5101, 401 M St., SW., Washington, DC 20460, Toll free: 800–535–0202, Toll free TDD: 800–553–7672.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Authority

This action is issued under sections 313(d) and (e)(1) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. 11023. EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986 (Pub. L. 99–499).

B. Background

Section 313 of EPCRA requires certain facilities manufacturing, processing, or otherwise using listed toxic chemicals to report their environmental releases of such chemicals annually. Beginning with the 1991 reporting year, such facilities also must report pollution prevention and recycling data for such chemicals, pursuant to section 6607 of the Pollution Prevention Act of 1990 (PPA), 42 U.S.C. 13106. Section 313 established an initial list of toxic chemicals that was comprised of more than 300 chemicals and 20 chemical categories. Section 313(d) authorizes EPA to add or delete chemicals from the list, and sets forth criteria for these actions. EPA has added and deleted chemicals from the original statutory list. Under section 313(e), any person may petition EPA to add chemicals to or delete chemicals from the list. EPA must respond to petitions within 180 days, either by initiating a rulemaking or by publishing an explanation of why the petition is denied.

EPA issued a statement of petition policy and guidance in the **Federal Register** of February 4, 1987 (52 FR 3479), to provide guidance regarding the recommended content and format for submitting petitions. On May 23, 1991 (56 FR 23703), EPA issued guidance regarding the recommended content of petitions to delete individual members of the section 313 metal compound categories. EPA has also published a statement clarifying its interpretation of the section 313(d)(2) criteria for adding and deleting chemical substances from the section 313 list (59 FR 61439, November 30, 1994).

II. Description of Petition and Relevant Regulations

On October 18, 1994, EPA received a petition from the ISK Biosciences Corporation to remove monosodium methanearsonate (MSMA) and disodium methanearsonate (DSMA) from the list of toxic chemicals subject to the requirements of section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). Specifically, the petition requests that MSMA and DSMA be excluded from the arsenic compounds category which is subject to annual release reporting requirements under EPCRA section 313. The petitioner contends that MSMA and DSMA should be deleted from the EPCRA section 313 arsenic compounds category because, in their opinion, the available data show that neither of these substances meet the criteria for inclusion on the list of EPCRA section 313 chemicals. The petitioner did not provide EPA with any of the studies cited in the petition.

MSMA and DSMA are organic arsenicals. EPA regulates arsenic and certain arsenic compounds under the Clean Air Act (CAA), Clean Water Act (CWA), Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), Resource Conservation and Recovery Act (RCRA), Safe Drinking Water Act (SDWA), and EPCRA. Arsenic emissions from smelters and other facilities are regulated under the CAA. Under the CWA, guidelines have been established controlling the environmental release of arsenic compounds for certain industrial categories. Reportable quantities have been established under CERCLA and CWA for arsenic and certain arsenic compounds. Under RCRA, EPA regulates arsenic as a hazardous constituent of waste. The SDWA limits arsenic in drinking water to a maximum level of 0.05 milligrams/liter (mg/L). EPA and the National Toxicology Program have classified inorganic arsenicals, including arsenate, as known human carcinogens.

III. EPA's Technical Review of Monosodium Methanearsonate (MSMA) and Disodium Methanearsonate (DSMA)

The technical review of the petition to delete MSMA and DSMA included an analysis of the chemistry, health, ecological and environmental fate data known for these substances and for methanearsonic acid (MAA), the un-ionized form of MSMA and DSMA. From a human health standpoint, MSMA and DSMA will exist largely as MAA (their un-ionized form) under acidic conditions, such as those found in the gastrointestinal tract. Also, following absorption into the systemic circulation, MSMA, DSMA, and MAA will exist in an identical ionized form at the physiological pH of 7.4, regardless of their route of administration. EPA and the ISK Biosciences Corporation (as indicated in their petition) believe, therefore, that mammalian toxicity data on MAA should be suitable to assess the toxicity of MSMA and DSMA in cases where such data on the latter two substances are not available.

A. Chemistry

Monosodium methanearsonate ($CH_4AsO_3.Na$; CAS No. 2163–80–6), also known as MSMA, and disodium methanearsonate ($CH_3AsO_3.2Na$; CAS No. 144–21–8), also known as DSMA, are the monosodium and disodium salts, respectively, of methanearsonic acid (also known as MAA). MSMA, DSMA, and MAA are often refered to as organic arsenicals, because they each contain a methyl ($–CH_3$) group. Both MSMA and DSMA are highly water soluble crystalline solids, and are used as herbicides for the postemergent control of grassy weeds in cotton, sugarcane, nonbearing orchards, citrus groves, lawns, turf, and in noncrop areas. The predominant use of MSMA and DSMA is for postemergent control of Johnsongrass and other grassy weeds prior to planting cotton.

B. Toxicological Evaluation

Information on the health and environmental effects of MSMA, DSMA, and MAA were obtained from the following sources: a 1993 Agency for Toxic Substances and Disease Registry

document entitled *Toxicological Profile for Arsenic (Update)* (Refs. 2, 15, and 30); a 1984 EPA document entitled *Health Assessment Document for Arsenic* (Ref. 7); a 1994 National Toxicology Program document entitled *Seventh Annual Report on Carcinogens: 1994 Summary* (Ref. 32); studies obtained from EPA's Office of Pesticide Programs (Ref. 8, 10, 12–14, 16 and 19–24); and studies found in the literature (Refs. 1, 3–6, 9, 11, 17, 18, 25, 26, 28, 29, and 31). Specifically, toxicological and related data on MSMA, DSMA, and MAA (the un-ionized or free acid form of MSMA and DSMA) were reviewed for evidence indicating: (1) Bioavailability and metabolism to inorganic arsenic; (2) acute toxicity; (3) chronic toxicity; (4) carcinogenicity; and (5) ecotoxicity.

1. *Bioavailability and metabolism*. Shah and co-workers investigated the absorption of MSMA and DSMA from the skin of young and adult rats (Ref. 1). Both substances were very poorly absorbed through the skin of all animals tested, particularly in the younger animals. No human studies pertaining to the dermal absorption of MSMA and DSMA were found. However, human and animal studies involving dermal exposure to organic arsenicals closely related to MSMA and DSMA indicate that these substances are poorly absorbed from the skin (Ref. 2).

Shariatpanahi and Anderson found that MSMA is readily absorbed from the gastrointestinal tract following oral administration of the substance to sheep and goats (Ref. 3). These investigators observed that 90 percent of the arsenic content of orally administered MSMA was excreted in the urine of test animals within 120 hours of administration. Small amounts were excreted in the feces. Arsenic accumulation in the tissues was low. It is noteworthy to point out that metabolism of MSMA to other forms of arsenic (e.g., inorganic) was not studied in this investigation, and only total arsenic concentrations were determined. Specific assays for MSMA or other specific arsenicals were not used. The results of this study were consistent with the results of another study, which investigated the absorption, distribution and elimination of MSMA in New Zealand white rabbits following multiple oral doses of the substance (Ref. 4).

A 1991 EPA study investigated the absorption, distribution, and elimination of radiolabeled MSMA ([^{14}C-methyl]MSMA) in rats (Ref. 8). Four groups of rats were used in this study. Each group consisted of male and female animals. One group received a single oral dose of [^{14}C-methyl]MSMA at 5 milligrams per kilogram (mg/kg), while another group received a single oral dose of 200 mg/kg. A third group received a single oral dose of MSMA at 5 mg/kg every day for 14 consecutive days, followed by a single oral dose of [^{14}C-methyl]MSMA. A fourth group received a single oral dose of MSMA at 5 mg/kg every day for 14 consecutive days, followed by a single intravenous dose of [^{14}C-methyl]MSMA at 5 mg/kg or a single oral dose of [^{14}C-methyl]MSMA at 5 mg/kg. In each of the test groups, the majority (79.7 to 97.4 percent) of administered [^{14}C-methyl]MSMA was excreted unchanged in the urine and feces within 7 days following dosing. Radiolabeled carbon dioxide ($^{14}CO_2$) was detected in all treated groups, and accounted for less than 0.5 percent of administered [^{14}C-methyl]MSMA. An unidentified metabolite, which accounted for 1.8 to 6.7 percent of administered [^{14}C-methyl]MSMA, was detected in the urine and feces of all test groups except the group receiving 200 mg/kg [^{14}C-methyl]MSMA orally. Another unidentified metabolite, accounting for 0.7 percent of administered [^{14}C-methyl]MSMA was found in only one of the test groups.

Buchet, et al., investigated the oral absorption and metabolism of MSMA in humans (Ref. 9). In this study four adult males were administered MSMA in a single oral dose equivalent to 500 micrograms of arsenic. The MSMA was well absorbed, and nearly 70 percent of the dose was excreted unchanged in the urine within 24 hours, while a small percentage was excreted in the urine as cacodylic acid (dimethylarsonic acid). Within 96 hours, 78.3 percent of the MSMA dose was excreted in the urine unchanged and approximately 13 percent was excreted in the urine as cacodylic acid. No inorganic arsenic metabolites were identified (Ref. 9).

Stevens and co-workers investigated the toxicity of DSMA in rats and mice exposed to the substance at aerosolized doses of 6.1 mg/L (for the rats) and 6.9 mg/L (for the mice) for 2 hours (Ref. 5). Total arsenic levels from body fluids or tissues were not determined, but the authors believed that some absorption of DSMA occurred from the lung.

2. *Acute toxicity*. Several rat oral median lethal dose (LD_{50}) values for MSMA and DSMA were found in the literature. For DSMA, the rat oral LD_{50} values, in mg/kg, are (male, female): 2,005, 1,842 (Ref. 10); and 928, 821 (Ref. 11). For MSMA, the rat oral LD_{50} values are 1,105 and 1,059 mg/kg for males and females respectively (Ref. 11). These data are consistent with rat median lethal dose data provided by the petitioner.

Neither DSMA or MSMA produced significant toxicity in rabbits when applied dermally at a dose of 2,000 mg/kg for 24 hours (Refs. 12 and 13). In the MSMA- treated group, however, there was evidence of decreased muscle tone noted in approximately 50 percent of the animals on observation days 5 through 9 (Ref. 13). By observation day 10, muscle tone was normal in all treated animals.

In a study investigating the acute inhalation toxicology of DSMA, mice and rats were placed in chambers and were exposed for 2-hours to experimental atmospheres containing DSMA in concentrations of at least 8.6 mg/L (Ref. 5). The animals were observed to have respiratory distress during the 2–hour exposure period, but recovered rapidly after removal from exposure. Respiratory irritation was the main toxicological effect observed. No mortality occurred in either species. These results are consistent with those of a similar DSMA inhalation study (Ref. 14). In the latter study, rats were exposed to experimental atmospheres of 6.0 mg/L DSMA for 4 hours. No deaths were noted during the 14-day post-exposure observation period. Clinical signs noted on the first day post-exposure included body weight loss and respiratory irritation. Lung discoloration in 40 percent of the animals was also noted (Ref. 14).

3. *Chronic toxicity*. Numerous studies investigating the chronic toxicity of inorganic arsenicals have been conducted. Relatively few studies, however, have investigated the potential for chronic toxicity of organic arsenicals such as MSMA, DSMA, and MAA. The limited amount of published mammalian toxicity data on these substances have been summarized (Ref. 15). In addition, the petitioner summarized unpublished chronic toxicity data that are available from EPA's Office of Pesticide Programs. Some of these studies will be briefly discussed here.

In a study investigating the health effects resulting from chronic administration of MAA, four groups of rats (each group consisting of 60 males and 60 females) were fed diets containing 0 (the control group), 50, 400, and 1,300 parts per million (ppm) of MAA for 104 weeks (Ref. 16). Mortality was significantly increased in animals fed diets containing 1,300 ppm MAA. Because of this increased mortality, the 1,300 ppm concentration was reduced to 1,000 ppm during week 53, and to 800 ppm at week 60. Animals in this group had acute gastrointestinal inflammation, ulceration and perforation of the large intestines, and

evidence of acute or chronic peritonitis. These observations were less evident in animals receiving diets containing 400 ppm MAA. A reduction in the weight of the thyroid glands was noted in female rats receiving the 1,300 ppm and 400 ppm MAA diets, and in male rats receiving 400 ppm MAA. Thickening of the thyroid follicular epithelium was noted in both sexes receiving the 1,300 and 400 ppm MAA diets. An increased incidence of parathyroid adenomas may have occurred in male rats receiving the 1,300 and 400 ppm MAA diets. This observation is discussed in greater detail in unit III.B.4 below.

Jaghabir and co-workers investigated the health effects of low dose MSMA exposure in white rabbits (Ref. 17). Three groups of rabbits were used in this study. The first group consisted of four rabbits, which were administered MSMA orally once a day for 40 days at a dose of 5 mg/kg. The second group consisted of two animals, which were administered MSMA at a dose of 10 mg/kg orally for 40 days. The third group (also consisting of two animals) was similarly administered MSMA at a dose of 20 mg/kg. A control group of two animals was also used. All animals were euthanized and examined at the end of the 40-day test period. Post-mortem examination revealed distension and hyperemia of the digestive tract, intestinal wall fragility, enlargement of the kidneys, and intense peripheral hyperemia of the livers of all animals administered MSMA. Histopathological findings revealed hepatic cellular degeneration, periportal inflammation, renal tubular nephrosis, interstitial nephritis and vascular hyperemia. These observations are consistent with the observations of similar investigations cited in the study (Ref. 17), and indicate that low dose exposure to MSMA can result in tissue damage.

Results from several studies suggest that MSMA and DSMA may cause developmental and reproductive toxicity. In an investigation reported by Prukop and Savage (Ref. 18) it was observed that mice administered MSMA at doses of either 11.9 or 119 mg/kg orally three times a week for 10 weeks had decreased reproductive capabilities (males) and altered reproductive behavior (females). In another study, groups of beagle dogs were administered MAA at 0 (control), 2.5, 8 or 40 mg/kg/day for 1 week, followed by administration of 0 (control animals), 2, 8, or 35 mg/kg/day for an additional 51 weeks (Ref. 19). Decreased body weight gain occurred in male dogs that received the 35 mg/kg/day dose, and in females that received the 8 or 35 mg/kg/day doses. The incidence of female animals showing no corpora lutea were increased in the 35 mg/kg/day animal test group when compared to control animals (Ref. 19).

In another study, groups of inseminated New Zealand white rabbits were administered MAA orally at doses of 0 (control animals), 1, 3, 7, and 12 mg/kg/day during days 7 thru 19 of gestation (Ref. 20). Maternal toxicity at 12 mg/kg/day was characterized by abortion and decreases in mean absolute body weight, body weight gain, and food consumption. Decreases in body weight gain and food consumption were also noted in the 7 mg/kg/day test group. An increased incidence of skeletal variations was noted in the offspring of animals administered MAA at 12 mg/kg/day. These skeletal variations consisited of increased numbers of ribs and thoracic and lumbar vertebrae (Ref. 20).

In a multigeneration toxicity study, groups of male rats were fed MAA at doses of 0 (control group), 5.8, 17.8, or 63.5 mg/kg/day, and groups of female rats were fed 0 (control group), 7.5, 22.5, and 77.6 mg/kg/day for 14 weeks. Animals were mated, and mated females continued to receive MAA throughout gestation and lactation periods. Among other toxic effects noted in the 63.5 (males) and 77.6 (females) mg/kg/day dose groups, decreased pregnancy rates, male fertility rates, and decreased weights of the prostate and testes also occurred for parenteral generations F0 and F1 (Ref. 21).

A study was conducted in which MSMA was administered orally to pregnant female rats at doses of 0, 10, 100, or 500 mg/kg once daily on gestation days 6 through 15. No developmental effects were noted in the offspring of animals receiving 10 or 100 mg/kg MSMA. Decreased body weight gain and food consumption were noted in animals receiving 500 mg/kg MSMA. The fetuses of this test group had lower mean fetal body weights when compared to control animals (Ref. 22).

Based on the results of the animal studies discussed in the preceding paragraphs, EPA has determined that chronic exposure to either MSMA or DSMA can reasonably be anticipated to cause gastrointestinal toxicity, thyrotoxicity, nephrotoxicity, hepatotoxicity, and developmental and reproductive toxicity in humans.

4. *Carcinogenicity*. Data regarding the carcinogenic potential of MSMA, DSMA, or MAA are extremely limited. In a study involving chronic administration of MAA, four groups of rats, each group containing 60 males and 60 females, were fed diets containing 0 (the control group), 50, 400, and 1,300 ppm of MAA for 104 weeks (Ref. 16). Because of excessive mortality, the 1,300 ppm concentration was reduced to 1,000 ppm during week 53, and to 800 ppm at week 60. An increased incidence of parathyroid adenomas was observed in males receiving the 1,300 ppm (4/45) and 400 ppm (4/53) MAA diets, and in females (4/45) receiving the 1,300 ppm MAA diets. Evidence of parathyroid adenoma was also found in 1 of 52 male control rats. The increased incidence of parathyroid adenomas in the treated groups was found to be statistically significant relative to the control animals.

As stated previously, cacodylic acid (dimethylarsonic acid, CAS No. 75–60–5) is a known human metabolite of MSMA: Buchet and co-workers found that in human volunteers approximately 13 percent of an orally-administered dose of MSMA is converted into cacodylic acid (Ref 9). EPA has recently categorized cacodylic acid as a Group B2 or probable human carcinogen (Ref. 23). EPA's classification of cacodylic acid as a Group B2 carcinogen was based on the results of two studies. The first was a 2-year dietary feeding study in male and female rats receiving cacodylic acid at doses of 0, 2, 10, 40, and 100 ppm. An increase in urinary transitional cell bladder tumors with hyperplasia was noted in both sexes. The second study was a two year feeding study in which mice were fed diets containing 0, 8, 40, 200, and 500 ppm cacodylic acid. An increase in fibrosarcomas was noted in female mice fed 500 ppm cacodylic acid (23).

EPA is unaware of any human epidemiological studies pertaining to MSMA, DSMA or MAA and cancer. However, because MAA has been associated with a possible increased incidence of parathyroid adenomas in experimental animals, and cacodylic acid (a known human metabolite of MSMA) is categorized by EPA as a probable human (B2) carcinogen, EPA believes that it is reasonable to assume that MSMA, DSMA, and MAA may be potential human carcinogens.

5. *Ecotoxicity*. EPA has calculated a bobwhite quail oral LD_{50} of 425.2 mg MSMA/kg (Ref. 24). This value was based on 51 percent active ingredient (MSMA) in the test material. EPA concluded from this study that MSMA is moderately toxic to bobwhite quail. Based on the same study, the petitioner gave an LD_{50} value of MSMA in bobwhite quail as 834 mg/kg. This value, however, was not adjusted to take into account that the test product contains only 51 percent MSMA. Moffett, et al., have investigated the

toxicity of MSMA and DSMA in honeybees (Refs. 25 and 26). In one of the studies, MSMA was sprayed onto honeybees at a rate of 4 lb/acre in a carrier volume of 20 gallons/acre (Ref. 25). Mortalities were monitored for 14 days. Bee mortalities reached 50 percent after only approximately 2 days. Consequently, the investigators concluded that MSMA is highly toxic to honeybees (Ref. 25). In the other study MSMA and DSMA were fed to newly emerged honeybees in a 60 percent sucrose syrup (Ref. 26). Half-lives (i.e. the number of days for 50 percent mortality to occur) for MSMA and DSMA were 5.4 and 4.4 days at 100 parts per million by weight (ppmw) concentrations, and 2.5 and 1.2 days at 1,000 ppmw, respectively. The investigators concluded that both chemicals are ''extremely toxic'' at 100 and 1,000 ppmw. Of the 14 herbicides tested in this study, MSMA and DSMA were found to be the most toxic to honeybees (Ref. 26). EPA does not yet have toxicity criteria for honeybees in EPA's Draft Hazard Assessment Guidelines for Listing Chemicals on the Toxic Release Inventory (Ref. 27). EPA believes, however, that the results of the studies described above strongly indicate that MSMA and DSMA are quite toxic to honeybees.

The petitioner stated that for MSMA the acute median effective concentration (EC_{50}) producing lethality in the freshwater alga *Selenastrum capricornutum* is 7.6 mg/L. The petitioner concluded (page 68 of the petition) from this and other information that MSMA and DSMA are ''* * *.not particularly toxic to aquatic life * * *.'' However, based on the draft criteria developed by EPA to assess the hazard of chemical substances, EPA considers MSMA to be moderately toxic to aquatic life because the algal acute EC_{50} value for MSMA is between 100 micrograms per liter (ug/L) and 10 mg/L, the EC_{50} range considered by EPA to be moderately toxic for aquatic biota (Ref. 27). Other aquatic toxicity test data mentioned in the petition also indicate MSMA and DSMA are moderately acutely toxic (i.e., have EC_{50} or LC_{50} [median lethal concentration] values between 100 ug/L and 10 mg/L) to aquatic biota. The 96-h LC_{50} of MSMA in bluegill, for example, is 4.2 mg/L.

EPA obtained MSMA and DSMA aquatic toxicity data not mentioned by the petitioner (Ref. 28). The 28-day daphnid LC_0 (zero percent lethal concentration) value for DSMA is 0.83 mg/L. The LC_0 for DSMA in two species of invertebrates (a snail and a stonefly) and rainbow trout was found to be 0.97 mg/L (Ref. 28). A 28-day LC_{40} (40 percent lethal concentration) value of 0.97 mg/L DSMA was reported for a gammarid amphipod invertebrate. In bluegills, the 96-h LC_{50} for MSMA was found to be 1.9 mg/L. These data indicate that the toxicity of MSMA and DSMA to aquatic species is greater than that implied by the petitioner.

C. Environmental Fate

Anthropogenic input of arsenic into the environment occurs through smelting, coal burning, and the use of arsenical herbicides (e.g., MSMA and DSMA) (Refs. 29 and 30). Numerous investigators have studied the environmental fate of arsenic-containing substances, including MSMA and DSMA. Results from these studies have been summarized (Refs. 29, 30, and 31). Arsenic-containing substances such as MSMA, DSMA, and MAA undergo chemical and biochemical transformations in the environment that include oxidation, reduction, and methylation. These transformations are largely controlled by soil, sediment absorption/desorption processes, and affect the overall environmental distribution of arsenic-containing substances (Refs. 29, 30, and 31). Following their release into the environment, MAA, MSMA, and DSMA bind reversibly to ferrous and aluminum oxides contained on the surfaces of clay particles of soils and sediments. The bound form of these substances are insoluble in water, and exist in equilibrium with their unbound, soluble forms in the water present in soils and sediments. While unbound, MAA, MSMA, and DSMA undergo a cascade of biotic transformations that include oxidation, reduction, methylation, and demethylation (Ref. 31). Specifically, MAA, MSMA, and DSMA undergo oxidative demethylation to arsenate (H_2AsO_4-), an inorganic form of arsenic, and reductive methylation to cacodylic acid. The arsenate can be methylated back to MAA, and the two species will exist in equilibrium. Cacodylic acid can undergo further methylation to dimethylarsine or trimethylarsine, which will exist in equilibrium with cacodylic acid. These alkylarsine products volatilize from the soils and waters in which they were formed and enter the atmosphere. While in the atmosphere the alkylarsines can be transported to other locations, and the transformation cascade is repeated: the alkylarsines are oxidized back to cacodylic acid, MAA, and arsenate (Refs. 29–31). Thus, anthropogenic releases of MSMA or DSMA may indirectly lead to increased arsenic concentrations in areas where direct anthropogenic releases of these substances do not occur (Refs. 29–31). Terrestrial plants may accumulate arsenic-containing substances by root uptake from soils or by absorption of airborne arsenic deposited on plant leaves (Ref. 30).

The predominant form of arsenic in surface waters (e.g., drinking waters, sea waters, etc.) is usually arsenate (H_2AsO_4-), an inorganic form of arsenic. Arsenate in surface waters can result from (or enter into) the transformation cascade described in the preceding paragraph. Above average exposure of the general population to arsenic from drinking waters is possible in areas of high natural arsenic levels in ground waters, or elevated arsenic levels in drinking waters due to industrial discharges, application of arsenic-containing pesticides, or leaching from hazardous waste facilities (Ref. 30). Individuals living in the vicinity of large smelters and other industrial emitters of arsenic substances may be exposed to greater than average amounts of arsenate as a result of environmental transformation of organic (e.g., MSMA or DSMA) or inorganic arsenic substances to arsenate (Ref. 30).

Arsenate is an inorganic form of arsenic. An association between skin cancer and consumption of drinking water containing inorganic arsenic has been observed and confirmed (Ref. 32). Epidemiologic studies in areas where drinking waters containing inorganic arsenic concentrations ranging from 0.35 to 1.14 mg/L indicate elevated risks for cancers of the urinary bladder, kidney, skin, liver, lung, and colon in both men and women (Ref. 32). Increased incidences of cancer in individuals occupationally exposed to inorganic forms of arsenic have also been confirmed (Ref. 32). Because of these findings and the findings from other studies regarding human exposure to inorganic forms of arsenic and increased incidences of cancer, the National Toxicology Program categorizes arsenic and certain arsenic compounds (e.g., arsenate) as known human carcinogens (Ref. 32). EPA also categorizes inorganic arsenicals, including arsenate, as known human (Group A) carcinogens. The categorization by EPA of cacodylic acid as a Group B2 (probable human) carcinogen was discussed in unit III.B.4. above. Thus, releases of MSMA or DSMA into the environment will lead to the formation of arsenate and cacodylic acid, which have been categorized by the National Toxicology Program and EPA as carcinogens.

D. Technical Summary

MSMA and DSMA are highly water soluble organic arsenicals that are used as herbicides for the postemergent control of grassy weeds. MSMA and DSMA are poorly absorbed from the skin and lung, and well absorbed from the gastrointestinal tract. In the gastrointestinal tract, both MSMA and DSMA are expected to exist largely as MAA. Based on human and animal studies, MAA, MSMA, and DSMA are expected to be completely absorbed and widely distributed in humans following oral administration. In humans, MSMA is excreted largely unchanged in the urine, and approximately 13 percent is metabolized to cacodylic acid. MSMA and DSMA are not believed to be metabolized to inorganic arsenicals in humans.

The mammalian LD_{50} values of MSMA and DSMA following acute oral exposure are quite high, indicating that these substances have a low order of acute lethality. Some animal studies indicate, however, that chronic exposure to lower doses of MSMA or DSMA produce gastrointestinal toxicity, thyrotoxicity, nephrotoxicity, hepatotoxicity, developmental and reproductive toxicity. Data regarding the carcinogenic potential of MSMA, DSMA, or MAA are extremely limited. A suggestion of an increased incidence of parathyroid adenomas was observed in rats administered MAA in their diets. Cacodylic acid, a known human metabolite of MSMA, is categorized by EPA as a Group B2 (probable human) carcinogen. Because MSMA and, presumably, DSMA are converted into cacodylic acid, MSMA and DSMA may also be carcinogenic in humans.

MSMA and DSMA are moderately toxic to terrestrial and aquatic species that include, among others, bobwhite quail, honeybees, freshwater algae, fish, and daphnids.

In the environment, MSMA, DSMA, and MAA undergo a cascade of chemical and biochemical transformations that are controlled by soil, sediment adsorption/desorption processes. In this cascade, MSMA, DSMA, and MAA are converted into arsenate (inorganic arsenic), cacodylic acid, dimethylarsine and trimethylarsine. Inorganic arsenicals, including arsenate, are categorized by the National Toxicology Program and EPA as known human carcinogens. In addition, cacodylic acid is categorized by EPA as a Group B2 or probable human carcinogen.

IV. Rationale for Denial

EPA is denying the petition to delete MSMA and DSMA from the section 313 list of toxic chemicals. This denial is based on the Agency's determination that MSMA and DSMA: (1) May cause chronic toxic effects in humans; and (2) are potential carcinogens. In regard to the latter point, EPA has determined that because MSMA and, undoubtedly, DSMA are metabolized in humans to cacodylic acid (a probable human carcinogen), it is reasonable to assume that MSMA and DSMA are also probable human carcinogens. In addition, it has been demonstrated that MSMA and DSMA are converted into arsenate (an inorganic arsenic) and cacodylic acid in soils and sediments. Inorganic arsenics, including arsenate, are categorized by the National Toxicology Program and EPA as known human carcinogens. EPA concludes that MSMA and DSMA meet the EPCRA section 313(d)(2)(B) criteria because they can reasonably be anticipated to cause cancer in humans as a result of their metabolism to cacodylic acid or their environmental conversion to cacodylic acid and arsenate. Thus, in accordance with EPCRA section 313(d)(2), EPA has determined that MSMA and DSMA exhibit high chronic toxicity and, therefore, should not be deleted from the section 313 list of toxic chemicals.

EPA's denial of the petition to delist MSMA and DSMA from the section 313 list of toxic chemicals is based, in part, on the conversion of these substances to substances that are regarded as being either known or probable human carcinogens, and is consistent with past Agency decisions regarding section 313 delisting petitions. [See, e.g., Chromium (III) Oxide (56 FR 58859, November 22, 1991)]

V. References

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VI. Administrative Record

The record supporting this decision is contained in docket control number OPPTS–400092. All documents, including an index of the docket, are available to the public in the TSCA NonConfidential Information Center (NCIC), also known as the Public Docket Office, from noon to 4 p.m., Monday through Friday, excluding legal holidays. The TSCA NCIC is located at EPA Headquarters, Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

List of Subjects in 40 CFR Part 372

Environmental protection, Chemicals, Community right-to-know, Reporting and recordkeeping requirements, and Toxic chemicals.

Dated: April 14, 1995.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 95–9782 Filed 4–17–95; 12:11 pm]

BILLING CODE 6560–50–F

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 501, 503, 505, 506, 507, 552, and 570

[GSAR Notice 5–399]

RIN–AF67

General Services Administration Acquisition Regulation; Leasing Real Property

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) invites written comments on a proposal to amend the General Services Administration Acquisition Regulation (GSAR) to implement various provisions of the Federal Acquisition Streamlining Act of 1994 as they apply to the acquisition of leasehold interests in real property and to implement recommendation of a GSA process re-engineering team for streamlining and/or improving the lease acquisition process.

DATES: Comments on the proposed rule should be submitted by June 19, 1995 to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to Ms. Marjorie Ashby, General Services Administration, Office of GSA Acquisition Policy, 18th & F Streets, NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Tom Wiznowski, Office of GSA Acquisition Policy, (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule implements several provisions of the Federal Acquisition Streamlining Act (FASA), Pub. L. 103–355, October 13, 1994 as it applies to the acquisition of leasehold interests in real property. Most of the provisions of FASA which are implemented in the Federal Acquisition Regulation (FAR) will also apply to leases of real property because the GSAR incorporates provision of the FAR that apply to leases of real property by reference. Other provisions of FASA are unique to leases of real property and are addressed in Part 570 of the GSAR. The most significant provisions of FASA that are implemented through changes in Part 570 are:

(1) Section 4402 of FASA amended the Federal Property and Administrative Services Act to authorize the Administrator of General Services to prescribe regulations that provide special simplified procedures for acquisitions of leasehold interests in real property at rental rates that do not exceed the simplified acquisition threshold. For purposes of establishing such procedures the rental rate or rates under a multiyear lease do not exceed the simplified acquisition threshold if the average annual rent payable for the period of the lease does not exceed the simplified acquisition threshold ($100,000).

(2) Section 1061 of FASA amended the Federal Property and Administrative Services Act to provide for disclosure of all significant evaluation factors and subfactors and to provide for disclosure to offerors whether all evaluation factors other than cost or price, when combined, are significantly more important than cost or price; approximately equal in importance to cost or price; or significantly less important than cost or price.

(3) Section 1063 of FASA amended the Federal Property and Administrative Services Act to provide for notification, in writing or by electronic means, of award to unsuccessful offerors within 3 days after the date of contract award.

(4) Section 1064 of FASA amended the Federal Property and Administrative Services Act to provide for post-award debriefings and outlined information to be disclosed in such debriefings. The law also provides for each solicitation for competitive proposals to include a statement that described the information that may be disclosed in post-award debriefings.

This proposed rule also implements several recommendations made by a GSA process re-engineering team for improving the procedures for acquiring leasehold interests in real property.

B. Executive Order 12866

This proposed rule was submitted to the Office of Management and Budget under Executive Order 12866.

C. Regulatory Flexibility Act

This proposed rule is not expected to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because it will have a beneficial impact on all offerors, including small business concerns. The proposed rule substantially simplifies the acquisition process for leases of real property entered into by the General Services Administration making it easier for offerors to do business with GSA. An Initial Regulatory Analysis has, therefore, not been performed. Comments from small entities concerning this proposed rule will be considered in accordance with 5 U.S.C. 610.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the GSAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3502, *et seq.*

List of Subjects in 48 CFR Parts 501, 503, 505, 506, 507, 552, and 570

Government procurement.

Accordingly, it is proposed that 48 CFR Parts 501, 503, 505, 506, 507, 552, and 570 are amended as follows:

1. The authority citation for 48 CFR Parts 501, 503, 505, 506, 507, 552, and 570 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 501—GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION SYSTEM

2. Section 501.103 is amended by revising paragraph (b) to read as follows:

501.103 Applicability.

* * * * *

(b) Parts 501, 502, 503, 505, 506, 519, 530, 533, 552, 553 and 570; part 504, subparts 504.2 and 504.9; part 509, subpart 509.4; part 515, subpart 515.1; part 522, subparts 522.8, 522.13, and 522.14; and part 532, subparts 532.1, 532.4, 532.6, 532.8 and 532.9 apply to leases of real property. Other provisions of the (GSAR) 48 CFR Chapter 5 do not apply to leases of real property unless a specific cross-reference is made in part 570.

* * * * *

PART 503—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTERESTS

3. Section 503.104–10 is amended by revising paragraph (a) and (b)(3) to read as follows:

503.104–10 Solicitation provisions and contract clauses.

(a) The contracting officer may insert the provision at 552.203–71, Prohibited Conduct, in solicitations for the acquisition of leasehold interests in real property if there is a need to inform prospective offerors of certain conduct which is prohibited by law.

(b) * * *

(3) Simplified procedures are being used (see 570.2).

* * * * *

PART 505—PUBLICIZING CONTRACT ACTIONS

4. Section 505.101 is amended by revising paragraph (c) introductory text and (c)(2) to read as follows:

505.101 Methods of disseminating information.

* * * * *

(c) Unless exempt under (FAR) 48 CFR 5.202 or 505.202, proposed acquisitions must be publicized in local newspapers or posted on GSA's electronic bulletin board for acquisition programs (To access, set your communications software to 9600 or lower baud, no parity, 8 data bits, and 1 stop bit. Dial 816–926–3387) when the acquisition is for:

* * * * *

(2) Leasehold interests in real property and exceeds the simplified lease acquisition threshold (see 570.102).

5. Section 505.202 is amended by revising paragraph (a) introductory text and by removing paragraph (b)(1) and redesignating paragraphs (b)(2) and (b)(3) as (b)(1) and (b)(2) to read as follows;

505.202 Exceptions.

* * * * *

(a) Advertising in local newspapers or posting on GSA's electronic bulletin board for acquisition programs (To access, set your communications software to 9600 or lower baud, no parity, 8 data bits, and 1 stop bit. Dial 816–926–3387) is more appropriate than synopsizing in the *Commerce Business Daily* (CBD) for proposed acquisitions of—

* * * * *

6. Section 505.203 is amended by inserting the words ''or be posted on GSA's electronic bulletin board for acquisition programs'' in paragraph (a) introductory text immediately following the word ''newspapers'' and by revising paragraph (b) to read as follows:

505.203 Publicizing and response time.

* * * * *

(b) The publicizing and response times in paragraph (a) do not apply to proposed acquisition of leasehold interests in real property being conducted using simplified lease acquisition procedures (see 570.2). In such cases, the contracting officer may establish response times appropriate for the individual acquisitions involved.

PART 506—COMPETITION REQUIREMENTS

7. Section 506.001 is added to read as follows:

506.001 Applicability.

This part and (FAR) 48 CFR Part 6 do not apply to acquisitions of leasehold interests in real property awarded using the simplified procedures of part 570, subpart 570.2.

PART 507—ACQUISITION PLANNING

8. Section 507.100 is removed.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

9. Section 552.270–1 is amended to revise the prescription for use of the provision to read as follows:

552.270–1 Preparation of offers.

As prescribed in 570.702, insert the following provision:

* * * * *

10. Section 552.270–2 is amended to revise the prescription for use of the provision to read as follows:

552.270–2 Explanation to prospective offerors.

As prescribed in 570.702, insert the following provision:

* * * * *

11. Section 552.270–3 is amended by revising the prescriptive language before the provision, by revising the date of the provision, by revising paragraph (a) introductory text of the provision, and by adding an Alternate I to read as follows:

552.270–3 Late submissions, modifications, and withdrawals of offers.

As prescribed in 570.702, insert the following provision:

Late Submissions, Modifications, and Withdrawals of Offers (XXX 1995)

(a) Any offer received at the office designated in the solicitation after the exact time specified for receipt of initial offers will not be considered unless it is received before award is made and it—

* * * * *

Alternate I (XXX 1995)

As prescribed in 570.702, substitute the following paragraph for paragraph (a) of the basic clause:

(a) Any offer received at the office designated in the solicitation after the exact time specified for receipt of best and final offers will not be considered unless it is received before award is made and it—

12. Section 552.270–4 is amended to revise the prescription for use of the provision to read as follows:

552.270–4 Historic preference.

As prescribed in 570.702, insert the following provision:

* * * * *

13. Section 552.270–5 is amended to revise the prescription for use of the provision to read as follows:

552.270–5 Lease award.

As prescribed in 570.702, insert the following provision:

* * * * *

14. Section 552.270–6 is amended to revise the prescription for use of the provision to read as follows:

552.270–6 Parties to execute lease.

As prescribed in 570.702, insert the following provision:

* * * * *

15. Section 552.270–10 is amended to revise the prescription for use of the clause to read as follows:

552.270–10 Definitions.

As prescribed in 570.703, insert the following provision:

* * * * *

16. Section 552.270–11 is amended to revise the prescription for use of the clause to read as follows:

552.270–11 Subletting and assignment.

As prescribed in 570.703, insert the following provision:

* * * * *

17. Section 552.270–12 is amended to revise the prescription for use of the clause to read as follows:

552.270–12 Maintenance of building and premises—Right of entry.

As prescribed in 570.703, insert the following provision:

* * * * *

18. Section 552.270–13 is amended to revise the prescription for use of the clause to read as follows:

552.270–13 Fire and casualty damage.

As prescribed in 570.703, insert the following provision:

* * * * *

19. Section 552.270–15 is amended to revise the prescription for use of the clause to read as follows:

552.270–15 Compliance with applicable law.

As prescribed in 570.703, insert the following provision:

* * * * *

20. Section 552.270–16 is amended to revise the prescription for use of the clause to read as follows:

552.270–16 Inspection—Right of entry.

As prescribed in 570.703, insert the following provision:

* * * * *

21. Section 552.270–17 is amended to revise the prescription for use of the clause to read as follows:

552.270–17 Failure in performance.

As prescribed in 570.703, insert the following provision:

* * * * *

22. Section 552.270–18 is amended to revise the prescription for use of the clause to read as follows:

552.270–18 Successors bound.

As prescribed in 570.703, insert the following provision:

* * * * *

23. Section 552.270–19 is amended to revise the prescription for use of the clause to read as follows:

552.270–19 Alterations.

As prescribed in 570.703, insert the following provision:

* * * * *

24. Section 552.270–20 is amended to revise the prescription for use of the clause to read as follows:

552.270–20 Proposals for adjustment.

As prescribed in 570.703, insert the following provision:

* * * * *

25. Section 552.270–21 is amended by revising the date of the provision and paragraph (a) to read as follows:

552.270–21 Changes.

* * * * *

Changes (APR 1995)

(a) The Contracting Officer may at any time by written order, with the consent of the Lessor, make changes within the general scope of this lease in any one or more of the following:

(1) Specifications (including drawings and designs);

(2) Work or services;

(3) Facilities or space layout; or

(4) Amount of space.

* * * * *

26. Section 552.270–22 is amended to revise the prescription for use of the clause to read as follows:

552.270–22 Liquidated damages.

As prescribed in 570.703, insert the following provision:

* * * * *

27. Sections 552.270–23 and 552.270–24 are removed and reserved.

28. Section 552.270–25 is amended to revise the prescription for use of the clause to read as follows:

552.270–25 Adjustment for vacant premises.

As prescribed in 570.703, insert the following provision:

* * * * *

29. Section 552.270–27 is amended to revise the prescription for use of the clause to read as follows:

552.270–27 Delivery and condition.

As prescribed in 570.703, insert the following provision:

* * * * *

30. Section 552.270–28 is amended to revise the prescription for use of the clause to read as follows:

552.270–28 Default in delivery—Time extensions.

As prescribed in 570.703, insert the following provision:

* * * * *

31. Section 552.270–30 is amended to revise the prescription for use of the clause to read as follows:

552.270–30 Progressive occupancy.

As prescribed in 570.703, insert the following provision:

* * * * *

32. Section 552.270–31 is amended to revise the prescription for use of the clause to read as follows:

552.270–31 Measurement for payment.

As prescribed in 570.703, insert the following provision:

* * * * *

Section 552.270.32 is amended to revise the prescription for use of the clause to read as follows:

552.270–32 Effect of acceptance and occupancy.

As prescribed in 570.703, insert the following provision:

* * * * *

34. Section 552.270–33 is amended to revise the prescription for use of the clause to read as follows:

552.270–33 Default by lessor during the term.

As prescribed in 570.703, insert the following provision:

* * * * *

35. Section 552.270–34 is amended to revise the prescription for use of the clause to read as follows:

552.270–34 Subordination, nondisturbance and attornment.

As prescribed in 570.703, insert the following provision:

* * * * *

35a. Section 552.270–35 is amended to revise the prescription for use of the clause to read as follows:

552.270–35 Statement of lease.

As prescribed in 570.703, insert the following provision:

* * * * *

36. Section 552.270–36 is amended to revise the prescription for use of the clause to read as follows:

552.270–36 Substitution of tenant agency.

As prescribed in 570.703, insert the following provision:

* * * * *

37. Section 552.270–37 is amended to revise the prescription for use of the clause to read as follows:

552.270–37 No waiver.

As prescribed in 570.703, insert the following provision:

* * * * *

38. Section 552.270–38 is amended to revise the prescription for use of the clause to read as follows:

552.270–38 Integrated agreement.

As prescribed in 570.703, insert the following provision:

* * * * *

39. Section 552.270–39 is amended to revise the prescription for use of the clause to read as follows:

552.270–39 Mutuality of obligation.

As prescribed in 570.703, insert the following provision:

* * * * *

40. Section 552.270–40 is amended to revise the prescription for use of the clause to read as follows:

552.270–40 Asbestos and hazardous waste management.

As prescribed in 570.703, insert the following provision:

* * * * *

PART 570—ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY

41. Section 570.102 is amended by removing the definitions of ''Fair Rental'' and ''Rent and related services'' and by adding definitions for ''Rent'' and ''Simplified leasing acquisition threshold'' to read as follows:

570.102 Definitions.

* * * * *

Rent means the amount of consideration to be paid by the Government for use of land and buildings, or portions of buildings, under the lease, excluding the cost of any services such as heat, light, water, and janitorial service.

Simplified leasing acquisition threshold means $100,000 average annual rent for the term of the lease, including option periods.

* * * * *

42. Section 570.104 is removed.

43. Section 570.105 is redesignated as 570.104 and revised to read as follows:

570.104 Competition.

Unless the simplified procedures in 570.2 are used, the competition requirements of (FAR) 48 CFR Parts 6 and 506 apply to the acquisition of leasehold interests in real property.

44. Subpart 570.2 is revised to read as follows:

Subpart 570.2—Simplified Lease Acquisition Procedures

570.201 Definitions.
570.202 Purpose.
570.203 Policy.
570.204 Procedures.
570.204–1 Market survey.
570.204–2 Competition.
570.204–3 Soliciting offers.
570.204–4 Negotiation and award.
570.204–5 Inspection.

570.201 Definitions.

Simplified lease acquisition procedures mean the procedures described in this subpart for awarding leases with annualized rent at or below the simplified acquisitions threshold of $100,000, including options.

570.202 Purpose.

The purpose of this subpart is to prescribe simplified procedures for small leases in order to reduce administrative costs while providing for the efficient and economical acquisition of leasehold interests in real property.

570.203 Policy.

Simplified lease acquisition procedures should be used to the maximum extent practicable for actions at or below the simplified lease acquisition threshold.

570.204 Procedures.

570.204–1 Market survey.

A market survey should be conducted to identify potential sources. The contracting officer may use information available within GSA or from other available sources to identify locations that will meet the Government's minimum requirements.

570.204–2 Competition.

(a) When the lease is not expected to exceed the simplified lease acquisition threshold, the solicitation of at least three sources is considered to promote competition to the maximum extent practicable When repeated requirements for space occur in the same market, and if practicable, two sources not include din the most recent solicitation should be invited to submit offers.

(b) If only one source is solicited, the file should be documented with an explanation for the lack of competition.

570.204–3 Soliciting offers.

(a) Offers should be solicited by presenting each prospective offeror with a proposed short form lease or SFO which identifies all factors, including price or cost, and any significant subfactors that will be considered in awarding the lease and which states the relative importance the Government places on the evaluation factors or subfactors. In describing the evaluation factors to be considered, the solicitation shall clearly disclose whether all evaluation factors other than cost or price when combined, are significantly more important than cost or price; approximately equal in importance to cost or price; or significantly less important than cost or price. The offerors must be informed of minimum requirements that apply to particular evaluation factors and significant subfactors.

(b) The proposed lease or SFR should describe the Government's requirements and include, either in full text or by reference, applicable FAR provisions and contract clauses required by 570.701 and applicable GSAR provisions and clauses required by 570.702 and 570.703.

(c) Generally, the following items should be reviewed with prospective offerors:

(1) Measurement of space and the amount of space offered;

(2) Alterations or modifications, if any, to be made by the offeror as part of the rent;

(3) Overtime rate (if needed);

(4) Level and frequency of service and maintenance;

(5) Rental;

(6) Rates for utility and service operating cost, if applicable;

(7) Percentage of occupancy of the building, if a tax adjustment clause is included; and

(8) Unit priced items (e.g., electrical and telephone outlets) if included in the lease.

(d) Following review, prospective offerors should be instructed to complete the appropriate sections of the lease or SFO and submit the proposed lease or offer to the Government by a designated time established for receipt of offers.

570.204–4 Negotiation and award.

Offers should be evaluated in accordance with the solicitation. The contracting officer should evaluate the price and document the lease file to demonstrate that the proposed contract prices represent fair and reasonable prices. In cases where the total cost exceeds $500,000 cost and pricing data must be obtained unless the requirement is waived or one of the exemptions at (FAR) 48 CFR 15.804–2 applies. The market price exemption from submission of cost or pricing data may be applied to proposed leases where there is evidence that the price is based on an established market price for similar space leased to the general public. A market survey and/or an appraisal conducted in accordance with accepted real property appraisal procedures may be used as evidence to establish the market price. An acceptable small business subcontracting plan must be provided if the lease will exceed $500,000, unless the lease will be awarded to a small business concern. Negotiations, if applicable, should be conducted in accordance with 570.305. For leases expected to exceed $100,000, a Certificate of Procurement Integrity must be provided to the proposed successful offeror for completion and submission before award. The contracting officer should review the List of Parties Excluded from Procurement or Nonprocurement Programs, to ensure the proposed awardee is eligible to receive the award and is otherwise responsible before awarding the lease.

570.204–5 Inspection.

The space must be inspected to ensure that it is in substantial compliance with the Government's requirements and specifications before acceptance by the contractor officer. The contract file must be documented accordingly.

45. Subpart 570.3 is revised to read as follows:

Subpart 570.3—Procedures for Contracting for Leasehold Interests in Real Property

570.301 Market surveys.
570.302 Publicizing/Advertising.
570.303 Solicitation for offers (SF).
570.304 Changes to SFO's.
570.305 Negotiations.
570.306 Evaluating offers.
570.307 Late offers, modifications of offers, and withdrawals of offers.
570.308 Preaward requirements.
570.308–1 General.
570.308–2 Cost or pricing data.
570.308–3 Proposal evaluation.
570.308–4 Responsibility determinations.
570.309 Award.
570.310 Debriefings.
570.311 Inspection.

570.301 Market surveys.

A market survey should be conducted to identify potential sources The Contracting officer may use information available within GSA or from other available sources to identify locations that will meet the Government's minimum requirements.

570.302 Publicizing/Advertising.

(a) Leasing actions expected to exceed the simplified lease acquisition threshold must be publicized in local newspapers or be posted on GSA's electronic bulletin board for acquisition programs unless exempt under (FAR) 48 CFR 5.202 or 505.202.

(b) When the Government intends to acquire a leasehold interest in a building to be constructed on a preselected site, the proposed acquisition must be synopsized in the Commerce Business Daily (CBD).

570.303 Solicitation for offers (SFO).

(a) The SFO is the basis for the entire lease negotiation process and must be made a part of the lease. SFO's must contain the information necessary to enable the prospective offeror to prepare a proposal. Each solicitation, as a minimum, must—

(1) Be in writing.

(2) Contain a description of the minimum requirements of the Government, including—

(i) A description of the required space.

(ii) Specifications. The type of specification will depend upon the nature of the space needed by the agency and the market available to satisfy the needs. Specifications may be stated in terms of function, performance, or design requirements. The specification must be drafted to promote full and open competition and include restrictive provisions or conditions only to the extent necessary to satisfy the needs of the agency or as authorized by law.

(iii) Any special requirements.

(iv) A delivery schedule.

(3) State the method to be used to measure space.

(4) Specify a date and place for the submission of offers.

(5) Indicate how offers will be evaluated.

(6) Indicate how offers are to be structured.

(7) Identify all factors, including price or cost, and any significant subfactors that will be considered in awarding the lease and state the relative importance the Government places on those evaluation factors and subfactors. In describing the evaluation factors to be considered, the solicitation shall clearly disclose whether all evaluation factors other than cost or price when combined, are significantly more important than cost or price; approximately equal in importance to cost or price; or significantly less important than cost or price. Numerical weights, which may be employed in the evaluation of proposals, need not be disclosed in solicitations. The solicitation must inform offerors of minimum requirements that apply to particular evaluation factors and significant subfactors. The other factors that will be considered in evaluating proposals should be tailored to each acquisition and include only those factors that will have an impact on the award decision. The evaluation factors that apply to an acquisition and the relative importance of those factors are within the broad discretion of the contracting officer. However, price or cost to the Government must be included as an evaluation factor in every case. Other evaluation factors that may apply to a particular acquisition are the availability of public transportation, the availability of adequate food service within a reasonable distance, the neighborhood and building quality, the availability of daycare and physical fitness facilities, and any other relevant factors.

(8) Include a statement outlining the information that may be disclosed in postaward debriefings.

(9) Include appropriate forms as prescribed in part 570, subpart 570.8.

(b) The SFO must be released to all prospective offerors at the same time.

570.304 Changes to SFO's.

(a) When the Government's requirements change (either before or after receipt of proposals), the solicitation must be amended in writing.

(b) When time is of the essence, information on modifications may be provided orally if—

(1) The modifications are not complex;

(2) A record is made of the information provided;

(3) All offerors or prospective offerors are given notice on the same day, if possible; and

(4) The information provided orally is promptly confirmed by a written amendment.

(c) When modifications in the Government's requirements occur, the following procedures apply—

(1) If proposals have not been submitted, amendments must be sent to all offerors solicited.

(2) If proposals have been received but not evaluated, the amendments must be sent to all of the offerors.

(3) If a modification is so substantial that it requires a complete revision of the solicitation, the solicitation should be canceled and a new solicitation issued.

570.305 Negotiations.

(a) Negotiations will be conducted with all offerors that are within the competitive range. The contracting officer shall determine the competitive range on the basis of cost and other factors that were stated in the solicitation and shall include in the competitive range all offers that have a reasonable chance of being selected for award.

(b) The content and extent of the negotiations are a matter of the contracting officer's judgment based on the particular facts of each acquisition. The contracting officer shall—

(1) Control all discussions;

(2) Advise the offeror of deficiencies in its offer so that the offeror is given an opportunity to satisfy the Government's requirements;

(3) Attempt to resolve any uncertainties concerning the offer;

(4) Resolve any suspected mistakes by calling them to the offeror's attention as specifically as possible without disclosing information concerning other offerors' proposals or the evaluation process; and

(5) Provide the offeror a reasonable opportunity to submit any cost or price, technical, or other revisions to its offer that may result from the discussion.

(c) No indication may be given to any offeror of a price which must be met since such practice constitutes an auction technique that is prohibited. Likewise, no offeror should be advised of its relative standing with other offerors.

(d) After receipt of offers, no information regarding the number or identity of the offerors participating in the negotiation may be made available to anyone whose official duties do not require such knowledge.

(e) Negotiations must be closed by establishing a date and time for closing of negotiations and requesting in writing that offerors submit a ''best and final offer'' by that date.

(f) Negotiations may not be conducted after the closing date for best and final offers unless negotiations are reopened with all offerors in the competitive range.

(g) Negotiations are confidential and must reflect complete agreement on all items and conditions of the lease contract. Information regarding the transaction will not be announced or made available until after the contract is awarded.

(h) A written negotiation record should be placed in the lease file.

570.306 Evaluating offers.

(a) An abstract of final offers may be prepared to aid in the analysis of offers received.

(b) Offers will be evaluated in accordance with the SFO.

570.307 Late offers, modifications of offers, and withdrawals of offers.

Offers determined to be received late will be considered under (FAR) 48 CFR 15.412.

570.308 Preaward requirements.

570.308–1 General.

(a) If an offeror answers affirmatively on the Contingent Fees Representation and Agreement, in order to comply with the warranty requirement of 41 U.S.C. 254(a), the requirements of (FAR) 48 CFR part 3, subpart 3.4 and part 503, subpart 503.4 must be followed for leasing actions expected to exceed the simplified lease acquisition threshold.

(b) Other applicable certifications should be reviewed for compliance with regulations.

570.308–2 Cost or pricing data.

(a) Cost or pricing data are required under the circumstances described in (FAR) 48 CFR 15.804–2.

(b) The exemptions from and waivers of submission of certified cost or pricing data are outlined in (FAR) 48 CFR 15.804–3. The competition exemption applies when adequate price competition, as defined in (FAR) 48 CFR 15.804–3(b), is obtained. The market price exemption from submission of cost or pricing data may be applied to proposed leases where there is evidence that the price is based on an established market price for similar space leased to the general public. A market survey and/or an appraisal conducted in accordance with accepted real property appraisal procedures may be used as evidence to establish the market price. The contracting officer may grant an exemption and need not require the prospective lessor to submit a Standard Form 1412, Claim for Exemption from Submission of Certified Cost or Pricing Data, when there is evidence, before solicitation, that there is an acceptable established market price (see (FAR) 48 CFR 15.804–3(e)(3)).

(c) In exceptional cases, the requirement for submission of certified cost or pricing data may be waived under (FAR) 48 CFR 15.804–3(i) and 515.804–3.

(d) When certified cost or pricing data is required, the contracting officer shall follow the procedural requirements in (FAR) 48 CFR 15.804–6(e).

(e) If the proposed lessor refuses to provide the data when required, the contracting officer shall follow the procedures in (FAR) 48 CFR 15.804–6(e) and 515.804–6.

570.308–3 Proposal evaluation.

(a) Offers should be evaluated in accordance with the solicitation. The contracting officer should evaluate the price and document the lease file to demonstrate that the proposed contract prices represent fair and reasonable prices.

(b) The lease file should also document the evaluation of other award factors listed in the solicitation. The file should include the basis for evaluation, an analysis of each offer, and a summary of findings.

570.308–4 Responsibility determinations.

(a) The contracting officer shall make a determination that the prospective offeror is responsible with respect to the lease being considered. The contracting officer's signature on the contract is deemed to be an affirmative determination. When an offeror is found to be nonresponsible, the contracting officer shall make, sign and place in the contract file a determination of nonresponsibility which shall state the basis for the determination.

(b) If a small business concern is found to be nonresponsible, the procedures at (FAR) 48 CFR 19.6 and (GSAR) 48 CFR 519.6 must be followed. All documents and reports supporting a determination of responsibility or

nonresponsibility must be placed in the permanent lease file.

570.309 Award.

(a) An award will be made to the responsible offeror whose proposal is most advantageous to the Government considering price and other factors included in the solicitation.

(b) Award will be made in writing within the timeframe specified in the SFO. If an award cannot be made within that time, the contracting officer shall request in writing from each offeror an extension of the acceptance period through a specific date.

(c) Unsuccessful offerors will be notified in writing or electronically within three days after the award.

(d) All proposals received in response to a solicitation may be rejected if the head of the contracting activity or designee determines that such action is in the public interest.

570.310 Debriefings.

(a) Unsuccessful offerors may request a debriefing by the agency, provided that said request is made in writing and is received by the agency within 3 days after the date of which the offeror received notice of the contract award.

(b) The agency shall debrief the offeror to the maximum extent possible within 5 days after the request for the debriefing.

(c) The debriefing shall include, at a minimum:

(1) The agency's evaluation of the significant weak or deficient factors in the offeror's offer;

(2) The overall evaluation cost and technical rating of the successful offer and the offer requesting the debriefing;

(3) The overall ranking of all offers;

(4) A summary of the rationale for the award;

(5) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations and other applicable authorities were followed.

(6) A summary of the debriefing shall be maintained in the contract file.

(d) The debriefing may not include point-by-point comparisons of the debriefed offeror's offer with other offers and may not disclose any information that is exempt from disclosure.

570.311 Inspection.

The space must be inspected to ensure that it is in substantial compliance with the Government's requirements and specifications before acceptance by the contracting officer. The contract file must be documented accordingly.

46. Section 570.502 is amended by adding in the first sentence of paragraph (a) the phrase ''which exceed the simplified lease acquisition threshold'' immediately after the phrase ''Succeeding leases'' and by revising paragraphs (b)(1), (b)(2), (b)(3)(ii) and (b)(3)(iii)(B) to read as follows:

570.502 Succeeding leases.

* * * * *

(b) * * *

(1) *Publicizing/Advertising.* The contracting officer shall publish a notice in local newspapers or post a notice on GSA's electronic bulletin board for acquisition programs. The notice should normally

(i) Indicate the Government's lease in expiring,

(ii) Describe the agency's need in terms of type and quality of space,

(iii) Indicate the Government is interested in considering alternative space if economically advantageous,

(iv) Advise prospective offerors that the Government will consider the cost of moving, alterations, etc., when deciding whether it should relocate, and

(v) Provide a contact person for those interested in providing space to the Government.

(2) *Market survey.* A market survey must be conducted in accordance with 570.301.

(3) * * *

(ii) If potential acceptable locations are identified through the advertisement or market survey and relocation costs (including estimated moving costs, telecommunications costs, and the estimated cost of alterations, amortized over the firm term of the lease) will be low enough to allow recovery through a competitive process, the contracting officer should proceed to develop a formal SFO and negotiate with all interested parties in accordance with the procedures in part 570, subpart 570.3.

(iii) * * *

(B) Develop a SFO and negotiate with all interested parties in accordance with the procedures in part 570, subpart 570.3.

47. Section 570.503 is amended by revising paragraphs (a), (b) introductory text and (c) to read as follows:

570.503 Expansion requests.

(a) When the expansion space is within the general scope of the lease, the space may be acquired through a modification to the lease without further justification pursuant to (FAR) 48 CFR 6.3.

(b) When the expansion space needed is outside the general scope of the lease, the contracting officer must determine whether it is more prudent to provide the expansion space by supplemental agreement to the existing lease or to satisfy the requirement by competitive means. A market survey must be conducted to determine whether suitable alternative locations are available. If the market survey reveals alternate locations that can satisfy the total requirement, a cost benefit analysis must be performed to determine whether it is in the Government's best interest to relocate. This analysis may include—

* * * * *

(c) Unless competitive procedures are used to acquire the expansion space, a justification should be prepared for approval in accordance with (FAR) 48 CFR part 6, subpart 6.3 and part 506, subpart 506.3 except when simplified lease acquisition procedures in 570.2 are used.

48. Section 570.504 is amended by revising paragraph (b) to read as follows:

570.504 Superseding leases.

* * * * *

(b) The justification and approval requirements in (FAR) 48 CFR part 6, subpart 6.3 and part 506, subpart 506.3 must be complied with before negotiating a superseding lease if the amount of the lease, including options, exceeds the simplified leasing acquisition threshold. When the cost is less than or equal to the simplified leasing acquisition threshold, the contracting officer may use simplified procedures outlined in 570.2 and explain the absence of competition in the file.

49. Section 570.505 is amended by revising paragraph (a) to read as follows:

570.505 Lease extensions.

(a) The justification and approval requirements in (FAR) 48 CFR part 6, subpart 6.3 and part 506 subpart 506.3 must be complied with before negotiating a Supplemental Lease Agreement exceeding the simplified leasing acquisition threshold to extend the term of the lease to provide for continued occupancy on a short term basis (usually not to exceed 1 year). For extensions of less than or equal to the simplified leasing acquisition threshold the contracting officer must explain the absence of competition in the contract file.

50. Section 570.602–1 is amended by removing ''$25,000'' and substituting ''$100,000'' in paragraph (a) and paragraph (b).

51. Section 570.602–2 is amended by removing ''$25,000'' and substituting ''$100,000'' in paragraph (e)(3) and by

removing ''$25,000'' and substituting ''$100,000'' in paragraph (g).

52. Subpart 570.7 is revised to read as follows:

Subpart 570.7—Solicitation Provisions and Contract Clauses

570.701 FAR provisions and clauses.
570.702 Solicitation provisions.
570.703 Contract clauses.
570.704 Use of provisions and clauses.

570.701 FAR provisions and clauses.

In addition to including solicitation provisions and contract clauses prescribed in the (GSAR) 48 CFR Chapter 5 provisions and/or clauses substantially the same as the FAR provisions/clauses listed, shall be included in the circumstances indicated.

(a) All solicitations and contracts regardless of the dollar value must include the following provisions/clauses:

FAR (48 CFR part 52) Cite and Title

52.204–3 Taxpayer Identification
52.233–1 Disputes

(b) All solicitations and contracts which exceed $2,500 must include the FAR clause at 48 CFR 52.222–36, Affirmative Action for Handicapped Workers.

(c) All solicitations and contracts which exceed $10,000 must include the following provisions/clauses:

FAR (48 CFR part 52) Cite and Title

52.222–21 Certification of Nonsegregated Facilities
52.222–22 Previous Contracts and Compliance Reports
52.222–25 Affirmative Action Compliance
52.222–26 Equal Opportunity
52.222–35 Affirmative Action for Special Disabled and Vietnam Era Veterans
52.222–37 Employment Reports on Special Disabled and Veterans of the Vietnam Era

(d) All solicitations and contracts which exceed $25,000 must include the FAR clauses at 48 CFR 52.219–8, Utilization of Small Business Concerns and Small Disadvantaged Business Concerns.

(e) All solicitations and contracts which exceed $100,000 must include the following FAR provision/clauses:

FAR (48 CFR part 52) Cite and Title

52.203–7 Anti-Kickback Procedures
52.203–9 Requirement for Certification of Procurement Integrity—Modification.
52.203–11 Certificate and Disclosure Regarding Payments to Influence Certain Federal Transactions
52.223–5 Certification Regarding a Drug Free Workplace

(f) All solicitations and contracts for actions which exceed the simplified acquisition threshold for leasing must include the following FAR provisions:

FAR (48 CFR part 52) Cite and Title

52.203–2 Certificate of Independent Price Determination
52.209–5 Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters
52.209–6 Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment
52.215–1 Examination of Records by Comptroller General
52.215–12 Restriction on Disclosure and Use of Data (Solicitations only)
52.219–2 Small Disadvantaged Business Concern Representation
52.219–3 Women-Owned Small Business Representation
52.219–13 Utilization of Women-Owned Small Businesses
52.232–23 Assignment of Claims
52.233–2 Service of Protest (Solicitations only)

(g) All solicitations and contracts which exceed $500,000 must include the deviations to the FAR clauses at 48 CFR 52.219–9, Small Business and Small Disadvantaged Business Subcontracting Plan, and 52.219–16, Liquidated Damages—Small Business Subcontracting Plan (see 519.708(a) and (b)).

(h) Solicitations which exceed $1 million must include the FAR provision at 48 CFR 52.222–24, Preaward On-site Equal Opportunity Compliance Review.

(i) When cost or pricing data is required for work or service exceeding $500,000 the FAR clauses at 48 CFR 52.215–22, Price Reduction for Defective Cost or Pricing Data, and 52.215–24, Subcontractor Cost or Pricing Data, must be included in solicitations and contracts.

(j) When the contracting officer determines that it is desirable to authorize the submission of facsimile proposals the solicitation must include the FAR provision at 48 CFR 52.215–18, Facsimile Proposals.

570.702 Solicitation provisions.

When a solicitation for offers is issued the contracting officer should include provisions substantially the same as the following unless the contracting officer makes a determination that use of one or more of the provisions is not appropriate:

(a) 552.270–1 Preparation of Offers.

(b) 552.270–2 Explanation to Prospective Offerors.

(c) 552.270–3 Late Submissions, Modifications, and Withdrawals of Offers. Alternate I should be used when the contracting officer decides that it is advantageous to the Government to allow offers to be submitted up to the exact time specified for receipt of best and final offers.

(d) 552.270–4 Historic Preference.

(e) 552.270–5 Lease Award.

(f) 552.270–6 Parties to Execute Lease.

570.703 Contract clauses.

(a) The contracting officer shall insert the following clauses or clauses substantially the same as the following clauses in solicitations and contracts for leasehold interests in real property which exceed the simplified lease acquisition threshold unless the contracting officer makes a determination that use of one or more of the clauses is not appropriate. Use of the clauses is optional for those actions which fall at or below the simplified lease acquisition threshold.

(1) 552.270–10 Definitions (Included if 552.270–28 is used).

(2) 552.270–11 Subletting and assignment.

(3) 552.270–12 Maintenance of Building and Premises—Right of Entry.

(4) 552.270–13 Fire and Casualty Damage.

(5) 552.270–15 Compliance with Applicable Law.

(6) 552.270–16 Inspection—Right of Entry.

(7) 552.270–17 Failure in Performance.

(8) 552.270–18 Successors Bound.

(9) 552.270–19 Alterations.

(10) 552.270–20 Proposals for Adjustment.

(11) 552.270–21 Changes.

(12) 552.270–25 Adjustment for Vacant Premises.

(13) 552.270–27 Delivery and Condition.

(14) 552.270–28 Default in Delivery—Time Extensions.

(17) 552.270–32 Effect of Acceptance and Occupancy.

(18) 552.270–33 Default by Lessor During the Term.

(19) 552.270–34 Subordination, Nondisturbance and Attornment.

(20) 552.270–35 Statement of Lease.

(21) 552.270–36 Substitution of Tenant Agency.

(22) 552.270–37 No Waiver.

(23) 552.270–38 Integrated Agreement.

(24) 552.270–39 Mutuality of Obligation.

(25) 552.270–40 Asbestos and Hazardous Waste Management.

(26) 552.270–41 Acceptance of space.

(b) The contracting officer shall insert the clause at 552.270–22, Liquidated Damages, in solicitations and contracts for leasehold interests in real property

when there is a critical requirement that the delivery date be met and an actual cost cannot be established for the loss to the Government resulting from late delivery.

570.704 Use of provisions and clauses.

The omission of any provision or clause when its prescription requires its use constitutes a deviation which must be approved under part 501, subpart 501.4. Approval may be granted to deviate from provisions or clauses that are mandated by statute (e.g., (GSAR) 48 CFR 552.203–5, Covenant Against Contingent Fees, (FAR) 48 CFR 52.215–1, Examination of Records by the Comptroller General, etc.) in order to modify the language of the provision or clause. However, the statutory provisions and clauses may not be omitted from the SPO unless the statute provides for waiving the requirements of the provision or clause.

53. Section 570.801 is revised to read as follows:

570.801 Standard forms.

Standard Form 2, U.S. Government Lease for Real Property, should be used to award leases unless GSA Form 3626 is used. The reference to the Standard Form 2–A in paragraph 7 must be deleted.

54. Section 570.802 is revised to read as follows:

570.802 GSA forms.

(a) The GSA Form 3626, U.S. Government Lease for Real Property (Short Form), may be used to award leases when the simplified leasing procedures in 570.2 are used or when the Contracting Officer finds its use to be advantageous.

(b) GSA Form 276, Supplemental Lease Agreement, should be used to amend existing leases that involve the acquisition of additional space or partial release of space, revisions in the terms of a lease, restoration settlements, and alterations.

(c) GSA Form 1364, Proposal To Lease Space To The United States of America, may be used to obtain offers from prospective offerors.

Dated: March 27, 1995.

Ida M. Ustad,

Associate Administrator for Acquisition Policy.

[FR Doc. 95–9650 Filed 4–19–95; 8:45am]

BILLING CODE 6820–61–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Denial of Petition for Rulemaking; Federal Motor Vehicle Safety Standards

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

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies Mr. John Chevedden's petition for rulemaking to specify the license plate mounting location of certain cars and light trucks. NHTSA's analysis of accident data indicates that requiring cars and light trucks with off-center front license plates to have those plates on the driver's side would not have more than a negligible effect on the occurrence of accidents or fatalities.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Van Iderstine, Office of Rulemaking, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Mr. Van Iderstine's telephone number is: (202) 366–5275.

SUPPLEMENTARY INFORMATION: By letter dated October 12, 1994, Mr. John Chevedden petitioned the agency to issue a rule applicable to new cars and light trucks with off-center front license plates. Mr. Chevedden asked NHTSA to mandate that those license plates be positioned on the driver's side. Mr. Chevedden stated that the rulemaking was needed because the chances of a vehicle's becoming involved in an accident at night or other times of reduced ambient light increase when the vehicle's headlights are off due to the driver's forgetfulness or to mechanical problems. Mr. Chevedden argued that the chances of such a vehicle's becoming involved in an accident would be reduced if the vehicle's off-center front license plate were mounted on the driver's side. In that location, today's license plates, which typically are reflectorized, would reflect the light from the headlights of oncoming traffic. This would indicate how close the vehicle is to opposing traffic. Mr. Chevedden argued that license plates mounted on the driver's side could also make parked vehicles more visible and lessen the possibility of collisions. Mr. Chevedden did not provide any analysis of the potential benefits of his requested rule.

For the following reasons, NHTSA believes that the safety benefits of specifying license plate location would be negligible. In attempting to quantify potential benefits of specifying license plate location, NHTSA reviewed the laws of States that mandate both front license plates and reflective license plates and reviewed the numbers and circumstances of fatal accidents that occurred in all states in 1992. The chance of achieving any benefits through mandating the location of front plates would depend on the simultaneous occurrence of a large number of events, several of which have a low probability of occurring even independently, much less in combination. Those events, and their probability of occurring individually in any accident, are set forth below, based on 1992 data:

Fatal accidents in which a vehicle is likely to have a reflective front plate—
.47 or 47 percent

Fatal accidents during non-daylight conditions—
.54 or 54 percent

Fatal accidents involving a head-on or side-swipe collision—
Head-on=.017 or 1.7 percent
Side-swipe=.05 or 5 percent
For a total of .067 or 6.7 percent

Vehicles having a passenger's side offset front license plate assumed to be in fatal accidents—
.01 or 1 percent

Motor vehicles with no front lamps turned on or having complete front lamp failure assumed to be in fatal accidents—
.01 or 1 percent

Fatal accidents involving parked vehicles—
.066 or 6.6 percent

To assess the impact of mandating that offset front license plates be located on the driver's side, the agency determined the probability of all of the above events occurring in the same accident by multiplying the probability of each of the first three events occurring individually in a fatal accident by the product of the probabilities that a fatally involved vehicle has a front passenger's side license plate and that a fatally involved vehicle will have no lights on while being driven. The agency believes that the assumption that 1 percent of vehicles are operated without lights in the dark is very optimistic to the computation of potential benefits.

NHTSA presumes that American drivers tend toward the right lane of the roadway while driving, regardless of the presence or absence of lane markings. Therefore, accidents with parked vehicles generally concern vehicles

parked in the right lane or on the right shoulder. Most vehicles in the right lane or shoulder would have their rear end facing oncoming vehicles, and the location of a front license plate would be irrelevant to the occurrence of a rear end collision. In the instances in which the parked vehicle is facing right lane traffic, a passenger's side, rather than driver's side, front license plate would be in the more favorable position to mark the extreme intrusion of the parked vehicle into the roadway. If the agency were to include in its computations collisions with parked vehicles located in the right lane or on the right shoulder and facing oncoming traffic, that inclusion would reduce the potential benefits of the requested rulemaking. This would occur because there would be a net liability instead of a net benefit for parked cars, according to the petitioner's logic, if their front license plates were moved from the passenger's side to the driver's side. Therefore, parked vehicles have been omitted from the computation of hypothetical maximum benefits. Thus, the combined probability of the above events is:

$$.47\times.54\times.067\times.01\times.01=.0000017$$

Next, NHTSA determined the number of fatalities that might have occurred in accidents involving that particular combination of events by multiplying the probability of that combination of events by the total number of occupant fatalities per year.

$$.0000017\times39{,}235=0.067 \text{ relevant fatalities/year}$$

Finally, to determine the number of those fatalities that might be prevented by mandating that off-center front license plates be mounted on the driver's side, the agency multiplied the number of relevant fatalities by a figure representing an assumed level of accident preventing effectiveness for that placement of the front license plate. For the purposes of analysis, the agency has used a very optimistic figure of 2.5 percent.

The trailer conspicuity achieved about 25 percent effectiveness for the rear treatment in its fleet study. Since the light reflected from license plates is about 2.6 percent of that from the rear of a trailer with conspicuity treatment, and the closure rate of vehicles in Chevedden's case is at least twice that of trailer conspicuity cases, a very low effectiveness should be assumed. Based on the foregoing, the agency assumes that the effectiveness of the off-center front reflectorized license plate is one-tenth that of rear trailer conspicuity, or 2.5 percent. The estimate of the benefit from the Chevedden proposal is:

$$0.067\times0.025=.0017 \text{ fatalities prevented/year.}$$

Based on the above analysis, NHTSA estimates that if it were to specify that those vehicles with off-center front license plates have their front plates located on the driver's side, the number of lives saved would not exceed one life for every 588 years.

The agency also considered the possibility of obtaining benefits by applying Chevedden's suggestion so that it would affect fatalities involving vehicles lacking any front license plate (16,977) and fatalities involving vehicles having front plates that are not reflective (22,254). The agency is powerless, however, to mandate that vehicles have front plates or that plates be reflective. Therefore, the agency cannot address those fatalities by expanding the scope of Chevedden's petition.

The agency disagrees with Mr. Chevedden's suggestion that adopting his requested rule would involve ''no cost.'' Specifying license plate mounting location would impose redesign and retooling costs associated with relocating mounting holes, bumper fascia, and plate holders.

In accordance with 49 CFR part 552, this completes the agency's technical review of the petition. The agency has concluded that there is no reasonable possibility that the amendment requested by the petitioner would be issued at the conclusion of a rulemaking proceeding. Accordingly, it denies Mr. Chevedden's petition.

Authority: 49 U.S.C. 30103, 30162; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: April 17, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–9840 Filed 4–19–95; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 60, No. 76
Thursday, April 20, 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

Forms Under Review by Office of Management and Budget

April 14, 1995.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) Who will be required or asked to report; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, D.C. 20250, (202) 690–2118.

Revision

- Agricultural Marketing Service
- Export Fruit Acts
- Business or other for-profit; 355 responses; 2,204 hours
- Teresa L. Hutchinson, (503) 326–2724

Expedited

- Rural Economic & Community Development
- Notification of Choice of Option for Borrowers with Section 515/8 and Interest Credit Agreements Signed Before October 27, 1980
- Individuals or households; Business or other for-profit; 636 responses; 1,272 hours
- Jack Holston, (202) 720–9736

New Collection

- Food Safety and Inspection Service
- Transporting Undenatured Poultry Feet to Other Establishments for Processing Before Export
- Not-for-profit institutions; 270 responses; 1,250 hours
- Lee Puricelli, (202) 720–7164

Donald E. Hulcher,
Deputy Departmental Clearance Officer.
[FR Doc. 95–9730 Filed 4–19–95; 8:45 am]
BILLING CODE 3410–01

Rural Utilities Service

Lamar Electric Membership Corporation; Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to a request by Lamar Electric Membership Corporation (EMC) to use its general funds to construct an office and operations center in Lamar County, Georgia. The FONSI is based on a Borrower's Environmental Report (BER) submitted to RUS by Lamar EMC. RUS conducted an independent evaluation of the report and concurs with its scope and content. In accordance with RUS Environmental Policies and Procedures, 7 CFR 1794.61, RUS has adopted the BER as its environmental assessment for the project.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Wolfe, Chief, Environmental Compliance Branch, Electric Staff Division, RUS, Ag. Box 1569, Washington, DC 20250–1569, telephone (202) 720–1784.

SUPPLEMENTARY INFORMATION: The office and operations center is proposed to be located at the 1300 block of Highway 341/Georgia Highway 7 approximately 1.5 miles south of Barnesville, Georgia, on the west side of Highway 341. The size of the proposed site for the center is 16.8 acres of which 10 acres will be developed for buildings, storage, parking, traffic lanes, and a landscaped yard.

The office and operations center will consist of the following:

A 38,000 square foot building to be made up of 13,083 square feet of office space and 24,829 square feet of warehouse, loading dock, and vehicle storage space,

A 3,600 square foot building that will contain an equipment maintenance area and wash bay for vehicles and equipment,

Outdoor concrete pads and platforms for storage of special equipment such as regulators and transformers,

A fuel service island with two 10,000 gallon fuel storage tanks,

Sixty-eight employee parking spaces and 27 visitor parking spaces, and Traffic lanes into, around, and out of the facility.

RUS considered the alternatives of no action and remodeling Lamar EMC's existing headquarters facility and adding a warehouse at that site as opposed to approving the use of general funds for construction at the proposed site.

Copies of the environmental assessment and FONSI are available for review at, or can be obtained from, RUS at the address provided herein or from Lamar Electric Membership Corporation, 314 College Drive, Barnesville, Georgia 30204, telephone (404) 358–1383.

Dated: April 13, 1995.

Adam M. Golodner,
Deputy Administrator, Program Operations.
[FR Doc. 95–9731 Filed 4–19–95; 8:45 am]
BILLING CODE 3410–15–M

Sunflower Electric Power Corporation; Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to the potential environmental impact related to the construction and operation of the Fletcher to Pioneer 115 kV Transmission Line Project by Sunflower Electric Power Corporation (Sunflower) of Hays, Kansas. The proposed project is

located in Kearny and Grant Counties, Kansas.

RUS has concluded that the environmental impacts from the proposed project would not be significant and that the proposed action is not a major Federal action significantly affecting the quality of the human environment. Therefore, the preparation of an environmental impact statement is not required.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Wolfe, Chief, Environmental Compliance Branch, Electric Staff Division, room 1246, Ag Box 1569, South Agriculture Building, RUS, Washington, DC 20250, telephone (202) 720–1784.

SUPPLEMENTARY INFORMATION: RUS, in accordance with its environmental policies and procedures, required that Sunflower prepare a Borrower's Environmental Report (BER) reflecting the potential impacts of the proposed facilities. The BER, which includes input from Federal, State and local agencies and the public, has been adopted as RUS' Environmental Assessment for the project in accordance with 7 CFR 1794.61. RUS has concluded that the BER represents an accurate assessment of the environmental impacts of the project. The proposed project should have no impact on cultural resources, floodplains, important farmland and federally listed or proposed for listing threatened or endangered species or their critical habitat. The proposed route may impact wetland areas associated with the crossing of the Arkansas River. Sunflower will avoid placing structures in wetland habitat. RUS has determined that there is no practicable alternative to crossing wetland areas associated with the Arkansas River and the impact to these areas should be minimal.

The proposed 115 kV transmission line would extend from the Fletcher Substation located in Kearny County south along section lines to the Pioneer Substation located in Grant County. The southern portion of the line in Grant County would be located on existing right-of-way. The primary structure type will be wood pole H-frame structures located on a 100-foot wide right-of-way.

Alternatives considered to the project included no action, demand side management, local generation, the addition of capacitor banks at the Pioneer Substation, closing the Cimarron Interconnection with WestPlains Energy and alternative routes. RUS has considered these alternatives and concluded that the project as proposed meets the needs of Sunflower to provide adequate service to its member system, Pioneer Electric Cooperative, Inc.

Copies of the BER and FONSI are available for review at RUS at the address provided herein; or can be reviewed at or obtained from the offices of Sunflower, 301 West 13th Street, Hays, Kansas 67601, telephone (913) 628–2845, during normal business hours.

Dated: April 13, 1995.

Adam M. Golodner,

Deputy Administrator, Program Operations.

[FR Doc. 95–9732 Filed 4–19–95; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). An expedited review has been requested.

Agency: National Telecommunications and Information Administration (NTIA).

Title: Reviewer Information Form

Form Number: Agency—None; OMB Approval Number—None.

Type of Request: New Collection—Expedited Review Requested.

Burden: 100 hours; 400 responses; Avg. Hours Per Response is 15 minutes.

Needs and Uses: NTIA will be collecting administrative information necessary to select reviewers for the Telecommunications and Information Infrastructure Assistance Program grant application process.

Affected Public: Individuals.

Frequency: Annually.

Obligation: Voluntary.

OMB Desk Officer: Virginia Huth, (202) 395–3785.

A copy of the form is published below. Other information can be obtained by calling or writing DOC Clearance Officer, Gerald Taché, (202) 482–3271, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to Virginia Huth, OMB Desk Officer, Room 10236, New Executive Office Building, Washington, D.C. 20503.

Dated: April 13, 1995.

Gerald Taché,

Departmental Clearance Officer, Office of Management and Organization.

TIIAP, NTIA, U.S. Dept. of Commerce—1995
[OMB Approval #]

Reviewer Information Form

_____
Name

_____
Title

_____
Organization

_____
Dept/Org Unit

_____
Street Address
City _____
State _____
ZIP _____

_____
FedEx Address (if different)

_____
Telephone (office) (home) FAX
e-mail

_____
Current resume on file with TIIAP? If not, please enclose.

_____
Where will you be traveling from?

_____
Available dates between May 23 and September 1, 1995 (*Circle all that apply*)

May 23–26
May 30–June 2
June 6–9
June 13–16
June 20–23
June 27–30
July 11–14
July 18–21
July 25–28
August 1–4
August 8–11
August 15–18
August 22–25
August 29–Sept. 1

_____
Application Domains (rank your top three choices, if applicable)

____ Arts & Culture
____ Community Networking
____ Economic Development
____ Health
____ Higher Education
____ Human Services
____ K–12 Education
____ Library Services
____ Public & Govt. Information
____ Public Safety
____ Statewide/Local Infras. Plan
____ Other (indicate what)

Please assist us by identifying any grant applications with which you are familiar and that may represent a conflict of interest or the appearance of a conflict of interest. Use additional paper as needed.

List of grants:

_____
Admin. Use Only

Resume on File _____
Panel No. _____
Local _____
COI on File _____
Domain(s) _____
Travel _____
Dates Available: _____
PO: _____
Federal Employee _____

Public reporting burden for this voluntary collection of information is estimated to average fifteen minutes per request, including the time for reviewing instructions and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to TIIAP, NTIA, Rm 6043, U.S. Dept. of Commerce, 14 and Constitution Ave NW, Washington DC 20230 and to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs, Washington DC 20503 (Attn: NTIA Paperwork Reduction Desk Officer). Do not send completed forms to OMB.

[FR Doc. 95–9696 Filed 4–19–95; 8:45 am]

BILLING CODE 3510–60–M

Foreign-Trade Zones Board

[Docket 15–95]

Foreign-Trade Zone 15—Kansas City, Missouri Area Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Kansas City Foreign Trade Zone, Inc., grantee of Foreign-Trade Zone 15, requesting authority to expand its zone in the Kansas City, Missouri area, within the Kansas City, Missouri, Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 14, 1995.

FTZ 15 was approved on March 23, 1973 (Board Order 93, 38 FR 8622, 4/4/73) and expanded on October 25, 1974 (Board Order 102, 39 FR 39487, 11/7/74). The zone project includes 3 general-purpose sites in the Kansas City, Missouri, port of entry area: *Site 1* (250,000 sq. ft.)—Midland International Corp. warehouse, 1650 North Topping, Kansas City; *Site 2* (2,815,000 sq. ft.)—Hunt Midwest Real Estate Development, Inc., surface and underground warehouse complex, 8300 N.E. Underground Drive, Kansas City; and, *Site 3* (101,000 sq. ft.)—Kansas City International Airport, 7,984 sq. ft. building and 93,016 sq. ft. of land, 12600 N.W. Prairie View Road, Kansas City.

The applicant is now requesting authority to further expand the general-purpose zone to include an additional site (proposed new Site 4—416 acres) at the Carefree Industrial Park, a surface and subsurface business park located at 1600 N M–291 Highway, Sugar Creek, Missouri. (A portion of the park is also in the City of Independence.)

No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 19, 1995. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 5, 1995).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, 601 East 12th Street, Room 635, Kansas City, Missouri 64106

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: April 14, 1995.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–9835 Filed 4–19–95; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–570–808]

Chrome-Plated Lug Nuts From the People's Republic of China; Preliminary Results of Antidumping Administrative Review

AGENCY: International Trade Administration/Import Administration.

ACTION: Notice of preliminary results of the Antidumping Duty Administrative Review of chrome-plated lug nuts from the People's Republic of China.

SUMMARY: The Department of Commerce (the Department) is conducting administrative reviews of the antidumping duty order on chrome-plated lug nuts (lug nuts) from the People's Republic of China (PRC) in response to requests by petitioner, Consolidated International Automotive, Inc. (Consolidated), for the first and second reviews, and an importer, Krossdale Accessories, Inc., for the second administrative review. These reviews cover shipments of this merchandise to the United States during the period April 18, 1991, through August 31, 1992, and September 1, 1992, through August 31, 1993.

We have preliminarily determined that sales have been made below the foreign market value (FMV). If these preliminary results are adopted in our final results, we will instruct U.S. Customs to assess antidumping duties equal to the difference between the United States price (USP) and FMV.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 20, 1995.

FOR FURTHER INFORMATION CONTACT: Donald Little, Elisabeth Urfer, or Maureen Flannery, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–4733.

Background

The Department published in the **Federal Register** an antidumping duty order on lug nuts from the PRC on April 24, 1992 (57 FR 15052). On September 11, 1992, and September 7, 1993, the Department published in the **Federal Register** (57 FR 41725 and 58 FR 47116) notices of opportunity to request administrative reviews of the antidumping duty order on lug nuts from the PRC covering the periods April 18, 1991, through August 31, 1992, (91–92 review) and September 1, 1992, through August 31, 1993 (92–93 review).

For the 91–92 review, in accordance with 19 CFR 353.22(a)(1994), the petitioner, Consolidated, requested that we conduct an administrative review of China National Automotive Industry I/E Corp.; China National Machinery & Equipment Import and Export Corporation, Jiangsu Co., Ltd. (Jiangsu); Rudong Grease Gun Factory (Rudong); China National Automotive Industry Shanghai Automobile Import & Export Corp. (Shanghai Automobile); Chu Fong Metallic Industrial Corporation (Chu Fong); and San Chien Electric Industrial Works, Ltd. (San Chien). We published a notice of initiation of this

antidumping duty administrative review on October 22, 1992 (57 FR 48201).

For the 92–93 review, in accordance with 19 CFR 353.22(a), Consolidated requested that we conduct an administrative review of China National Automotive Industry I/E Corp; Jiangsu; China National Automobile Import and Export Corp., Yangzhou Branch (Yangzhou); Rudong; Ningbo Knives & Scissors Factory (Ningbo); Shanghai Automobile; and Tianjin Automotive Import and Export Co. (Tianjin). In accordance with 19 CFR 353.22(a), Krossdale Accessories, Inc. requested a review of its supplier, China National Machinery & Equipment Import & Export Corp., Nantong Branch (Nantong). We published a notice of initiation of this antidumping duty administrative review on October 18, 1993 (58 FR 53710). The Department is conducting these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of Review

On April 19, 1994, the Department issued its ''Final Scope Clarifications on Chrome-Plated Lug Nuts from Taiwan and the PRC.'' The scope, as clarified, is described in the subsequent paragraph. All lug nuts covered by these reviews conform to the April 19, 1994, scope clarification.

Imports covered by these reviews are one-piece and two-piece chrome-plated lug nuts, finished or unfinished. The subject merchandise includes chrome-plated lug nuts, finished or unfinished, which are more than 11/16 inches (17.45 millimeters) in height and which have a hexagonal (hx) size of at least 3/4 inches (19.05 millimeters) but not over one inch (25.4 millimeters), plus or minus 1/16 of an inch (1.59 millimeters). The term ''unfinished'' refers to unplated and/or unassembled chrome-plated lug nuts. The subject merchandise is used for securing wheels to cars, vans, trucks, utility vehicles, and trailers. Zinc-plated lug nuts, finished or unfinished, and stainless-steel capped lug nuts are not included in the scope of this review. Chrome-plated lock nuts are also not subject to this review.

Chrome-plated lug nuts are currently classified under subheading 7318.16.00.00 of the Harmonized Tariff Schedule (HTS). Although the HTS subheading is provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

These reviews cover the periods April 18, 1991, through August 31, 1992, and September 1, 1992, through August 31, 1993. The 91–92 review covers six producer/exporters of Chinese lug nuts. The 92–93 review covers eight producer/exporters of Chinese lug nuts.

Separate Rates

To establish whether a company operating in a state-controlled economy is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China (56 FR 20588, May 6, 1991) (Sparklers), as amplified by the Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China (59 FR 22585, May 2, 1994) (Silicon Carbide). Under this policy, exporters in non-market economies (NMEs) are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to exports. Evidence supporting, though not requiring, a finding of *de jure* absence of government control includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *De facto* absence of government control with respect to exports is based on four factors: (1) Whether each exporter sets its own export prices independently of the government and without the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and (4) whether each exporter has autonomy from the government regarding the selection of management.

Nantong was the only exporter that responded to the Department's request for information; therefore, Nantong was the only firm on which we made a determination of whether it should receive a separate rate. The determination of whether Nantong should receive a separate rate is to be made under the policy set forth in Silicon Carbide and Sparklers. In Silicon Carbide we concluded that ownership by the people does not require the application of a single rate, and amplified the test set out in Sparklers by examining the management of an enterprise.

Nantong is owned by the local government. Such ownership does not, however, preclude a determination that a separate rate is appropriate. Nantong's management is elected by Nantong's staff, and is responsible for all decisions such as profit distribution, employment policy and marketing strategy.

We have found that the evidence on the record demonstrates an absence of government control, both in law and in fact, with respect to Nantong's exports according to the criteria identified in Sparklers and Silicon Carbide. With respect to the absence of *de jure* government control, evidence on the record indicates that, even though Nantong is registered as a state-owned company, it is an independent entity. Further, several PRC laws establish that the responsibility for managing entities has been transferred from the central government to the enterprise. (See August 30, 1994, memorandum to the file, with attachments and November 18, 1994 memorandum to the file). In particular, ''The People's Republic of China All People's Ownership Business Law,'' enacted on April 13, 1988, indicates that branch companies have become legally and financially independent of centrally-controlled foreign trade companies. Nantong is such a branch company. Additionally, lug nuts do not appear on the ''Temporary Provisions for Administration of Export Commodities,'' approved on December 21, 1992, and are not, therefore, subject to the constraints of those provisions. With respect to the absence of *de facto* government control, Nantong states that it makes decisions based upon market requirements, that it is not subject to adverse financial costs for choosing one export strategy over another, that the management team makes all decisions, that there are no restrictions on the use of its profits, that the employees of Nantong elect the general manager and management team, and that it conducts negotiations with U.S. importers. For further discussion of the Department's preliminary determination that Nantong is entitled to a separate rate, see Decision Memorandum: ''Separate Rates in the First and Second Administrative Reviews of Chrome-Plated Lug Nuts from the People's Republic of China,'' dated March 13, 1995; which is on file in the Central Record Unit (room B099 of the Main Commerce Building).

United States Price

For sales made by Nantong we based the USP on purchase price (PP), in accordance with section 772(b) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States prior to importation into the United States.

We calculated PP based on the FOB price to unrelated purchasers. We made deductions for brokerage and handling and foreign inland freight. We valued brokerage and handling and foreign inland freight deductions using surrogate data based on Indian freight costs. We selected India as the surrogate country for the reasons explained in the ''Foreign Market Value'' section of this notice.

Foreign Market Value

For all companies located in NME countries, section 773(c)(1) of the Act provides that the Department shall determine FMV using a factors-of-production methodology if (1) the merchandise is exported from an NME country, and (2) the information does not permit the calculation of FMV using home market prices, third country prices, or constructed value (CV) under section 773(a) of the Act.

In the amendment to the final determination of sales at less than fair value (LTFV), the Department treated the PRC as an NME country, and determined that lug nuts is not a market-oriented industry. (See Amendment to Final Determination of Sales at Less Than Fair Value and Amendment to Antidumping Duty Order: Chrome-Plated Lug Nuts from the People's Republic of China, 57 FR 15052, April 24, 1992.) Because no company in this review has argued that the PRC is a market-economy country, or that the lug nut industry in the PRC is market-oriented, we continue to consider the PRC to be an NME country, and the lug nut industry to be non-market oriented and, therefore, we have applied surrogate values to factors of production to determine CV and movement costs.

We calculated FMV based on factors of production in accordance with section 773(c) of the Act and section 353.52 of the Department's regulations. We determined that India is comparable to the PRC in terms of per capita gross national product (GNP), the growth rate in per capita GNP, and the national distribution of labor, and is a significant producer of comparable merchandise. For these reviews, we chose India as the most comparable surrogate on the basis of the above criteria, and have used publicly available information relating to India to value the various factors of production. (*See* Memorandum dated July 29, 1994).

We valued the factors of production as follows:

- For steel wire rods, we used a per kilogram value obtained from the Monthly Statistics of Foreign Trade of India for the period April through December, 1992. Using wholesale price indices (WPI) obtained from the International Financial Statistics, published by the International Monetary Fund (IMF), we adjusted these values to reflect inflation. We made further adjustments to include freight costs incurred between the supplier and the factory in the PRC.
- For chemicals used in the production of lug nuts, we used per kilogram values obtained from the Monthly Statistics of Foreign Trade of India, Chemical Business, and Chemical Weekly. We adjusted these rates to reflect inflation using WPI from the International Financial Statistics.
- For direct labor, we used the Business International Report IL&T India released in November 1992. We adjusted this rate to reflect inflation using WPI from the International Financial Statistics. The labor cost for each component was calculated by multiplying the labor time requirement by the surrogate labor rate.
- For factory overhead, we used information obtained from the Reserve Bank of India Bulletin, December 1992, for Indian metals and chemicals industries. From this information, we were able to determine factory overhead as a percentage of total cost of manufacture. We added factory overhead into the cost of manufacture. Factory overhead did not include electricity; therefore, we added an amount for electricity, using information from Energy Indicators of Developing Member Countries of Asian Development Bank from July 1992. We adjusted these rates to reflect inflation using WPI from the International Financial Statistics.
- For SG&A expenses, we used information obtained from the Reserve Bank of India Bulletin from December 1992. From this information, we calculated an SG&A rate by dividing SG&A expenses by the cost of manufacture. SG&A expenses were less than ten percent of the cost of manufacture. Therefore, we used the statutory minimum of ten percent of the cost of manufacture for SG&A.
- For profit, we used the profit rate obtained from the Reserve Bank of India Bulletin from December 1992 because it was in excess of the statutory eight percent minimum.
- For packing, we used, as best information available (BIA), one percent of the cost of production. We applied BIA for packing because Rudong, the producer, did not supply sufficient factor information by which to allocate packing costs. This percentage, applied to publicly available data, was used in the Final Determination of Sales at Less than Fair Value: Tapered Roller Bearings from Italy, 52 FR 24198 (June 29, 1987). This methodology is consistent with the Department's valuation of packing in the Final Results of Antidumping Duty Administrative Review: Tapered Roller Bearings from the People's Republic of China, 56 FR 67590 (December 31, 1991).

Currency Conversion

We made currency conversions in accordance with 19 CFR 353.60(a). Currency conversions were made at the rates certified by the Federal Reserve Bank.

Best Information Available

We preliminarily determine, in accordance with section 776(c) of the Act, that the use of BIA is appropriate for the China National Automotive Industry I/E Corp., Jiangsu, Shanghai Automobile, Chu Fong, San Chien, Yangzhou, Ningbo, and Tianjin because these firms did not respond to the Department's antidumping questionnaire.

In deciding what to use as BIA, 19 CFR 353.37(b) provides that the Department may take into account whether a party refused to provide requested information. Thus, the Department determines on a case-by-case basis what is BIA. When a company refuses to provide the information requested in the form required, or otherwise significantly impedes the Department's review, the Department will normally assign to that company the higher of (1) The highest rate for any firm in the investigation or prior administrative reviews of sales of subject merchandise from that same country; or (2) the highest rate found in the review for any firm. When a company has cooperated with the Department's request for information but fails to provide the information requested in a timely manner or in the form required, the Department will normally assign to that company the higher of either: (1) The highest margin calculated for that company in any previous review or the original investigation; or (2) the highest calculated margin for any respondent that supplied an adequate response for the current review. (See Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany, et. al.; Final Results of Administrative Review, 56 FR 31705 (July 11, 1991).

For the 91–92 review we have applied BIA to sales made by China National Automotive Industry I/E Corp., Jiangsu, Shanghai Automobile, Chu Fong, and San Chien. Because these firms did not

respond to our questionnaire, we have applied as BIA the highest margin ever calculated in the investigation or this first review.

For the 92–93 review we have applied BIA to sales made by China National Automotive Industry I/E Corp, Jiangsu, Yangzhou, Ningbo, Shanghai Automobile, and Tianjin. Because these firms did not respond to our questionnaire, as BIA we have applied the highest margin ever calculated in the investigation or this or the prior review.

Rudong responded to the Department's requests for information for both review periods, but reported no direct exports to the United States during either period. Therefore, we are treating Rudong as a non-shipper for these reviews. Since the Department has never determined that a separate rate should apply to exports from Rudong, future exports from Rudong will be subject to cash deposit at the PRC rate.

Preliminary Results of the Review

We preliminarily determine that the following dumping margins exist:

Manufacturer/exporter	Time period	Margin (percent)
China National Machinery & Equipment Import & Export Corp., Nantong Branch	09/01/92–08/31/93	45.41
Rudong Grease-Gun	04/18/91–08/31/92	*42.42
Factory	09/01/92–08/31/93	*45.41

*No shipments during the period, but never determined to merit a separate rate. Therefore, we applied the PRC rate established in this review. This is the rate for companies that had shipments, or are presumed to have shipments, during the period, but which were not given separate rates.

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit rates will be effective upon publication of the final results of these administrative reviews for all shipments of lug nuts from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) For Nantong, which has a separate rate, the cash deposit rate will be the company-specific rate published for the most recent (1992–1993) period; (2) for Jiangsu, which was previously investigated and given a separate rate, the cash deposit rate will be the company-specific rate published for the most recent (1992–1993) period, which is based on BIA; (3) for the companies named above which were not found to have separate rates, China National Automotive Industry I/E Corp., Yangzhou, Ningbo, Shanghai Automobile, and Tianjin, as well as for all other PRC exporters, the cash deposit rate will be 45.41 percent; and (4) for non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter.

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: April 13, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–9835 Filed 4–19–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–803]

Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative reviews.

SUMMARY: In response to a request by a U.S. importer, the Department of Commerce (the Department) is conducting administrative reviews of the antidumping duty orders on heavy forged hand tools, finished or unfinished, with or without handles (HFHTs), from the People's Republic of China (PRC). The reviews cover two exporters of subject merchandise to the United States and the period February 1, 1992, through January 31, 1993. The reviews indicate the existence of dumping margins during the period of review.

We have preliminarily determined that sales have been made below the foreign market value (FMV). If these preliminary results are adopted in or final results of administrative reviews, we will instruct U.S. Customs to assess antidumping duties equal to the difference between United States price (U.S. price) and the FMV.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 20, 1995.

FOR FURTHER INFORMATION CONTACT: Karin Price or Maureen Flannery, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4733

SUPPLEMENTARY INFORMATION:

Background

On February 19, 1991, the Department published in the **Federal Register** (56 FR 6622) the antidumping duty orders on HFHTs from the PRC. On February 17, 1993, the Department published in

the **Federal Register** (58 FR 8739) a notice of opportunity to request administrative reviews of these antidumping duty orders. On February 26, 1993, in accordance with 19 CFR 353.22(a), a U.S. importer of HFHTs from the PRC, Olympia Industrial Inc., requested that we conduct administrative reviews of its two suppliers, Fujian Machinery & Equipment Import & Export Corporation (FMEC) and Shandong Machinery Import & Export Corporation (SMC). We published the notice of initiation of these antidumping duty administrative reviews on March 26, 1993 (58 FR 16397). The Department is conducting these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of These Reviews

Imports covered by these reviews are shipments of HFHTs from the PRC comprising the following classes or kinds of merchandise: (1) Hammers and sledges with heads over 1.5 kg. (3.33 pounds) (hammers/sledges); (2) bars over 18 inches in length, track tools and wedges (bars and wedges); (3) picks and mattocks (picks/mattocks); and (4) axes, adzes and similar hewing tools (axes/adzes).

HFHTs include heads for drilling, hammers, sledges, axes, mauls, picks, and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and trucks tools including wrecking bars, digging bars and tampers; and steel woodsplitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot blasting, grinding, polishing and painting, and the insertion of handles for handled products. HFHTs are currently provided for under the following Harmonized Tariff System (HTS) subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded from these reviews are hammers and sledges with heads 1.5 kg. (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under.

These reviews cover two exporters of HFHTs from the PRC, FMEC and SMC. The review period is February 1, 1992 through January 31, 1993.

Separate Rates

The business licenses of both FMEC and SMC indicate that they are owned by ''all the people.'' As stated in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China* (59 FR 22585, May 2, 1994) (*Silicon Carbide*), ''ownership of a company by all of the people does not require the application of a single rate.'' Accordingly, FMEC and SMC are eligible for consideration for separate rates.

To establish whether a company is sufficiently independent to be entitled for separate rates, the Department analyzes each exporting entity under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China* (56 FR 20588, May 6, 1991) (*Sparklers*), as amplified in *Silicon Carbide*. Under this policy, exporters in non-market-economy (NME) countries are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to exports. Evidence supporting, though not requiring, a finding of *de jure* absence of government control includes: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *De facto* absence of government control with respect to exports is based on four criteria: (1) whether the export prices are set by or subject to the approval of a government authority; (2) whether each exporters retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has autonomy in making decisions regarding the selection of management; and (4) whether each exporter has the authority to negotiate and sign contracts.

We have found that the evidence on the record demonstrates an absence of government control, both in law and in fact, with respect to FMEC's and SMC's exports according to the criteria identified in *Sparklers* and *Silicon Carbide*. For further discussion of the Department's preliminary determination that FMEC and SMC are entitled to separate rates, *see Decision Memorandum to Holly A. Kuga, Director, Office of Antidumping Compliance,* dated March 13, 1995; ''Separate rates for Fujian Machinery & Equipment Import & Export Corporation and Shandong Machinery Import & Export Corporation in the second administrative reviews of heavy forged hand tools, finished or unfinished, with or without handles, from the People's Republic of China,'' which is on file in the Central Records Unit (room B099 of the Main Commerce Building).

Verification

Verification of the questionnaire responses of FMEC and SMC was conducted between June 24, 1994, and July 5, 1994, at FMEC's facility in Fuzhou, Fujian Province, at SMC's facility in Qingdao City, Shandong Province, and at two factories which manufacture HFHTs for FMEC and SMC, Rizhao Hardware & Machinery Factory (Rizhao) and Linyi Tool Factory (Linyi).

United States Price

With the exception of certain of SMC's U.S. sales for which the best information available (BIA) was used, as described below, the Department used purchase price and exporter's sales price (ESP), in accordance with sections 772(b) and (c) of the Act, in calculating U.S. price.

We calculated purchase price based on, as appropriate, the FOB, CIF, or C&F port price to unrelated purchasers. We made deductions from purchase price and ESP sales, where appropriate, for brokerage and handling, foreign inland freight, ocean freight, and marine insurance. Ocean freight services were provided by both PRC-owned and non-PRC-owned companies. Where we knew that the company providing the ocean freight services was not a PRC-owned company, we used the actual rates charged; for ocean freight services provided by PRC-owned companies, we applied a weighted-average ocean freight rate derived from those sales for which we used actual ocean freight rates. Since marine insurance services were provided by PRC-owned companies, we based the deduction for marine insurance on surrogate values. We also used surrogate data to value foreign inland freight and brokerage and handling. We selected India as the surrogate country for reasons explained in the ''Foreign Market Value'' section of this notice.

Foreign Market Value

For companies located in NME countries, section 773(c)(1) of the Act provides that the Department shall determine FMV using a factors of production methodology if (1) the merchandise is exported from a NME country, and (2) the information does not permit the calculation of FMV using

home market prices, third country prices, or constructed value (CV) under section 773(a) of the Act.

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. None of the parties to these proceedings has contested such treatment in these reviews. Accordingly, we calculated FMV in accordance with section 773(c) of the Act and section 353.52 of the Department's regulations. We determined that India is comparable to the PRC in terms of per capita gross national product (GNP), the growth rate in per capita GNP, and the national distribution of labor, and is a significant producer of comparable merchandise. For further discussion of the Department's selection of India as the primary surrogate country, *see Memorandum to Laurie Lucksinger* dated March 18, 1993; ''AD Order on Heavy Forged Hand Tools from the People's Republic of China (case #A–570–803): Nonmarket-Economy Status and Surrogate Country Determinations,'' which is on file in the Central Records Unit (room B099 of the Main Commerce Building).

For purposes of calculating FMV, we valued PRC factors of production as follows, in accordance with section 773(c)(1) of the Act:

- To value all direct materials used in the production of HFHTs, including steel, steel pellets, resin glue, paint, varnish, wood for handles, iron wedges, anti-rust oil, scrap steel, detergent, and dilution, we used the rupee per metric ton, per kilogram, or per cubic meter value of imports into India for April-December 1992, obtained from the *Monthly Statistics of the Foreign Trade of India, Volume II—Imports,* December 1992 *(1992 Indian Import Statistics*). We made adjustments to include freight costs incurred between the suppliers and the HFHT factories. We also made an adjustment to the steel input factor for scrap and waste steel which was sold.
- For direct labor, we used the labor rates reported in the Business International Corporation report *IL&T India,* released November 1992. This source breaks out labor rates between skilled, unskilled, semi-skilled, and foreman labor for 1992 and provides information on the number of labor hours worked per week.
- For factory overhead, we used information reported in the December 1992 *Reserve Bank of India Bulletin.* From this information, we were able to determine factory overhead as a percentage of total cost of manufacture.
- For selling, general, and administrative (SG&A) expenses, we used information obtained from the December 1992 *Reserve Bank of India Bulletin.* We calculated an SG&A rate by dividing SG&A expenses by the cost of manufacture. Since the calculated SG&A expense rate is less than 10 percent, we used the statutory minimum of 10 percent to calculate SG&A expenses.
- To calculate a profit rate, we used information obtained from the December 1992 *Reserve Bank of India Bulletin.*
- To value the packing materials, including cartons (except for cartons used at Rizhao), wood for pallets, anti-rust paper, anti-dump paper, plastic and iron straps, plastic bags, iron buttons and knots, nails, synthetic fiber, and iron wire, we used import statistics for India obtained from the *1992 Indian Import Statistics.* We adjusted these values to include freight costs incurred between the suppliers and the HFHT factories. Rizhao uses imported cartons for packing; we used the import price of these cartons to value cartons for Rizhao.
- To value coal, we used the price of steam coal reported for 1990 in the International Energy Agency publication *Energy Price and Taxes,* 3rd Quarter 1993. We adjusted the value of coal to reflect inflation through 1992 using wholesale price indices of India (WPI) as published in the *International Financial Statistics* by the International Monetary Fund (IMF).
- To value electricity, we used the price of electricity for 1990 reported in the Asian Development Bank publication *Energy Indicators of Developing Member Countries of Asian Development Bank,* July 1992. We adjusted the value of electricity to reflect inflation through 1992 using WPI published by the IMF.
- To value truck freight, we used the price reported in a June 1992 cable from the U.S. Embassy in India submitted for the *Final Determination of Sales at Less Than Fair Value; Sulfanilic Acid from the People's Republic of China* (57 FR 29705, July 6, 1992).
- To value rail freight, we used the price reported in a December 1989 cable from the U.S. Embassy in India submitted for the *Final Results of Antidumping Duty Administrative Review: Shop Towels of Cotton from the People's Republic of China* (56 FR 4040, February 1, 1991). We adjusted the rail freight rates to reflect inflation through 1992 using WPI published by the IMF.

Currency Conversion

We made currency conversions in accordance with 19 CFR 353.60(a). Currency conversions were made at the rates certified by the Federal Reserve Bank.

Best Information Available

In deciding what to use as BIA, section 353.37(b) of the Department's regulations provides that the Department may take into account whether a party refuses to provide requested information or impedes a proceeding. Thus, the Department determines on a case-by-case basis what is BIA. When a company refuses to provide the information requested in the form required, or otherwise significantly impedes the Department's review, the Department will normally assign to that company the higher of (1) The highest of the rates found for any firm for the same class or kind of merchandise in the less-than-fair value (LTFV) investigation or a prior administrative review; or (2) the highest rate found in the current review for any firm for the same class or kind of merchandise.

When, on the other hand, a company has cooperated with the Department's request for information but fails to provide information requested in a timely manner or in the form required such that margins for certain sales cannot be calculated, the Department will normally assign to those sales the higher of either: (1) The highest margin calculated for that company in any previous review or the original investigation; or (2) the highest calculated margin for any respondent that supplied an adequate response for the current review. *See Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of An Antidumping Duty Order (Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Rumania, Singapore, Sweden, Thailand and the United Kingdom)* (58 FR 39729, July 26, 1993).

The Department used BIA for the following sales made by SMC: purchase price sales of axes and sales that were first presented to the Department at the onset of verification and not reported in SMC's questionnaire responses.

SMC's sales of axes, a separate class or kind, were first reported to the Department in its second supplemental questionnaire response dated May 14, 1994. Additional sales of axes were then presented to the Department for the first time at verification. SMC did not submit factors of production data for the models sold in these sales. Since these sales data were not submitted in a timely fashion, and because SMC failed to submit data necessary for the calculation of FMV for this class or kind of merchandise, we are applying the

most adverse BIA to all sales of axes. *See* the *Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers From the People's Republic of China* (58 FR 48833, September 20, 1993) (comment 6). As BIA, we are using the highest margin calculated for that class or kind in the investigation or any review of sales of subject merchandise from that same country.

At the onset of verification, SMC presented certain sales of axes, picks, and splitting mauls which had not been reported to the Department in the questionnaire responses. As discussed above, we have applied BIA to all sales of axes. With regard to picks and splitting mauls, since these sales data had not been previously reported to the Department in any of SMC's questionnaire responses, we have applied BIA to these sales.

Because SMC reported most of its sales of these classes or kinds of merchandise in its questionnaire responses and because it was an oversight on the part of SMC that these certain sales were not presented to the Department until verification, we are assigning as BIA the higher of either: (1) The highest margin calculated for the same class or kind of merchandise for that company in any previous review or the original investigation; or (2) the highest margin calculated for the same class or kind of merchandise for any respondent that supplied an adequate response for the current review.

Preliminary Results of the Reviews

As a result of our reviews, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Fujian Machinery & Equipment Import & Export Corporation:		
Axes/Adzes	2/1/92–1/31/93	89.99
Bars/Wedges	2/1/92–1/31/93	156.68
Hammers/Sledges	2/1/92–1/31/93	130.93
Picks/Mattocks	2/1/92–1/31/93	249.35
Shandong Machinery Import & Export Corporation:		
Axes/Adzes	2/1/92–1/31/93	89.99
Bars/Wedges	2/1/92–1/31/93	167.72
Hammers/Sledges	2/1/92–1/31/93	131.38
Picks/Mattocks	2/1/92–1/31/93	140.34

Parties to the proceedings may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. *See* section 353.38(d) of the Department's regulations. The Department will publish a notice of final results of these administrative reviews, which will include the results of its analysis of issues raised in any such comments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and FMV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of the final results of these administrative reviews for all shipments of HFHTs from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The case deposit rates for the reviewed companies named above which have separate rates will be the rates for those firms as stated above; (2) for all other PRC exporters, the cash deposit rates will be the rates established in the LTFV investigations; and (3) the cash deposit rates for non-PRC exporters of subject merchandise from the PRC will be the rates applicable to the PRC supplier of that exporter. The rates established in the LTFV investigations are 45.42 percent for hammers/sledges, 31.76 percent for bars/wedges, 50.81 percent for picks/mattocks, and 15.02 percent for axes/adzes. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

Notification of Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under section 353.26 of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: April 13, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–9837 Filed 4–19–95; 8:45 am]

BILLING CODE 3510–DS–P

U.S. Automotive Parts Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Closed meeting of U.S. Automotive Parts Advisory Committee.

SUMMARY: The U.S. Automotive Parts Advisory Committee (the ''Committee'') advises U.S. Government officials on matters relating to the implementation of the Fair Trade in Auto Parts Act of 1988. The Committee: (1) reports annually to the Secretary of Commerce on barriers to sales of U.S.-made auto parts and accessories in Japanese markets; (2) assists the Secretary in reporting to the Congress on the progress of sales of U.S.-made auto parts in Japanese markets, including the formation of long-term supplier relationships; (3) reviews and considers data collected on sales of U.S.-made auto parts to Japanese markets; (4) advises the Secretary during consultation with the Government of Japan on these issues; and (5) assists in establishing priorities for the Department's initiatives to increase U.S.-made auto parts sales to Japanese

markets, and otherwise provide assistance and direction to the Secretary in carrying out these initiatives. At the meeting, committee members will receive briefings on the status of ongoing consultations with the Government of Japan and will discuss specific trade and sales expansion programs related to U.S.-Japan automotive parts policy.

DATE AND LOCATION: The meeting will be held on April 25, 1995 from 10:00 a.m. to 3:00 p.m. at the U.S. Department of Commerce in Washington, D.C. This meeting is being announced less than fifteen days prior to the meeting because the Department wanted to brief members at the conclusion of the latest round of automotive framework talks with the Government of Japan and was unable to determine the availability of members prior to the fifteen day requirement.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Reck, Office of Automotive Affairs, Trade Development, Room 4036, Washington, D.C. 20230, telephone: (202) 482–1418.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on July 5, 1994, pursuant to Section 10(d) of the Federal Advisory Act, as amended, that the series of meetings or portions of meetings of the Committee and of any subcommittee thereof, dealing with privileged of confidential commercial information may be exempt from the provisions of the Act relating to open meeting and public participation therein because these items are concerned with matters that are within the purview of 5 U.S.C. 552b(c)(4) and (9)(B). A copy of the Notice of Determination is available for public inspection and copying in the Department of Commerce Records Inspection Facility, Room 6020, Main Commerce.

Dated: April 17, 1995.

John White,

Acting Director, Office of Automotive Affairs.

[FR Doc. 95–9830 Filed 4–19–95; 8:45 am]

BILLING CODE 3510–DR–M

National Oceanic and Atmospheric Administration

[Docket No. 950113015–5089–02]

RIN 0648–ZA12

Global Learning and Observations To Benefit the Environment (GLOBE)

AGENCY: National Oceanic and Atmospheric Administration, COMMERCE (DOC).

ACTION: Notice of program and invitation to participate.

SUMMARY: This is an invitation for U.S. K–12 schools to participate in an international environmental science and education program known as Global Learning and Observations to Benefit the Environment (GLOBE). U.S. schools can participate in the GLOBE Program if they meet the ''basic requirements'' described in the announcement below. This notice revises a previous invitation to schools to participate in the GLOBE Program, which was published in the **Federal Register** on November 23, 1994 (59 FR 60351). Federal assistance is not available at this time to enable schools to participate in the GLOBE Program to enable them to meet the ''basic requirements.'' In addition, more detailed information is provided for the scientific measurement instruments, other program information is updated, and the Government no longer provides Internet access to registered schools. This notice incorporates an Announcement section that includes a form for use by schools to register to participate in the GLOBE Program. This Announcement is also available in electronic and hard copy form from the sources listed below.

The GLOBE Program is a hands-on program that joins students, educators, and scientists from around the world in studying the global environment. GLOBE is a worldwide network of students who work under the guidance of GLOBE-trained teachers to make environmental observations at or near their schools, report their data to a GLOBE processing facility, receive and use global images created from their data, and study environmental topics in their classrooms. GLOBE in the United States is managed by an interagency team that includes the National Oceanic and Atmospheric Administration (NOAA), the National Aeronautics and Space Administration (NASA), the National Science Foundation (NSF), the Environmental Protection Agency (EPA), and the Department of Education and State. GLOBE leadership also includes the Council on Environmental Quality and the Office of Science and Technology Policy, both within the Executive Office of the President. NOAA is the lead agency for GLOBE. As lead agency, NOAA invites U.S. K–12 schools to participate in the GLOBE Program as described in the announcement below.

DATES: This invitation is open until further notice.

FOR FURTHER INFORMATION CONTACT: Further information or copies of the Announcement below, which includes a registration form, may be obtained by connecting to the GLOBE Internet World Wide Web server at http://www.globe.gov, by sending a request by electronic mail to info@globe.gov, by calling the GLOBE information line at 202–395–6500, by mail to Thomas N. Pyke, Jr., Director, The GLOBE Program, 744 Jackson Place, N.W., Washington, D.C. 20503, or delivered by express or courier service to Director, The GLOBE Program, The White House, New Executive Office Building, 725 17th Street, N.W., Room G–1, Washington, D.C. 20006.

ANNOUNCEMENT: April 20, 1995.

The GLOBE Program

744 Jackson Place / Washington, DC 20503

U.S. SCHOOLS ARE INVITED TO PARTICIPATE IN THE GLOBE PROGRAM

U.S. K–12 schools are invited to participate in a new international environmental science and education program known as Global Learning and Observations to Benefit the Environment (GLOBE). U.S. schools can participate in the GLOBE Program by agreeing to meet a set of GLOBE ''basic requirements'' as listed below in ''How to Become a GLOBE Schools'' and completing the attached registration form.

The GLOBE Program is a hands-on program that joins students, educators, and scientists from around the world in studying the global environment. GLOBE is a worldwide network of students who work under the guidance of GLOBE-trained teachers to make environmental observations at or near their schools, report their data to a GLOBE processing facility, receive and use global images created from their data, and study environmental topics in their classrooms. The data acquired by students will be used worldwide by environmental scientists in their research to improve our understanding of the global environment.

GLOBE is managed by an interagency team that includes the National Oceanic and Atmospheric Administration (NOAA), the National Aeronautics and Space Administration (NASA), the National Science Foundation (NSF), the Environmental Protection Agency (EPA), and the Departments of Education and State. GLOBE leadership also includes the Office on Environmental Policy and the Office of Science and Technology Policy in the Executive Office of the President. NOAA is the lead agency for GLOBE.

What is GLOBE?

GLOBE is a hands-on, school-based program that will:

—Enhance environmental awareness of individuals throughout the world,
—Enable students to make environmental observations that will contribute to improving the health of planet Earth,
—Give students the opportunity to work with world class scientists, collaborating together through a worldwide network,
—Involve students, teachers, and scientists in sharing information about the global environment,
—Enrich and supplement existing school curricula in science and mathematics, and
—Help all students reach higher standards in science and mathematics.

The GLOBE concept was announced by Vice President Al Gore on Earth Day, April 22, 1994. Since then, over one hundred nations have expressed interest in joining the U.S. in the GLOBE Program. GLOBE will begin operation on the 25th Earth Day, April 22, 1995, and schools in the U.S. and throughout the world are invited to join in this exciting new venture.

How to Become a GLOBE School

A school can register to become a GLOBE school if the school meets the GLOBE ''basic requirements,'' by agreeing to:

—Have its students acquire environmental data using scientific measurement instruments at their school,
—Have its students transmit these data to a GLOBE processing center as often as required for each measurement,
—Have its students study the global environmental images that will be generated based on GLOBE data taken by students around the world,
—Have its students participate in GLOBE guided by one or more teachers trained through the GLOBE Program, who will use GLOBE-provided educational materials,
—Send at least one teacher to a GLOBE-provided 3-day training workshop at a location in the school's general part of the country,
—Have the necessary GLOBE scientific measurement instruments, as identified below, for use by students, and
—Have a suitable school computer configuration, as described below, to be available for use at least 20% of each school day to support participation in GLOBE, i.e., to be used for data entry and transmission to a GLOBE processing center and for viewing of global environmental images and related information generated from GLOBE data by a GLOBE processing center.

GLOBE Scientific Measurement Instruments

The GLOBE environmental measurements are in the following study areas:

Atmosphere/Climate
Hydrology/Water Chemistry
Biology/Geology.

The initial GLOBE measurements and their respective instruments are:

Measurement	Instrument	Grade
Atmosphere/ Climate:		
Air temperature.	Maximum/Minimum Thermometer.	K–12
	Calibration Thermometer..	K–12
	Instrument Shelter.	K–12
Precipitation ..	Clear Plastic Rain Gauge.	K–12
Cloud cover ..	Cloud Charts	K–12
Hydrology/ Water Chemistry:		
Water pH	Litmus Paper	K–5
	pH Pen	6–8
	pH Meter	9–12
Water Temperature.	Alcohol Thermometer.	K–12
Soil Moisture .	Soil Moisture Meter and Gypsum Blocks.	9–12
	Auger and PVC Piping.	9–12
Biology/Geology:		
Habitat Study	Compass	K–12
	Meter Measuring Tape.	K–12
	Surveying Markers or Stakes.	K–12
Tree Height ...	Hand-made Clinometer.	K–8
	Clinometer.	9–12
Tree Canopy .	Hand-made Densiometer.	K–8
	Densiometer	9–12
Tree Diameter	Diameter Tape.	K–12
Species Identification.	Dichotomous Keys.	K–12
Phenology (seasonal change).	35 mm camera and film.	K–12

The total cost of the instruments, if they are not already available at the school, is estimated to be between $300–350 for elementary schools, $350–400 for middle schools, and $800–950 for high schools. After the initial year of GLOBE operation, additional measurements will be added, based on continuing work on the part of the GLOBE scientists and educators and the results of evaluation of the initial GLOBE Program by GLOBE teachers and others. The additional cost of the instruments necessary at that time to make these additional measurements is estimated to be about $100 for elementary schools, $300 for middle schools, and $500 for high schools.

School Computer Configuration and Internet Connectivity

Either an IBM-compatible PC or an Apple Macintosh computer can be used. An IBM-compatible PC must have at least a 386, 20 Mhz processor, 4 MB (preferably 8 MB) of RAM memory, and at least 60 MB of available hard disk. An Apple Macintosh computer must have at least a 68030, 20 Mhz processor, 4 MB (preferably 8 MB) of RAM memory, and at least 60 MB of available hard disk.

The computer must have either a direct Internet connection or a dial-up capability to the Internet using a 14.4 kbps or faster modem, preferably employing V.42 bis data compression, and using either SLIP or PPP protocols. The computer must be configured with a World Wide Web browser that supports the ''forms'' capability. If a school is not now connected to the Internet, the GLOBE Program will provide information and assistance, if needed, to help the school make contact with an Internet access service provider.

Registering as a GLOBE School

Schools that agree to meet the ''basic requirements'' listed above in ''How to Become a GLOBE School,'' are invited to complete the registration form included below. The form must be signed by the school's principal, its designated GLOBE lead teacher, and by an official authorized to make the necessary certification on behalf of the school if the principal is not so authorized. The completed form, with original signatures, should be mailed to The GLOBE Program, 744 Jackson Place, Washington, D.C. 20503. Facsimile copies are not acceptable.

For each registered school, the Federal Government will provide:

—Global environmental images accessible through the Internet, based on the measurement data taken by GLOBE students around the world and a broad range of other information relevant to the study of the global environment,
—An opportunity for students and teachers to work interactively through the Internet with world class scientists, collaborating in the study of the environment,

—An opportunity for students, teachers, and scientists to share information about the global environment through the Internet with each other,
—Training for one teacher (the GLOBE lead teacher for the school) at a 3-day workshop to be held at a location in the school's general part of the country (but not including the cost of travel or per diem for the teacher to attend the training or the cost of a substitute teacher if one is necessary),
—A set of GLOBE educational materials for use by teachers and students in the school to enrich and supplement existing school curricula,
—Information, if needed, to help the school establish its own connection to the Internet through a suitable Internet access service provider,
—Access to GLOBE school computer software for use of the World Wide Web information browser through the Internet, if the school does not already have software that can be used for this purpose or cannot obtain this software from its Internet access service provider. (This is the software necessary to transmit GLOBE data and access GLOBE global environmental visualizations and other information), and
—Access to the Internet-based help facility to obtain answers to frequently asked questions and to obtain assistance relative to program participation, and toll-free telephone access to a GLOBE help desk.

FOR FURTHER INFORMATION: Connect to the GLOBE Internet World Wide Web Server at http://www.globe.gov, send a request by electronic mail to info@globe,gov, call the GLOBE information line: (202) 395–6500, or send a request by mail to The GLOBE Program, 744 Jackson Place, NW., Washington, DC 20503.

[Copies of this form may be reproduced so that a completed form can be submitted for each school.]

Registration for a School To Participate in the Globe Program

Name of School _____

Street Address _____

City _____

State _____

ZIP _____

Type of school:

Elementary _____

High school _____

Intermediate/middle/junior high _____

Name of the GLOBE Lead Teacher for the School

_____

Name of the School Principal _____

Phone numbers to reach the Teacher and Principal (with area code)

Voice ( ) _____

FAX ( ) _____

Internet address for the Teacher, if available

_____

Certification

I certify that this school meets the ''basic requirements'' to become a GLOBE school as described in the GLOBE School Invitation dated (Insert date of publication in **Federal Register**], and that the school intends to participate in the GLOBE Program for a period of at least 3 years.

Signature of the GLOBE Lead Teacher

_____

Signature of the Principal _____

_____

Identification of Local Educational Agency (e.g. school district) is this school is part of such an Agency

_____

Name, title, and signature of official authorized to sign this certification on behalf of the registered school (e.g. authorized L.E.A. official)

Date _____

All communications, materials, or other resources under this agreement are administered as a joint project between the registered school and the Federal Government through the authority of the U.S. Department of Commerce, National Oceanic and Atmospheric Administration under 15 U.S.C. 1525.

PAPERWORK REDUCTION ACT NOTICE: This notice contains a collection-of-information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by OMB, OMB Control Number 0648–0287, with collection approval through 11/30/97. Public reporting burden for this collection of information is estimated to average .5 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the form used for collection of information. Send comments regarding this reporting burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Thomas N. Pyke, Jr. (see **FOR FURTHER INFORMATION CONTACT** section), and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: NOAA Desk Officer). The required form for registration is included above.

Thomas N. Pyke, Jr.,

Director, The GLOBE Program.

[FR Doc. 95–9760 Filed 4–19–95; 8:45 am]

BILLING CODE 3510–12–M

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, April 26, 1995. The hearing will be part of the Commission's regular business meeting which is open to the public and scheduled to begin at 1:00 p.m. in the Third Floor Conference Room of the Susquehanna River Basin Commission's offices at 1721 N. Front Street, Harrisburg, Pennsylvania.

An informal conference among the Commissioners and staff will be open for public observation at 10:00 a.m. at the same location and will include a briefing on proposed amendments to Commission regulations concerning water quality criteria for toxic pollutants and policies and procedures to establish wasteload allocations and effluent limitations for point source discharges to the tidal Delaware River.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact

1. *Merrill Creek Owners Group (MCOG) D–77–110 CP (Amendment 6).* An application for inclusion of the Jersey Central Power & Light (JCP&L) Unit No. 9 CT (an oil/natural gas-fueled combustion turbine approved by Docket No. D–93–71 on March 23, 1994) as a Designated Unit to Table A (Revised) of the Merrill Creek Reservoir Project to enable releases from the reservoir to make up for consumptive water use during drought periods. In addition, Unit Nos. 1 and 2, which will be decommissioned on completion of Unit No. 9 CT, are to be removed as Designated Units. The JCP&L Unit No. 9 CT is expected to have a maximum monthly consumptive water use of 120,000 gallons per day (gpd) and a power output of 141 megawatts. All project units are located at JCP&L's Gilbert Generating Station in Holland Township, Hunterdon County, New Jersey. Merrill Creek Reservoir is located in Harmony Township, Warren County, New Jersey.

2. *Artesian Water Company D–79–58 RENEWAL 2.* An application for the renewal of a ground water withdrawal project to supply up to 530.42 million gallons (mg)/30 days of water to the applicant's distribution system from 38 existing wells. Commission approval on June 28, 1989 was limited to five years.

The applicant requests that the total withdrawal from all wells be increased from 502.05 mg/30 days to 530.42 mg/30 days. The project is located in New Castle County, Delaware.

3. *North Heidelberg Sewer Co. Inc. D–94–1.* A project to upgrade and expand the applicant's existing 0.025 million gallons per day (mgd) sewage treatment plant (STP) to provide 0.050 mgd of sewage treatment capacity to serve growth in the Heidelberg Investment Associates' planned community which is situated in both Jefferson and North Heidelberg Townships in Berks County, Pennsylvania. The upgraded STP will continue to provide secondary treatment via the activated sludge process and will also have tertiary filtration. The STP project is located just north of Tulpehocken Creek and west of Bernville in Jefferson Township. The treated effluent will continue to discharge via an existing outfall to an unnamed tributary of Tulpehocken Creek.

4. *Merck & Co., Inc. D–94–24.* An application for approval of a ground water withdrawal associated with a ground water decontamination project to supply up to 8.6 mg/30 days of water to the applicant's West Point facility from new Well Nos. PW–12 and PW–13, and to increase the existing withdrawal limit of 25 mg/30 days from all wells to 40 mg/30 days. Site remediation efforts are proceeding under an Administrative Consent Order with the United States Environmental Protection Agency. The project is located in Upper Gwynedd Township, Montgomery County, and is located in the Southeastern Pennsylvania Ground Water Protected Area.

5. *Borough of Bally Municipal Authority D–94–44 CP.* A project to modify and expand the applicant's existing 0.2 mgd municipal STP to provide 0.5 mgd secondary treatment capacity and serve growth of industrial, commercial and residential customers in the Borough of Bally and portions of Washington Township, Berks County, Pennsylvania. The STP system will be modified to provide more reliable and consistent treatment and to handle hydraulic overload. Treated effluent, after disinfection, will continue to discharge to Northwest Branch Perkiomen Creek approximately 500 feet west of the Berks County border with Montgomery County in Washington Township, Berks County.

6. *Meter Services Company D–94–49 CP.* An application for approval of an increased ground water withdrawal to supply up to 3.6 mg/30 days of water to the applicant's distribution system from existing Well Nos. 1 and 2. The applicant requests that the total withdrawal from all wells be increased from 1.8 mg/30 days to 3.6 mg/30 days. The project is located in Buckingham Township, Bucks County, in the Southeastern Pennsylvania Ground Water Protected Area.

7. *Estaugh Corporation (Trading as Medford Leas) D–94–56.* A project to withdraw up to 7.2 mg/30 days (0.24 mgd) from a proposed intake on the South Branch Rancocas Creek to serve the applicant's health care facility located between Route 70 and New Freedom Road just northeast of the Borough of Medford in Medford Township, Burlington County, New Jersey. The withdrawal will be used for irrigation of the grounds and the intake will be located on the applicant's property which is bordered on the east side by the South Branch Rancocas Creek. The project is proposed as a means to reduce usage of the applicant's existing permitted wells.

8. *Deptford Township Municipal Utilities Authority D–94–68 CP.* An application for approval of a ground water withdrawal project to supply up to 43.2 mg/30 days of water to the applicant's distribution system from new Well No. 8, and to retain the existing withdrawal limit from all wells of 123 mg/30 days. The project is located in Deptford Township, Gloucester County, New Jersey.

9. *New York City Department of Environmental Protection—Margaretville STP D–94–78 CP.* A project to upgrade the Margaretville-Arkville STP located in the southwestern corner of the Village of Margaretville in the Town of Middletown, Delaware County, New York. The existing 0.4 mgd capacity STP serves approximately half of the area of the Village of Margaretville and portions of the hamlet of Arkville, all in the Town of Middletown. The existing secondary treatment facilities will be replaced by a new advanced secondary STP with tertiary filtration. The upgraded STP is designed for the same flow and will continue to discharge to the East Branch Delaware River.

10. *New Jersey Foreign Trade Zone D–94–83.* An application for approval of a ground water withdrawal project to supply up to 12 mg/30 days of water to the applicant's office and industrial complex from Well Nos. BR–3 and BR–4, and to limit the withdrawal from all wells to 12 mg/30 days. The project is located in Mount Olive Township, Morris County, New Jersey.

11. *Wissahickon Spring Water, Inc. D–95–11.* An application for approval of a ground water withdrawal project to supply up to 8.64 mg/30 days of water to the applicant's bulk water loading facility from new Well No. 1, and to limit the withdrawal from all wells to 8.64 mg/30 days. The project is located in Pike Township, Berks County, Pennsylvania.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact George C. Elias concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Dated: April 11, 1995.

Susan M. Weisman,

Secretary.

[FR Doc. 95–9797 Filed 4–19–95; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title; Applicable Form; and OMB Control Number: Nomination for Appointment to the United States Military Academy, Naval Academy, and Air Force Academy; DD Form 1870; OMB Control Number 0701–0026.

Type of Request: Expedited Processing—Approval date requested: 30 days following publication in the Federal Register.

Number of Respondents: 15,425.

Responses per Respondent: 1.

Annual Responses: 15,425.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 7,712.

Needs and Uses: The information collected hereby, constitutes a nomination from the Vice President, a Member of Congress, or other designated individuals, of an applicant for appointment consideration to the United States Military Academies.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Edward C. Springer—Written comments and

recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DOD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William Pearce—Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: April 17, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000–04–M

NOMINATION FOR APPOINTMENT TO THE UNITED STATES

☐ MILITARY ACADEMY ☐ NAVAL ACADEMY ☐ AIR FORCE ACADEMY

Form Approved
OMB No. 0701-0026
Expires

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0701-0026), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR FORM TO EITHER OF THESE ADDRESSES. SEND YOUR COMPLETED FORM TO THE APPROPRIATE ADDRESS IN ITEM 12.

1. NAME OF NOMINEE *(Last, First, Middle Initial)*	2. DATE OF BIRTH *(YYMMDD)*	3. SOCIAL SECURITY NUMBER

4. DOMICILE IN CONSTITUENCY				5. TEMPORARY ADDRESS			
a. STREET *(Include apartment number)*				a. STREET *(Include apartment number)*			
b. CITY	c. COUNTY	d. STATE	e. ZIP CODE	b. CITY	c. COUNTY	d. STATE	e. ZIP CODE

6. SEX *(X one)*	7. TELEPHONE NUMBER *(Include area code)*	8. CONGRESSIONAL DISTRICT AND/OR STATE
☐ MALE ☐ FEMALE		

9. TYPE OF NOMINATION *(X as applicable)*

DRAFT

a. VACANCY	b. TYPE OF NOMINATION
☐ 1st ☐ 4th	☐ PRINCIPAL ☐ COMPETITIVE
☐ 2nd ☐ 5th	☐ ALTERNATE *(1-9)* _____ TO *(Name of Principal)* _____
☐ 3rd	☐ COMPETITIVE ALTERNATE TO *(Name of Principal)* _____

10. REMARKS *(See instructions on back for completing form and explanation of nominating systems. Retain Copy 4 (Congressional) for your file.)*

11. NOMINATING AUTHORITY	b. SIGNATURE	c. DATE SIGNED *(YYMMDD)*
a. TYPED NAME *(Last, First, Middle Initial)*		

12. MAIL TO APPROPRIATE ACADEMY ADDRESS

ARMY:	NAVY:	AIR FORCE:
US Total Army Personnel Command ATTN: TAPC-OPD-CM 200 Stovall Street Alexandria, VA 22332-0413	Nominations and Appointment Branch U.S. Naval Academy 117 Decatur Road Annapolis, MD 21402-5019	USAF Academy Group 1040 Air Force Pentagon Room 4E144 Washington, DC 20330-1040

DD FORM 1870, 950407 DRAFT PREVIOUS EDITION IS OBSOLETE.

INSTRUCTIONS FOR COMPLETING DD FORM 1870 AND EXPLANATION OF NOMINATING SYSTEMS

Type one complete set of forms for each nominee. Retain Copy 4 for your record.

Ten nominations are allowed for each vacancy.

Place an "X" in appropriate Service Academy block.

COMPETITIVE SYSTEM:

DRAFT

Selection will be made by the Academy Academic Board in order of merit based on the "Whole Person" concept as to the candidate whose all around performance indicates the greatest likelihood of success as a career officer in the Armed Forces of the United States. When filling one vacancy, place an "X" in the "1st Vacancy" block and the "Competitive" block. If filling more than one vacancy, place an "X" in each of the numbered vacancy blocks being filled and the "Competitive" block.

PRINCIPAL/NUMBERED ALTERNATE SYSTEM:

A Principal and nine numbered alternates may be named for each vacancy available. An appointment will be offered if the Principal meets the eligibility criteria. If the Principal fails to meet the Academy minimum requirements, the next designated alternate candidate who qualified will succeed as the Principal. Place an "X" in the appropriate "Vacancy" block and the "Alternate" block, and type the number of preference of this alternate and the name of the Principal.

PRINCIPAL/COMPETITIVE ALTERNATE SYSTEM:

A Principal and nine competitive alternates may be named for each vacancy available. If the named Principal fails to meet the requirements for admission the Academy will select the top candidate among the competitive alternates designated. Place an "X" in the appropriate "Vacancy" block and the "Competitive Alternate" block and the name of the Principal.

DD FORM 1870, 950407 DRAFT (BACK)

NOMINATION FOR APPOINTMENT TO THE UNITED STATES

☐ MILITARY ACADEMY ☐ NAVAL ACADEMY ☐ AIR FORCE ACADEMY

Form Approved
OMB No. 0701-0026
Expires

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PLEASE DO NOT RETURN YOUR FORM TO EITHER OF THESE ADDRESSES. SEND YOUR COMPLETED FORM TO THE APPROPRIATE ADDRESS IN ITEM 12.

1. NAME OF NOMINEE *(Last, First, Middle Initial)*				2. DATE OF BIRTH *(YYMMDD)*	3. SOCIAL SECURITY NUMBER
4. DOMICILE IN CONSTITUENCY				5. TEMPORARY ADDRESS	
a. STREET *(Include apartment number)*				a. STREET *(Include apartment number)*	
b. CITY	c. COUNTY	d. STATE	e. ZIP CODE	b. CITY	c. COUNTY / d. STATE / e. ZIP CODE
6. SEX *(X one)* ☐ MALE ☐ FEMALE	7. TELEPHONE NUMBER *(Include area code)*			8. CONGRESSIONAL DISTRICT AND/OR STATE	

9. TYPE OF NOMINATION *(X as applicable)*

DRAFT

a. VACANCY		b. TYPE OF NOMINATION	
☐ 1st	☐ 4th	☐ PRINCIPAL	☐ COMPETITIVE
☐ 2nd	☐ 5th	☐ ALTERNATE *(1-9)* _____	TO *(Name of Principal)* _____
☐ 3rd		☐ COMPETITIVE ALTERNATE TO *(Name of Principal)* _____	

10. REMARKS *(See instructions on back for completing form and explanation of nominating systems. Retain Copy 4 (Congressional) for your file.)*

11. NOMINATING AUTHORITY		
a. TYPED NAME *(Last, First, Middle Initial)*	b. SIGNATURE	c. DATE SIGNED *(YYMMDD)*

DD FORM 1870, 950407 DRAFT PREVIOUS EDITION IS OBSOLETE. **COPY 2 - SERVICE ACADEMY**

NOMINATION FOR APPOINTMENT TO THE UNITED STATES

☐ MILITARY ACADEMY ☐ NAVAL ACADEMY ☐ AIR FORCE ACADEMY

Form Approved
OMB No. 0701-0026
Expires

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4. DOMICILE IN CONSTITUENCY				5. TEMPORARY ADDRESS			
a. STREET *(Include apartment number)*				a. STREET *(Include apartment number)*			
b. CITY	c. COUNTY	d. STATE	e. ZIP CODE	b. CITY	c. COUNTY	d. STATE	e. ZIP CODE

6. SEX *(X one)*	7. TELEPHONE NUMBER *(Include area code)*	8. CONGRESSIONAL DISTRICT AND/OR STATE
☐ MALE ☐ FEMALE		

9. TYPE OF NOMINATION *(X as applicable)*

DRAFT

a. VACANCY		b. TYPE OF NOMINATION	
☐ 1st	☐ 4th	☐ PRINCIPAL	☐ COMPETITIVE
☐ 2nd	☐ 5th	☐ ALTERNATE *(1-9)* _____ TO *(Name of Principal)* _____	
☐ 3rd		☐ COMPETITIVE ALTERNATE TO *(Name of Principal)* _____	

10. REMARKS *(See Instructions on back for completing form and explanation of nominating systems. Retain Copy 4 (Congressional) for your file.)*

11. NOMINATING AUTHORITY	b. SIGNATURE	c. DATE SIGNED *(YYMMDD)*
a. TYPED NAME *(Last, First, Middle Initial)*		

DD FORM 1870, 950407 DRAFT PREVIOUS EDITION IS OBSOLETE. **COPY 3 - ACADEMY LIAISON OFFICE**

NOMINATION FOR APPOINTMENT TO THE UNITED STATES

☐ MILITARY ACADEMY ☐ NAVAL ACADEMY ☐ AIR FORCE ACADEMY

Form Approved
OMB No. 0701-0026
Expires

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1. NAME OF NOMINEE *(Last, First, Middle Initial)*	2. DATE OF BIRTH *(YYMMDD)*	3. SOCIAL SECURITY NUMBER

4. DOMICILE IN CONSTITUENCY				5. TEMPORARY ADDRESS			
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b. CITY	c. COUNTY	d. STATE	e. ZIP CODE	b. CITY	c. COUNTY	d. STATE	e. ZIP CODE

6. SEX *(X one)*	7. TELEPHONE NUMBER *(Include area code)*	8. CONGRESSIONAL DISTRICT AND/OR STATE
☐ MALE ☐ FEMALE		

9. TYPE OF NOMINATION *(X as applicable)*

DRAFT

a. VACANCY	b. TYPE OF NOMINATION
☐ 1st ☐ 4th	☐ PRINCIPAL ☐ COMPETITIVE
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10. REMARKS *(See instructions on back for completing form and explanation of nominating systems. Retain Copy 4 (Congressional) for your file.)*

11. NOMINATING AUTHORITY	b. SIGNATURE	c. DATE SIGNED *(YYMMDD)*
a. TYPED NAME *(Last, First, Middle Initial)*		

DD FORM 1870, 950407 DRAFT PREVIOUS EDITION IS OBSOLETE. **COPY 4 - CONGRESSIONAL OFFICE**

NOMINATION FOR APPOINTMENT TO THE UNITED STATES

☐ MILITARY ACADEMY ☐ NAVAL ACADEMY ☐ AIR FORCE ACADEMY

Form Approved
OMB No. 0701-0026
Expires

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1. NAME OF NOMINEE *(Last, First, Middle Initial)*	2. DATE OF BIRTH *(YYMMDD)*	3. SOCIAL SECURITY NUMBER

4. DOMICILE IN CONSTITUENCY				5. TEMPORARY ADDRESS			
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b. CITY	c. COUNTY	d. STATE	e. ZIP CODE	b. CITY	c. COUNTY	d. STATE	e. ZIP CODE

6. SEX *(X one)*	7. TELEPHONE NUMBER *(Include area code)*	8. CONGRESSIONAL DISTRICT AND/OR STATE
☐ MALE ☐ FEMALE		

9. TYPE OF NOMINATION *(X as applicable)*

DRAFT

a. VACANCY		b. TYPE OF NOMINATION	
☐ 1st	☐ 4th	☐ PRINCIPAL	☐ COMPETITIVE
☐ 2nd	☐ 5th	☐ ALTERNATE *(1-9)* _____	TO *(Name of Principal)* _____
☐ 3rd		☐ COMPETITIVE ALTERNATE TO *(Name of Principal)* _____	

c. OTHER CONGRESSIONAL NOMINATIONS		PRES		CODDV		W/D	DATE		SEPARATION DATE		
(1)		REG		HMS		MED DISQ		CAREER GOALS		HONOR		ACADEMICS
(2)		V.P.		CMHW				ENV ADJ		MED DISQ		CONDUCT
(3)		RES		ROTC		OTHER *(Specify)*					

11. NOMINATING AUTHORITY	b. SIGNATURE	c. DATE SIGNED *(YYMMDD)*
a. TYPED NAME *(Last, First, Middle Initial)*		

DD FORM 1870, 950407 DRAFT PREVIOUS EDITION IS OBSOLETE. **COPY 5 - ACADEMY LIAISON OFFICE**

[FR Doc. 95–9776 Filed 4–19–95; 8:45 am]
BILLING CODE 5000–04–C

Defense Logistics Agency

Privacy Act of 1974; Computer Matching Program Between the General Services Administration and the Defense Manpower Data Center of the Department of Defense

AGENCY: Defense Manpower Data Center, Defense Logistics Agency, Department of Defense.

ACTION: Notice of a computer matching program between the General Services Administration (GSA) and the Department of Defense (DoD) for public comment.

SUMMARY: Subsection (e)(12) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a) requires agencies to publish advance notice of any proposed or revised computer matching program by the matching agency for public comment. The DoD, as the matching agency under the Privacy Act is hereby giving constructive notice in lieu of direct notice to the record subjects of a computer matching program between GSA and DoD that their records are being matched by computer. The record subjects are GSA delinquent debtors who may be current or former Federal employees receiving Federal salary or benefit payments and who are delinquent in their repayment of debts owed to the United States Government under programs administered by GSA so as to permit GSA to pursue and collect the debt by voluntary repayment or by administrative or salary offset procedures under the provisions of the Debt Collection Act of 1982.

DATES: This proposed action will become effective May 22, 1995, and the computer matching will proceed accordingly without further notice, unless comments are received which would result in a contrary determination or if the Office of Management and Budget or Congress objects thereto. Any public comment must be received before the effective date.

ADDRESSES: Any interested party may submit written comments to the Director, Defense Privacy Office, Crystal Mall 4, Room 920, 1941 Jefferson Davis Highway, Arlington, VA 22202–4502.

FOR FURTHER INFORMATION CONTACT: Mr. Aurelio Nepa, Jr. at telephone (703) 607–2943.

SUPPLEMENTARY INFORMATION: Pursuant to subsection (o) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), the DMDC and GSA have concluded an agreement to conduct a computer matching program between the agencies. The purpose of the match is to exchange personal data between the agencies for debt collection. The match will yield the identity and location of the debtors within the Federal government so that GSA can pursue recoupment of the debt by voluntary payment or by administrative or salary offset procedures. Computer matching appeared to be the most efficient and effective manner to accomplish this task with the least amount of intrusion of personal privacy of the individuals concerned. It was therefore concluded and agreed upon that computer matching would be the best and least obtrusive manner and choice for accomplishing this requirement.

A copy of the computer matching agreement between GSA and DMDC is available upon request to the public. Requests should be submitted to the address caption above or to the Chief Financial Officer, General Services Administration, 18th and F Streets, NW, Washington, DC 20405. Telephone (202) 501–1721.

Set forth below is the notice of the establishment of a computer matching program required by paragraph 6.c. of the Office of Management and Budget Guidelines on computer matching published in the **Federal Register** at 54 FR 25818 on June 19, 1989.

The matching agreement, as required by 5 U.S.C. 552a(r) of the Privacy Act, and an advance copy of this notice was submitted on April 6, 1995, to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget pursuant to paragraph 4d of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records about Individuals,' dated July 15, 1994 (59 FR 37906, July 25, 1994). The matching program is subject to review by OMB and Congress and shall not become effective until that review period has elapsed.

Dated: April 13, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Notice of a Computer Matching Program Between the General Services Administration and the Department of Defense for Debt Collection

A. *Participating agencies:* Participants in this computer matching program are the General Services Administration (GSA) and the Defense Manpower Data Center (DMDC) of the Department of Defense (DoD). The GSA is the source agency, i.e., the activity disclosing the records for the purpose of the match. The DMDC is the specific recipient activity or matching agency, i.e., the agency that actually performs the computer matching.

B. *Purpose of the match:* Upon the execution of an agreement, the GSA will provide and disclose debtor records to DMDC to identify and locate any matched Federal personnel, employed or retired, who may owe delinquent debts to the Federal Government under certain programs administered by the DOD. The GSA will use this information to initiate independent collection of those debts under the provisions of the Debt Collection Act of 1982 when voluntary payment is not forthcoming. These collection efforts will include requests by the GSA of any employing Federal agency to apply administrative and/or salary offset procedures until such time as the obligation is paid in full.

C. *Authority for conducting the match:* The legal authority for conducting the matching program is contained in the Debt Collection Act of 1982 (Pub.L. 97–365), 31 U.S.C. chapter 37, subchapter I (General) and subchapter II (Claims of the United States Government), 31 U.S.C. 3711 Collection and Compromise, 31 U.S.C. 3716 Administrative Offset, 5 U.S.C. 5514 Installment Deduction for Indebtedness (Salary Offset); 10 U.S.C. 136, Assistant Secretaries of Defense, Appointment Powers and Duties; section 206 of Executive Order 11222; 4 CFR Ch. II, Federal Claims Collection Standards (General Accounting Office—Department of Justice); 5 CFR 550.1101–550.1108 Collection by Offset from Indebted Government Employees (OPM); 41 CFR part 105–56 (GSA).

D. *Records to be matched:* The systems of records maintained by the respective agencies under the Privacy Act of 1974, as amended, 5 U.S.C. 552a, from which records will be disclosed for the purpose of this computer match are as follows:

The GSA will use personal data from the Privacy Act record system identified as GSA/PPFM–7, entitled, 'Credit Data on Individual Debtors', last published in the **Federal Register** at 58 FR 64587 on December 8, 1993.

DMDC will use personal data from the record systems identified as S322.11 DMDC, entitled 'Federal Creditor Agency Debt Collection Data Base,' last published in the **Federal Register** on February 22, 1993, at 58 FR 10875.

Sections 5 and 10 of the Debt Collection Act (Pub.L. 97–365)

authorize agencies to disclose information about debtors in order to effect salary or administrative offsets. Agencies must publish routine uses pursuant to subsection (b)(3) of the Privacy Act for those systems of records from which they intend to disclose this information. Sections 5 and 10 of the Debt Collection Act will comprise the necessary authority to meet the Privacy Act's 'compatibility' condition. The systems of records described above contain an appropriate routine use disclosure between the agencies of the information proposed in the match. The routine use provisions are compatible with the purpose for which the information was collected.

E. *Description of computer matching program:* The GSA, as the source agency, will provide DMDC with a disk which contains the names of delinquent debtors in programs the GSA administers. Upon receipt of the disk file of debtor accounts, DMDC will perform a computer match using all nine digits of the SSN of the GSA file against a DMDC computer database. The DMDC database, established under an interagency agreement between DOD, OPM, OMB, and the Department of the Treasury, consists of employment records of Federal employees and military members, active, and retired. Matching records ('hits'), based on the SSN, will produce the member's name, service or agency, category of employee, and current work or home address. The hits or matches will be furnished to the GSA. The GSA is responsible for verifying and determining that the data on the DMDC reply disk file are consistent with the GSA source file and for resolving any discrepancies or inconsistencies on an individual basis. The GSA will also be responsible for making final determinations as to positive identification, amount of indebtedness and recovery efforts as a result of the match.

The disk provided by GSA will contain data elements of the debtor's name, Social Security Number, debtor status and debt balance, internal account numbers and the total amount owed on approximately 1,870 delinquent debtors.

The DMDC computer database file contains approximately 10 million records of active duty and retired military members, including the Reserve and Guard, and the OPM government wide Federal civilian records of current and retired Federal employees.

F. *Inclusive dates of the matching program:* This computer matching program is subject to review by the Office of Management and Budget and Congress. If no objections are raised by either, and the mandatory 30 day public notice period for comment has expired for this **Federal Register** notice with no significant adverse public comments in receipt resulting in a contrary determination, then this computer matching program becomes effective and the respective agencies may begin the exchange of data 30 days after the date of this published notice at a mutually agreeable time and will be repeated semi-annually. Under no circumstances shall the matching program be implemented before the 30 day public notice period for comment has elapsed as this time period cannot be waived. By agreement between GSA and DMDC, the matching program will be in effect and continue for 18 months with an option to renew for 12 additional months unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

G. *Address for receipt of public comments or inquiries:* Director, Defense Privacy Office, Crystal Mall 4, Room 920, 1941 Jefferson Davis Highway, Arlington, VA 22202–4502. Telephone (703) 607–2943.

[FR Doc. 95–9648 Filed 04–19–95; 8:45 am]
BILLING CODE 5000–04–F

Privacy Act of 1974; Notice to Amend a Record System

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice to amend a record system.

SUMMARY: The Defense Logistics Agency proposes to amend a system of records notices in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendment will be effective on May 22, 1995, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Defense Logistics Agency, DASC-RP, Alexandria, VA 22304–6100.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Christensen at (703) 617–7583.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed amendments are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which would require the submission of a new or altered system report for each system. The specific changes to the record systems being amended are set forth below followed by the notice, as amended, published in its entirety.

Dated: April 13, 1995.

Patricia L. Toppings,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

S322.10 DMDC

SYSTEM NAME:

Defense Manpower Data Center Data Base *(November 7, 1994, 59 FR 55462).*

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Add to end of entry 'Individuals who were or may have been the subject of tests involving chemical or biological human-subject testing; and individuals who have inquired or provided information to the Department of Defense concerning such testing.'

* * * * *

PURPOSE(S):

Add to entry 'Information will be used by agency officials and employees, or authorized contractors, and other DoD Components in the preparation of the histories of human chemical or biological testing or exposure; to conduct scientific studies or medical follow-up programs; to respond to Congressional and Executive branch inquiries; and to provide data or documentation relevant to the testing or exposure of individuals.'

* * * * *

S322.10 DMDC

SYSTEM NAME:

Defense Manpower Data Center Data Base.

SYSTEM LOCATION:

Primary location—W.R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93943–5000.

Back-up files maintained in a bank vault in Hermann Hall, Naval Postgraduate School, Monterey, CA 93943–5000.

Decentralized segments—Portions of this file may be maintained by the military and non-appropriated fund personnel and finance centers of the military services, selected civilian contractors with research contracts in manpower area, and other Federal agencies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All uniformed services officers and enlisted personnel who served on active duty from July 1, 1968, and after or who have been a member of a reserve component since July 1975; retired military personnel; participants in Project 100,000 and Project Transition, and the evaluation control groups for these programs. All individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examining Station from July 1, 1970, and later.

DOD civilian employees since January 1, 1972. All veterans who have used the GI Bill education and training employment services office since January 1, 1971. All veterans who have used GI Bill education and training entitlements, who visited a state employment service office since January 1, 1971, or who participated in a Department of Labor special program since July 1, 1971. All individuals who ever participated in an educational program sponsored by the U.S. Armed Forces Institute and all individuals who ever participated in the Armed Forces Vocational Aptitude Testing Programs at the high school level since September 1969.

Individuals who responded to various paid advertising campaigns seeking enlistment information since July 1, 1973; participants in the Department of Health and Human Services National Longitudinal Survey.

Individuals responding to recruiting advertisements since January 1987; survivors of retired military personnel who are eligible for or currently receiving disability payments or disability income compensation from the Department of Veteran Affairs; surviving spouses of active or retired deceased military personnel; 100% disabled veterans and their survivors.

Individuals receiving disability compensation from the Department of Veteran Affairs or who are covered by a Department of Veteran Affairs' insurance or benefit program; dependents of active duty military retirees, selective service registrants.

Individuals receiving a security background investigation as identified in the Defense Central Index of Investigation. Former military and civilian personnel who are employed by DOD contractors and are subject to the provisions of 10 U.S.C. 2397.

All U.S. Postal Service employees.

All Federal Civil Service employees.

All non-appropriated funded individuals who are employed by the Department of Defense.

Individuals who were or may have been the subject of tests involving chemical or biological human-subject testing; and individuals who have inquired or provided information to the Department of Defense concerning such testing.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computerized personnel/employment/pay records consisting of name, Service Number, Selective Service Number, Social Security Number, compensation data, demographic information such as home town, age, sex, race, and educational level; civilian occupational information; civilian and military acquisition work force warrant location, training and job specialty information; military personnel information such as rank, length of service, military occupation, aptitude scores, post-service education, training, and employment information for veterans; participation in various inservice education and training programs; military hospitalization records; home and work addresses; and identities of individuals involved in incidents of child and spouse abuse, and information about the nature of the abuse and services provided.

CHAMPUS claim records containing enrollee, patient and health care facility, provided data such as cause of treatment, amount of payment, name and Social Security or tax I.D. of providers or potential providers of care.

Selective Service System registration data.

Department of Veteran Affairs disability payment records.

Credit or financial data as required for security background investigations.

Criminal history information on individuals who subsequently enter the military.

U.S. Postal Service employment/personnel records containing Social Security Number, name, salary, home and work address. U.S. Postal Service records will be maintained on a temporary basis for approved computer matching between the U.S. Postal Service and DOD.

Office of Personnel Management (OPM) Central Personnel Data File (CPDF), an extract from OPM/GOVT–1, General Personnel Records, containing employment/personnel data on all Federal employees consisting of name, Social Security Number, date of birth, sex, work schedule (full-time, part-time, intermittent), annual salary rate (but not actual earnings), occupational series, position occupied, agency identifier, geographic location of duty station, metropolitan statistical area, and personnel office identifier. Extract from OPM/CENTRAL–1, Civil Service Retirement and Insurance Records, containing Civil Service Claim number, date of birth, name, provision of law retired under, gross annuity, length of service, annuity commencing date, former employing agency and home address. These records provided by OPM for approved computer matching.

Non-appropriated fund employment/personnel records consist of Social Security Number, name, and work address.

AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, Assistant Secretaries of Defense; Appointment Powers and Duties; 10 U.S.C. 2358; Research Projects; 5 U.S.C. App. 3 (Pub. L. 95–452, as amended (Inspector General Act of 1978)); and E.O. 9397.

PURPOSE(S):

The purpose of the system of records is to provide a single central facility within the Department of Defense to assess manpower trends, support personnel functions, to perform longitudinal statistical analyses, identify current and former DOD civilian and military personnel for purposes of detecting fraud and abuse of pay and benefit programs, to register current and former DoD civilian and military personnel and their authorized dependents for purposes of obtaining medical examination, treatment or other benefits to which they are qualified, and to collect debts owed to the United States Government and state and local governments.

Information will be used by agency officials and employees, or authorized contractors, and other DoD Components in the preparation of the histories of human chemical or biological testing or exposure; to conduct scientific studies or medical follow-up programs; to respond to Congressional and Executive branch inquiries; and to provide data or documentation relevant to the testing or exposure of individuals

All records in this record system are subject to use in authorized computer matching programs within the Department of Defense and with other Federal agencies or non-Federal agencies as regulated by the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the

DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Veteran Affairs (DVA) to provide military personnel and pay data for present and former military personnel for the purpose of evaluating use of veterans benefits, validating benefit eligibility and maintaining the health and well being of veterans.

To the Department of Veteran Affairs (DVA) to provide identifying military personnel data to the DVA and its contractor, the Prudential Insurance Company, for the purpose of notifying members of the Individual Ready Reserve (IRR) of their right to apply for Veteran's Group Life Insurance coverage.

To the Department of Veterans Affairs (DVA) to register eligible veterans and their dependents for DVA programs.

To the Department of Veterans Affairs (DVA) to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of:

1. Providing full identification of active duty military personnel, including full-time National Guard/Reserve support personnel, for use in the administration of DVA's Compensation and Pension benefit program (38 U.S.C. 3104(c), 3006–3008). The information is used to determine continued eligibility for DVA disability compensation to recipients who have returned to active duty so that benefits can be adjusted or terminated as required and steps taken by DVA to collect any resulting over payment.

2. Providing military personnel and financial data to the Veterans Benefits Administration, DVA for the purpose of determining initial eligibility and any changes in eligibility status to insure proper payment of benefits for GI Bill education and training benefits by the DVA under the Montgomery GI Bill (Title 10 U.S.C., Chapter 106—Selected Reserve and Title 38 U.S.C., Chapter 30—Active Duty). The administrative responsibilities designated to both agencies by the law require that data be exchanged in administering the programs.

3. Providing identification of reserve duty, including full-time support National Guard/Reserve military personnel, to the DVA, for the purpose of deducting reserve time served from any DVA disability compensation paid or waiver of VA benefit. The law (10 U.S.C. 684) prohibits receipt of reserve pay and DVA compensation for the same time period, however, it does permit waiver of DVA compensation to draw reserve pay.

4. Providing identification of former active duty military personnel who received separation payments to the DVA for the purpose of deducting such repayment from any DVA disability compensation paid. The law (38 U.S.C. 3104(c)) requires recoupment of severance payments before DVA disability compensation can be paid.

5. Providing identification of former military personnel and survivor's financial benefit data to DVA for the purpose of identifying military retired pay and survivor benefit payments for use in the administration of the DVA's Compensation and Pension program (38 U.S.C. 3104(c), 3006–3008). The information is to be used to process all DVA award actions more efficiently, reduce subsequent overpayment collection actions, and minimize erroneous payments.

To the Office of Personnel Management (OPM) consisting of personnel/employment/financial data for the purpose of carrying out OPM's management functions. Records disclosed concern pay, benefits, retirement deductions and any other information necessary for those management functions required by law (Pub. L. 83–598, 84–356, 86–724, 94–455 and 5 U.S.C. 1302, 2951, 3301, 3372, 4118, 8347).

To the Office of Personnel Management (OPM) to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a) for the purpose of:

1. Exchanging personnel and financial information on certain military retirees, who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of military retired pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and to permit adjustments of military retired pay by the Defense Finance and Accounting Service and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

2. Exchanging personnel and financial data on civil service annuitants (including disability annuitants under age 60) who are reemployed by DOD to insure that annuities of DOD reemployed annuitants are terminated where applicable, and salaries are correctly offset where applicable as required by law (5 U.S.C. 8331, 8344, 8401 and 8468).

3. Exchanging personnel and financial data to identify individuals who are improperly receiving military retired pay and credit for military service in their civil service annuities, or annuities based on the 'guaranteed minimum' disability formula. The match will identify and/or prevent erroneous payments under the Civil Service Retirement Act (CSRA) 5 U.S.C. 8331 and the Federal Employees' Retirement System Act (FERSA) 5 U.S.C. 8411. DOD's legal authority for monitoring retired pay is 10 U.S.C. 1401.

4. Exchanging civil service and Reserve military personnel data to identify those individuals of the Reserve forces who are employed by the Federal government in a civilian position. The purpose of the match is to identify those particular individuals occupying critical positions as civilians and cannot be released for extended active duty in the event of mobilization. Employing Federal agencies are informed of the reserve status of those affected personnel so that a choice of terminating the position or the reserve assignment can be made by the individual concerned. The authority for conducting the computer match is contained in E.O. 11190, Providing for the Screening of the Ready Reserve of the Armed Services.

To the Internal Revenue Service (IRS) for the purpose of obtaining home addresses to contact Reserve component members for mobilization purposes and for tax administration. For the purpose of conducting aggregate statistical analyses on the impact of DOD personnel of actual changes in the tax laws and to conduct aggregate statistical analyses to lifestream earnings of current and former military personnel to be used in studying the comparability of civilian and military pay benefits. To aid in administration of Federal Income Tax laws and regulations, to identify non-compliance and delinquent filers.

To the Department of Health and Human Services (DHHS):

1. To the Office of the Inspector General, DHHS, for the purpose of identification and investigation of DOD employees and military members who may be improperly receiving funds under the Aid to Families of Dependent Children Program.

2. To the Office of Child Support Enforcement, DHHS, pursuant to 42 U.S.C. 653 and Pub. L. 94–505, to assist state child support offices in locating absent parents in order to establish and/or enforce child support obligations.

3. To the Health Care Financing Administration (HCFA), DHHS for the purpose of monitoring HCFA reimbursement to civilian hospitals for Medicare patient treatment. The data will ensure no Department of Defense physicians, interns or residents are counted for HCFA reimbursement to hospitals.

4. To the Social Security Administration (SSA), Office of Research and Statistics, DHHS for the

purpose of conducting statistical analyses of impact of military service and use of GI Bill benefits on long term earnings.

5. To the Bureau of Supplemental Security Income, SSA, DHHS to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of verifying information provided to the SSA by applicants and recipients who are retired military members or their survivors for Supplemental Security Income (SSI) benefits. By law (42 U.S.C. 1383) the SSA is required to verify eligibility factors and other relevant information provided by the SSI applicant from independent or collateral sources and obtain additional information as necessary before making SSI determinations of eligibility, payment amounts or adjustments thereto.

6. To the Center for Disease Control, DHHS, for the purpose of conducting studies concerned with the health and well being of the active duty and veteran population.

To the Selective Service System (SSS) for the purpose of facilitating compliance of members and former members of the Armed Forces, both active and reserve, with the provisions of the Selective Service registration regulations (50 U.S.C. App. 451 and E.O. 11623).

To DOD Civilian Contractors for the purpose of performing research on manpower problems for statistical analyses.

To the Department of Labor (DOL) to reconcile the accuracy of unemployment compensation payments made to former DOD civilian employees and military members by the states. To the Department of Labor to survey military separations to determine the effectiveness of programs assisting veterans to obtain employment.

To the U.S. Coast Guard (USCG) of the Department of Transportation (DOT) to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of exchanging personnel and financial information on certain retired USCG military members, who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of military pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and to permit adjustments of military retired pay by the U.S. Coast Guard and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

To the Department of Housing and Urban Development (HUD) to provide data contained in this record system that includes the name, Social Security Number, salary and retirement pay for the purpose of verifying continuing eligibility in HUD's assisted housing programs maintained by the Public Housing Authorities (PHAs) and subsidized multi-family project owners or management agents. Data furnished will be reviewed by HUD or the PHAs with the technical assistance from the HUD Office of the Inspector General (OIG) to determine whether the income reported by tenants to the PHA or subsidized multi-family project owner or management agent is correct and complies with HUD and PHA requirements.

To Federal and Quasi-Federal agencies, territorial, state, and local governments to support personnel functions requiring data on prior military service credit for their employees or for job applications. To determine continued eligibility and help eliminate fraud and abuse in benefit programs and to collect debts and over payments owed to these programs. To assist in the return of unclaimed property or assets escheated to states of civilian employees and military member and to provide members and former members with information and assistance regarding various benefit entitlements, such as state bonuses for veterans, etc. Information released includes name, Social Security Number, and military or civilian address of individuals. To detect fraud, waste and abuse pursuant to the authority contained in the Inspector General Act of 1978, as amended (Pub. L. 95–452) for the purpose of determining eligibility for, and/or continued compliance with, any Federal benefit program requirements. To private consumer reporting agencies to comply with the requirements to update security clearance investigations of DOD personnel.

To consumer reporting agencies to obtain current addresses of separated military personnel to notify them of potential benefits eligibility.

To Defense contractors to monitor the employment of former DOD employees and members subject to the provisions of 10 U.S.C. 2397.

To financial depository institutions to assist in locating individuals with dormant accounts in danger of reverting to state ownership by escheatment for accounts of DOD civilian employees and military members.

To any Federal, state or local agency to conduct authorized computer matching programs regulated by the Privacy Act of 1974, as amended, (5 U.S.C. 552a) for the purposes of identifying and locating delinquent debtors for collection of a claim owed the Department of Defense or the Unites States Government under the Debt Collection Act of 1982 (Pub. L. 97–365).

To state and local law enforcement investigative agencies to obtain criminal history information for the purpose of evaluating military service performance and security clearance procedures (10 U.S.C. 2358).

To the United States Postal Service to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purposes of:

1. Exchanging civil service and Reserve military personnel data to identify those individuals of the Reserve forces who are employed by the Federal government in a civilian position. The purpose of the match is to identify those particular individuals occupying critical positions as civilians and who cannot be released for extended active duty in the event of mobilization. The Postal Service is informed of the reserve status of those affected personnel so that a choice of terminating the position on the reserve assignment can be made by the individual concerned. The authority for conducting the computer match is contained in E.O. 11190, Providing for the Screening of the Ready Reserve of the Armed Forces.

2. Exchanging personnel and financial information on certain military retirees who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of retired military pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and permit adjustments to military retired pay to be made by the Defense Finance and Accounting Service and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

To the Armed Forces Retirement Home (AFRH), which includes the United States Soldier's and Airmen's Home (USSAH) and the United States Naval Home (USNH) for the purpose of verifying Federal payment information (military retired or retainer pay, civil service annuity, and compensation from the Department of Veterans Affairs) currently provided by the residents for computation of their monthly fee and to identify any unreported benefit payments as required by the Armed Forces Retirement Home Act of 1991, Pub.L. 101-510 (24 U.S.C. 414).

The 'Blanket Routine Uses' set forth at the beginning of the DLA compilation of

record system notices also apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Retrieved by name, Social Security Number, occupation, or any other data element contained in system.

SAFEGUARDS:

W.R. Church Computer Center - Tapes are stored in a locked cage in a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

Back-up location - Tapes are stored in a bank-type vault; buildings are locked after hours and only properly cleared and authorized personnel have access.

RETENTION AND DISPOSAL:

Files constitute a historical data base and are permanent.

U.S. Postal Service records are temporary and are destroyed after the computer matching program results are verified.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940–2453.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940–2453.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military or other identification card.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address inquiries to the Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940–2453.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military or other identification card.

CONTESTING RECORD PROCEDURES:

DLA rules for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, Personal Privacy and Rights of Individuals Regarding Their Personal Records; 32 CFR part 323; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The military services, the Department of Veteran Affairs, the Department of Education, Department of Health and Human Services, from individuals via survey questionnaires, the Department of Labor, the Office of Personnel Management, Federal and Quasi-Federal agencies, Selective Service System, and the U.S. Postal Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 95–9649 Filed 04–20–95; 8:45 am]

BILLING CODE 5000–04–F

Defense Mapping Agency

Privacy Act of 1974; Notice to Amend a System of Records

AGENCY: Defense Mapping Agency, DOD.

ACTION: Notice to amend a system of records.

SUMMARY: The Defense Mapping Agency is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on May 22, 1995, unless comments are received which result in a contrary determination.

ADDRESSES: Ms. Helen Sharetts-Sullivan, General Counsel Information, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

FOR FURTHER INFORMATION CONTACT: Ms. Helen Sharetts-Sullivan at (703) 285–9315.

SUPPLEMENTARY INFORMATION: The Defense Mapping Agency systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: April 6, 1995.

Patricia Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

B0502–03

SYSTEM NAME:

Master Billet/Access Record *(February 22, 1993, 58 FR 10198).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Primary system is located at the Special Security Office, Defense Mapping Agency Headquarters, 8613 Lee Highway, Fairfax, VA 22031–2137.

Decentralized segments exist at the DMA Hydrographic/Topographic Center; DMA Aerospace Center; DMA Reston Center; and the DMA Systems Center. Official mailing addresses are published as an appendix to DMA's compilation of systems of records notices.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Add 'or a clearance level' after (SCI).

CATEGORIES OF RECORDS IN THE SYSTEM:

Add to end of entry 'company or agency, type of badge the individual is eligible to receive, type of clearance held, date-time-group of the message, date of expiration of file at DMA location.'

* * * * *

PURPOSE(S):

Add to end of entry 'To verify visit approval and/or access to classified material through Security Specialists/Assistants, DMA Security Police and other contract security guards at DMA.'

* * * * *

STORAGE:

Delete entry and replace with 'Records are stored in file server database for retrieval through visual display terminals and line printers.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Destroy two years after transfer, reassignment or separation of the individual.'

* * * * *

B0502–03

SYSTEM NAME:

Master Billet/Access Record.

SYSTEM LOCATION:

Primary system is located at the Special Security Office, Defense Mapping Agency Headquarters, 8613 Lee Highway, Fairfax, VA 22031–2137.

Decentralized segments exist at the DMA Hydrographic/Topographic Center; DMA Aerospace Center; DMA Reston Center; and the DMA Systems Center. Official mailing addresses are published as an appendix to DMA's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DMA employees and contractor personnel who have been indoctrinated for access to Sensitive Compartmented Information (SCI) or have been granted a clearance level. In addition, employees of other government agencies are included for the period during which their security clearance or SCI access status is permanently certified to DMA.

CATEGORIES OF RECORDS IN THE SYSTEM:

File may contain for an individual the following: Name, rank/grade, military component or civilian status, Social Security Number, SCI billet number and title, SCI accesses authorized and held, date background investigation completed, date indoctrinated, date and state of birth, company or agency, type of badge the individual is eligible to receive, type of clearance held.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 12356, National Security Information and E.O. 9397.

PURPOSE(S):

To identify and verify DMA personnel authorized access to SCI in order to control access to secure areas for use of classified information, for periodic re-indoctrination (re-briefing) of employees for SCI access, for periodic security education and training, and for control and reissue of identification badges.

To certify personnel SCI access status to the Defense Intelligence Agency for updating the Security Management Information System.

To verify visit approval and/or access to classified material through Security Specialists/Assistants, DMA Security Police and other contract security guards at DMA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information is used to certify and verify SCI access status to other government agencies.

The 'Blanket Routine Uses' set forth at the beginning of DMA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are stored in file server database for retrieval through visual display terminals and line printers.

RETRIEVABILITY:

Files are retrieved by name and at least one other personal identifier, such as a date of birth, place of birth, Social Security Number or military service number. Files may also be retrieved by billet number.

SAFEGUARDS:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained. Transmission of system data between DMA components is by secure mail channels. Access to the database is password-protected.

RETENTION AND DISPOSAL:

Destroy two years after transfer, reassignment or separation of the individual from DMA.

SYSTEM MANAGER(S) AND ADDRESS:

Security Policy Division, ST A–15, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Security Policy Division, ST A–15, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Security Policy Division, ST A–15, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

Written requests for information should contain the full name of the individual, Social Security Number, current address and telephone number. For personal visits, the individual should be able to furnish personal identification containing his/her full name, Social Security Number, physical description, photograph, and signature.

CONTESTING RECORD PROCEDURES:

DMA's rules for accessing records and contesting contents and appealing initial agency determinations are published in DMA Instruction 5400.11; 32 CFR part 320; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is supplied by the individual concerned through completion of the Personal History Statement DD Form 398. The basis for billet entries are security clearance or access approval messages or correspondence from the Defense Intelligence Agency; bases for incumbent entries are indoctrination oaths executed by incumbents at time of indoctrination.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 95–9307 Filed 04–19–95; 8:45 am]
BILLING CODE 5000–04–F

Department of the Air Force

USAF Scientific Advisory Board Meeting

The USAF Scientific Advisory Board's New World Vistas Directed Energy Panel will meet from 8:00 a.m. to 5:00 p.m. on 8 June 1995 at Kirtland Air Force Base, NM.

The purpose of these meetings are to receive briefings and to have discussions concerning Directed Energy. These meetings will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4).

For further information, contact the SAB Secretariat at (703) 697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95–9791 Filed 4–19–95; 8:45 am]
BILLING CODE 3190–01–M

USAF Scientific Advisory Board Meeting

The Aircraft & Propulsion Panel of the USAF Scientific Advisory Board will meet on 16–17 May 1995 at The ANSER Corporation, 1215 Jefferson Davis

Highway, Arlington, VA from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to gather information in support of the 1995 Summer Study on New World Vistas.

The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–8845.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95–9792 Filed 4–19–95; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board Meeting

The Aircraft & Propulsion Panel of the USAF Scientific Advisory Board will meet on 30–31 May 1995 at Wright Patterson AFB, OH from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to gather data in support of the 1995 Summer Study on New World Vistas.

The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–8845.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95–9793 Filed 4–19–95; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Notice of Closed Meeting

AGENCY: Armed Forces Epidemiological Board, DOD.

ACTION: Notice of closed meeting.

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–462) announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board, DOD, Subcommittee on Disease Control.

Date of Meeting: 20–21 April 1995.

Time: 0800–1600.

Place: U.S. Army Medical Research Institute for Infectious Diseases (USAMRIID), Ft. Detrick, Maryland.

Proposed Agenda: Review of the Preservation of Stocks of Smallpox Vaccine.

2. A portion of this meeting will be closed to the public for an intelligence briefing in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof and title 5, U.S.C., appendix 1, sub-section 10(d). Should additional information be desired, please contact the Executive Secretary, AFEB, Skyline Six, 5109 Leesburg Pike, Room 667, Falls Church, Virginia 22041–3258.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–9828 Filed 4–19–95; 8:45 am]

BILLING CODE 3710–08–M

Armed Forces Epidemiological Board; Notice of Closed Meeting

AGENCY: Armed Forces Epidemiological Board, DOD.

ACTION: Notice of closed meeting.

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–462) announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board, DOD.

Date of Meeting: 21 April 1995.

Time: 0800–1600.

Place: U.S. Army Medical Research Institute for Infectious Diseases (USAMRIID), Ft. Detrick, Maryland.

Proposed Agenda: Review of the Preservation of Stocks of Smallpox Virus.

2. A portion of this meeting will be closed to the public for an intelligence briefing in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof and title 5, U.S.C., appendix 1, sub-section 10(d). Should additional information be desired, please contact the Executive Secretary, AFEB, Skyline Six, 5109 Leesburg Pike, Room 667, Falls Church, Virginia 22041–3258.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–9942 Filed 4–19–95; 8:45 am]

BILLING CODE 3710–08–M

Availability of Patents for Exclusive, Partially Exclusive or Nonexclusive Licenses

AGENCY: U.S. Army Soldier Systems Command, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive, or nonexclusive licenses under the following patent. Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR part 404.

Issued patent	Title	Issue date
5,402,362	Method of Utilize Trial Dyeings to Improve Color Formulations.	03/28/95

FOR FURTHER INFORMATION CONTACT: For further information please contact either Mr. Vincent J. Ranucci, Patent Counsel or Ms. Jessica M. Niro, Paralegal Specialist, at (508) 651–4510, FAX (508) 651–5167 or by writing to the U.S. Army Soldier Systems Command (Prov), Office of Chief Counsel, Attention: Patents, Natick, MA 01760–5035.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–9747 Filed 4–19–95; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR) for the Seven Oaks Dam Water Conservation and Supply Study, San Bernardino, CA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent.

SUMMARY: The Los Angeles District will prepare a EIS/EIR to evaluate the feasibility of establishing a seasonal water conservation and supply pool at Seven Oaks Dam. The dam, which is currently under construction, is the upstream component of the Santa Ana River Mainstem Project (SARP), and is located in the San Bernardino National Forest along the upper Santa Ana River at the base of the San Bernardino Mountains. The study was developed in response to local concerns regarding future water supply sources, given continued regional population growth, dwindling imported water supplies, and continued increases in the cost of water. Establishment of a seasonal water conservation and supply pool at Seven Oaks would increase groundwater reserves by extending the period water is available for release to downstream spreading grounds. Additionally, the feasibility of developing dispersed, non-motorized recreational facilities will be investigated in cooperation with staff from the San Bernardino National Forest.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and EIS/EIR can be answered by: Mr. Gary Gunther, Study Manager, CESPL–PD–WA, P.O. Box 2711, Los Angeles,

California 90053–22325, (213) 894–3825.

SUPPLEMENTARY INFORMATION:

a. Authority

The authority to study the feasibility of water conservation and supply storage at Seven Oaks Dam is contained in the Resolution of the Committee on Public Works of the U.S. House of Representatives, dated May 8, 1964.

b. Proposed Action/Alternatives

The proposed action for Seven Oaks Dam would investigate the feasibility of impounding natural flows during the months of March through May, with releases being made from June through September. Three alternative pool elevations and release rates are currently under consideration:

(1) Impounding water up to elevation 2,300 NGVD in the 100-year debris pool (16,000 acre-feet) with releases at the approximate rate of 67 cubic feet per second (CFS) beginning in June.

(2) Impounding water up to elevation 2,375 NGVD (35,000 acre-feet) with releases of approximately 84 cfs beginning in June, and

(3) Impounding water up to elevation 2,418 NGVD (50,000 acre-feet) with releases at the approximate rate of 208 cfs beginning in June.

c. Scoping

An extensive mailing list has been developed which includes Federal, State and local agencies and other interested public and private organizations and parties. Individuals on the mailing list will be sent a copy of each notice announcing a public scoping meeting. An initial public scoping meeting will be scheduled in the near future. Additional public meetings will be scheduled during the review period for the draft EIS/EIR. Specific meeting dates, times, and places will be published in local newspapers. Formal coordination with the appropriate Federal, State and local agencies has begun.

d. Potentially Significant Issues

Potentially significant issues identified include impacts to land and water use, water quality and circulation, recreation resources, and biological resources including endangered species and riparian habitat.

e. Availability of the Draft EIS/EIR

The draft EIS/EIR is expected to be available to the public for review and comment beginning in August of 1996.

f. Comments

Comments and questions regarding the project may be addressed to: U. S. Army Corps of Engineers, Los Angeles District, ATTN: Mr. Gary Gunther, CESPL–PD–WA, P.O. Box 2711, Los Angeles, California 90053–2325.

Dated March 27, 1995.

Jerome J. Dittman,

Lieutenant Colonel, Corps of Engineers, Acting Commander.

[FR Doc. 95–9746 Filed 4–19–95; 8:45 am]

BILLING CODE 3710–KF–M

Department of the Navy

Community Redevelopment Authority and Available Surplus Buildings at Military Installations Designated for Closure: Naval Reserve Center, Atlantic City, NJ

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: This Notice provides information regarding the redevelopment authority that has been established to plan the reuse of the Naval Reserve Center, Atlantic City, NJ, the surplus property that is located at that base closure site, and the timely election by the redevelopment authority to proceed under new procedures set forth in the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

FOR FURTHER INFORMATION CONTACT: John J. Kane, Deputy Division Director, Department of the Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300, telephone (703) 325–0474, or Marian E. DiGiamarino, Special Assistant for Real Estate, Base Closure Team, Northern Division, Naval Facilities Engineering Command, 10 Industrial Highway, Mail Stop #82, Lester, PA 19113–2090, telephone (610) 595–0762. For detailed information regarding particular properties identified in this Notice (i.e., acreage, floor plans, sanitary facilities, exact street address, etc.), contact Helen McCabe, Realty Specialist, Base Closure Team, Northern Division, Naval Facilities Engineering Command, 10 Industrial Highway, Mail Stop #82, Lester, PA 19113–2090, telephone (610) 595–0762.

SUPPLEMENTARY INFORMATION: In 1993, the Naval Reserve Center, Atlantic City, New Jersey, was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. Pursuant to this designation, the facilities only, not the land, at this installation were on July 15, 1994, declared surplus to the federal government and available for use by (a) non-federal public agencies pursuant to various statutes which authorize conveyance of property for public projects, and (b) homeless provider groups pursuant to the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, for removal off-site.

Election to Proceed Under New Statutory Procedures

Subsequently, the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421) was signed into law. Section 2 of this statute gives the redevelopment authority at base closure sites the option of proceeding under new procedures with regard to the manner in which the redevelopment plan for the base is formulated and how requests are made for future use of the property by homeless assistance providers and non-federal public agencies. On December 23, 1994, the Governor of New Jersey submitted a timely request to proceed under the new procedures. Accordingly, this notice of information regarding the redevelopment authority fulfills the **Federal Register** publication requirement of Section 2(e)(3) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

Also, pursuant to paragraph (7)(B) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding the surplus property at the Naval Reserve Center, Atlantic City, NJ, is published in the **Federal Register**.

Redevelopment Authority

The redevelopment authority for the Naval Reserve Center, Atlantic City, NJ, for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990, as amended, is the City of Atlantic City, acting by and through Mayor James Whelan. For further information contact the Office of the Mayor, City Hall, 1301 Bacharach Blvd., Atlantic City, NJ 08401, telephone (609) 347–5400.

Surplus Property Descriptions

The following is a listing of the facilities at the Naval Reserve Center, City of Atlantic City, Atlantic County, State of New Jersey that were declared surplus to the federal government on July 15, 1994. The facilities are located

on Coast Guard land. The land is not subject to this surplus notice.

Buildings

The following is a summary of the facilities which are presently available for removal off-site. The station closed on July 1, 1994. Property numbers are available on request.

—Administration/training facilities (1 structure). Comments: Approx. 16,809 square feet.

— Flammable storage facilities (1 structure). Comments: Approx. 128 square feet.

—Garage facilities (1 structure). Comments: Approx. 933 square feet.

—Miscellaneous facilities (4 structures). Comments: Measuring systems vary. Antenna masts, flagpoles, and fencing.

—Paved areas. Comments: Approx. 3,086 square yards. Parking areas, sidewalks, driveways, and roads.

—Utilities. Comments: Measuring systems vary. Electric, fuel oil storage, sewerage pumping station, and incinerator.

Expressions of Interest

Pursuant to paragraph 7(C) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, State and local governments, representatives of the homeless, and other interested parties located in the vicinity of the Naval Reserve Center, Atlantic City, shall submit to the redevelopment authority (City of Atlantic City) a notice of interest, of such governments, representatives, and parties in the above described surplus property, or any portion thereof. A notice of interest shall describe the need of the government, representative, or party concerned for the desired surplus property. Pursuant to paragraphs 7(C) and (D) of Section 2905(b), the redevelopment authority shall assist interested parties in evaluating the surplus property for the intended use and publish in a newspaper of general circulation in Atlantic City, NJ, the date by which expressions of interest must be submitted. Under Section 2(e)(6) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the deadline for submissions of expressions of interest may not be less than one (1) month nor more than six (6) months from the date the Governor of New Jersey elected to proceed under the new statute, i.e., December 23, 1994.

Dated: April 10, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–9795 Filed 4–19–95; 8:45 am]

BILLING CODE 3810–FF–P

Community Redevelopment Authority and Available Surplus Buildings and Land at Military Installations Designated for Closure: Naval Air Warfare Center, Aircraft Division, Trenton, NJ

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: This Notice provides information regarding the redevelopment authority that has been established to plan the reuse of the Naval Air Warfare Center, Aircraft Division, Trenton, NJ, the surplus property that is located at that base closure site, and the timely election by the redevelopment authority to proceed under new procedures set forth in the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

FOR FURTHER INFORMATION CONTACT: John J. Kane, Deputy Division Director, Department of the Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300, telephone (703) 325–0474, or Marian E. DiGiamarino, Special Assistant for Real Estate, Base Closure Team, Northern Division, Naval Facilities Engineering Command, 10 Industrial Highway, Mail Stop #82, Lester, PA 19113–2090, telephone (610) 595–0762. For detailed information regarding particular properties identified in this Notice (i.e., acreage, floor plans, sanitary facilities, exact street address, etc.), contact Barry Barclay, Base Transition Coordinator, Naval Air Warfare Center, Aircraft Division, P.O. Box 7176, 1440 Parkway Avenue, Trenton, NJ 08628–0176, telephone (609) 538–6489.

SUPPLEMENTARY INFORMATION: In 1993, the Naval Air Warfare Center, Aircraft Division, Trenton, New Jersey was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. Pursuant to this designation, the land and facilities at this installation were on January 31, 1995, declared surplus to the federal government and available for use by (a) non-federal public agencies pursuant to various statutes which authorize conveyance of property for public projects, and (b) homeless provider groups pursuant to the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended.

Election To Proceed Under New Statutory Procedures

Subsequently, the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421) was signed into law. Section 2 of this statute gives the redevelopment authority at base closure sites the option of proceeding under new procedures with regard to the manner in which the redevelopment plan for the base is formulated and how requests are made for future use of the property by homeless assistance providers and non-federal public agencies. On December 8, 1994, the County of Mercer, New Jersey submitted a timely request to proceed under the new procedures. Accordingly, this notice of information regarding the redevelopment authority fulfills the **Federal Register** publication requirement of Section 2(e)(3) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

Also, pursuant to paragraph (7)(B) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding the surplus property at the Naval Air Warfare Center, Aircraft Division, Trenton, NJ is published in the **Federal Register**.

Redevelopment Authority

The redevelopment authority for the Naval Air Warfare Center, Aircraft Division, Trenton, NJ, for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990, as amended, is the Ewing Township Local Reuse Committee, whose chairman is William R. Mate. A cross section of community interests is represented on committee. For further information contact the Ewing Township Business Administrator, Ewing Township Municipal Complex, 2 Municipal Drive, Ewing, NJ 08628, telephone (609) 538–7606.

Surplus Property Descriptions

The following is a listing of the land and facilities at the Naval Air Warfare Center, Aircraft Division, Trenton, NJ, that were declared surplus to the federal government on January 31, 1995.

Land

Approximately 65.61 acres of improved and unimproved fee simple land at the U.S. Naval Air Warfare

Center, Aircraft Division, Trenton, in Ewing Township, Mercer County, New Jersey. An additional 475 acres of land is held in easements, permits and agreements, including 463 acres in permanent easement rights for the ascension and landing of aircraft at Mercer County Airport.

Buildings

The following is a summary of the facilities located on the above described land which will also be available when the station closes on 30 September 1998 unless otherwise indicated. Property numbers are available on request.

—Administration/Office facilities (5 structures). Comments: Approx. 59,000 square feet.
—Laboratory Space (5 structures). Comments: Approx. 141,967 square feet.
—Covered Storage Space (8 structures). Comments: Approx. 40,450 square feet.
—Testing Facility Space (13 structures). Comments: Approx. 317,514 square feet.
—Electrical and Water Service (2 structures). Comments: Located off-base. Scotch Road meter house (100 KV) with a 0.8 mile easement. Delaware River non-potable water pumping station with a 2.2 mile easement.
—Fuel storage facilities (22 structures). Comments: Approx. 25,000 gallon capacity in each tank and 0.4 miles of pipeline.
—Steam Plant (1 structure). Comments: Rated at 120,000 lb./hr.

Expressions of Interest

Pursuant to paragraph 7(C) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, State and local governments, representatives of the homeless, and other interested parties located in the vicinity of the Naval Air Warfare Center, Aircraft Division, Trenton, shall submit to the redevelopment authority (Ewing Township Local Reuse Committee) a notice of interest, of such governments, representatives, and parties in the above described surplus property, or any portion thereof. A notice of interest shall describe the need of the government, representative, or party concerned for the desired surplus property. Pursuant to paragraphs 7(C) and (D) of Section 2905(b), the redevelopment authority shall assist interested parties in evaluating the surplus property for the intended use and publish in a newspaper of general circulation in Trenton/Ewing Township, NJ, the date by which expressions of interest must be submitted. Under Section 2(e)(6) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the deadline for submissions of expressions of interest may not be less than one (1) month nor more than six (6) months from the date the County of Mercer, NJ, elected to proceed under the new statute, i.e., December 8, 1994.

Dated: April 10, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–9794 Filed 4–19–95; 8:45 am]

BILLING CODE 3810–FF–P

Board of Visitors to the United States Naval Academy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Board of Visitors to the United States Naval Academy will meet on May 1, 1995, at Alumni Hall, United States Naval Academy, at 8:30 a.m. The session will be open to the public.

The purpose of the meeting is to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy.

For further information concerning this meeting contact: Lieutenant Commander Timothy A. Batzler, U.S. Navy, Executive Secretary to the Board of Visitors, Office of the Superintendent, United States Naval Academy, Annapolis, MD 21402–5000, Telephone: (410) 293–1503.

Dated: April 11, 1995.

L. R. McNees,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 95–9796 Filed 4–19–95; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Financial Assistance Award: Niel Murdock

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE–FG01–95EE15624 to Niel Murdock. The proposed grant will provide funding in the estimated amount of $99,236 by the Department of Energy for the purpose of saving energy through development of the inventor's patented *Self Actuating Spillway Control Device,* a highly efficient alternative to rubber dams, wooden flashboards, and other common dam spillway gates.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Niel Murdock is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. The new technology is a molded rubber panel with internal reinforcement that bends under the force of flood waters. Once water levels decrease, potential energy absorbed by the panel forces it back to its normal, upright position. Thus the gate is totally self operating. This novel technology needs no external power to operate, as do inflatable rubber dams, and does not wash away in flood conditions, as do wooden flashboards. The panel costs approximately half that of rubber dams, and is very advantageous at remote sites. For hydroelectric dams alone, the market potential of the self-actuating panel is about $120 million. As hydroelectric facilities account for only three percent of the total number of dams in the U.S., the market potential appears significant.

The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation. This award will be made 14 calendar days after publication to allow for public comment.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason, HR–531.21, 1000 Independence Avenue SW., Washington, DC 20585.

The anticipated term of the proposed grant is 18 months from the date of award.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–9689 Filed 4–19–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. CP95–314–000]

East Tennessee Natural Gas Co.; Notice of Request Under Blanket Authorization

April 14, 1995

Take notice that on April 11, 1995, East Tennessee Natural Gas Company (East Tennessee), a Tennessee Corporation, P.O. Box 2511, Houston, Texas 77252, filed a request with the Commission in Docket No. CP95–314–000 pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (NGA) for permission to establish a new delivery point, authorized in blanket certificate issued in Docket No. CP82–412–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

East Tennessee proposes to establish a new delivery point for service under an interruptible transportation contract with Equitable Resources Marketing Company (Equitable), who transports and delivers natural gas it sells to the Power Paper Company (Power). Midcoast Energy Resources, Inc. (Midcoast) would act as an agent for Power and would further install the meter and interconnecting piping. East Tennessee states that it would install a two-inch hot tap assembly and electronic gas measurement facilities (E.G.M/DAC), and would inspect the meter and interconnecting piping that Midcoast installed. Midcoast would reimburse East Tennessee an estimated $33,616 for this installation.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, 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 NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, 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 NGA.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9750 Filed 4–19–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–234–000]

El Paso Natural Gas Co.; Notice of Tariff Filing

April 14, 1995.

Take notice that on April 12, 1995, El Paso Natural Gas Company (El Paso), tendered for filing pursuant to Part 154 of the Federal Energy Regulatory Commission Regulations Under the Natural Gas Act and in compliance with the Commission's Final Rule (Order No. 577) issued March 29, 1995 at Docket No. RM95–5–000, certain revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1–A.

El Paso states that the tendered tariff sheets reflect the Commission's revision of § 284.243(h) of its Regulations and provides for the extension of the exception which allows shippers to release capacity without having to comply with the Commission's advance posting and bidding requirements to one full calendar month. El Paso states that its tariff currently provides for the Commission's clarification of the exemptions of the posting and bidding requirements for transactions at the maximum rate.

El Paso states that the tendered tariff sheets also revise the posting of roll-overs of exempted releases by changing the period in which shippers that released capacity at less than the maximum rate may re-release capacity to the same shipper at less than the maximum rate from 30 days to 28 days.

El Paso, pursuant to Section 154.51 of the Commission's Regulations, respectfully requests waiver of the notice requirement of § 154.22 of said Regulations to permit the tendered tariff sheets to become effective on May 4, 1995, which is the date Order No. 577 will become effective.

El Paso states that copies of the filing were served upon all of El Paso's interstate pipeline system transportation customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 21, 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. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9752 Filed 4–19–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–320–000]

Tennessee Gas Pipeline Co.; Notice of Application

April 14, 1995.

Take notice that on April 12, 1995, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed an application in Docket No. CP95–320–000 pursuant to sections 7(b) and 7(c) of the Natural Gas Act requesting permission and approval to abandon in place certain pipeline and to abandon by removal certain other pipeline facilities and for a certificate of public convenience and necessity authorizing it to construct and operate replacement pipeline facilities in order to improve an existing river crossing, all as more fully set forth in the application on file with the Commission and open to public inspection.

Tennessee states that the results of a corrosion survey indicate that the three 16-inch pipelines located on Tennessee's 100–1, Line where it crosses the D'Arbonne Bayou in Ouachita Parish, Louisiana have deteriorated and must be replaced. In order to maintain the integrity of its mainline transmission system, Tennessee proposes to construct a single 24-inch replacement pipeline.

The existing crossing consists of two 24-inch headers with three connecting 16-inch with three connecting 16-inch lines and approximately 819 feet connecting the header on the west bank to Tennessee's Line 100–1. The portion of the three 16-inch lines beneath the bayou (536 feet each) will be abandoned in place and capped on the east and west banks. The remaining on-bank tie-in facilities (three segments of 423 feet each and one 24-inch line segment of 819 feet), including the two 24-inch headers will be removed.

Tennessee states that the age of the facilities (nearly 50 years old), the

movement of the bayou, and the dictates of enhanced design technique make it advisable to install replacement facilities, which would be located approximately 100 feet south of the existing right-of-way. Tennessee proposes to use the existing cleared right-of-way to the maximum extent possible for an expanded work and staging area. The replacement line will consist of approximately 1,800 feet of piggable 24-inch pipeline, horizontally drilled, beginning at Milepost 47 − 1+1.72 and extending to Milepost 47 − 1+2.06 on Tennessee's Mainline 100–1 in Ouachita Parish, Louisiana. Tennessee states that directionally drilled pipelines under rivers are significantly more secure than older pipelines which were installed by way of trenching under the river bed. Tennessee indicates that upon completion of the proposed construction, the existing 1.2 acre existing right-of-way, after grading and implementation of erosion and revegetation measures, will be permitted to revert to its natural state.

Tennessee states that the replacement will not increase the capacity of Tennessee's mainline. No compression or metering facilities will be added or modified. Nor will there be any effect on Tennessee's customers, since Mainlines 100–2, 100–3, and 100–4 will handle all of the diverted gas volumes until the bayou crossing replacement is completed.

Tennessee estimates that the replacement project will cost approximately $1,085,458 for the pipeline facilities and $368,938 for abandonment of the three 16-inch lines.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 5, 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) 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 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 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 Tennessee to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9751 Filed 4–19–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–210–000]

Transwestern Pipeline Co.; Notice of Technical Conference

April 14, 1995.

Take notice that a technical conference will be convened in the above-docketed proceeding on Thursday, April 27, 1995, at 10:00 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE, Washington, DC.

Any party, as defined in 18 CFR 385.102(c), and any participant, as defined in 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 (18 CFR 385.214).

For additional information, please contact Maria K. Pavlou (713) 853–7555 at Transwestern or Lisa T. Long (202) 208–0691 at the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9749 Filed 4–19–95; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL RESERVE SYSTEM

Georgia Bancshares, Inc., 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 May 15, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Georgia Bancshares, Inc., Tucker, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of DeKalb State Bank, Tucker, Georgia.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota; to acquire 100 percent of the voting shares of Dickinson Bancorporation, Inc., Dickinson, North Dakota, and thereby indirectly acquire Liberty Bank and Trust, N.A., Dickson, North Dakota.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. BOK Financial Corporation, Tulsa, Oklahoma; to acquire 7.5 percent of the voting shares of Security National Bancshares of Sapulpa, Inc., Sapulpa, Oklahoma, and thereby indirectly acquire Security National Bank of Sapulpa. Sapulpa, Oklahoma.

Board of Governors of the Federal Reserve System, April 14, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–9736 Filed 4–19–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made final findings of scientific misconduct in the following case:

James T. Kurtzman, M.D., University of California at San Francisco. An investigation conducted by the University found that Dr. Kurtzman, a former Resident/Fellow in the Department of Obstetrics, Gynecology, and Reproductive Sciences, falsified results of research on the kinetics of nitric oxide synthase in cells and homogenates of human myometrial tissue in pregnant women. Dr. Kurtzman admitted that he had altered data in eight experiments that he performed during December 1993 and January 1994. Dr. Kurtzman reported that he had conducted the enzyme assays and entered the data into a computer-based spreadsheet, but then changed the data to generate graphs that would reproduce the type of results that he had submitted earlier to the Journal of Clinical Investigation. The paper was not published. Dr. Kurtzman executed a Voluntary Exclusion and Settlement Agreement in which he has agreed not to apply for Federal grant or contract funds and will not serve on PHS advisory committees, boards or peer review groups for a three-year period beginning March 18, 1995. The voluntary exclusion, however, shall not apply to Dr. Kurtzman's future training or practice of clinical medicine whether as a resident, fellow, or licensed practitioner, as the case may be, unless that practice involves federally funded research or the direct receipt of an award for federally funded research training.

FOR FURTHER INFORMATION, CONTACT: Director, Division of Research Investigations, Office of Research Integrity, 301–443–5330.

Lyle W. Bivens,

Director, Office of Research Integrity.

[FR Doc. 95–9754 Filed 4–19–95; 8:45 am]

BILLING CODE 4160–17–P

Agency for Health Care Policy and Research

Notice of Health Care Policy and Research Special Emphasis Panel Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2) announcement is made of the following special emphasis panel scheduled to meet during the month of May 1995:

Name: Health Care Policy and Research Special Emphasis Panel.

Date and Time: May 8–9, 1995, 8:00 a.m.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Palladian East Room, Chevy Chase, MD 20815.

Open May 8, 8:00 a.m. to 9:00 a.m. Closed for remainder of meeting.

Purpose: This Panel is charged with conducting review of Health Services Research grant applications requesting dissertation support.

Agenda: The open session of the meeting on May 8, from 8:00 a.m. to 9:00 a.m. will be devoted to a business meeting covering administrative matters. During the closed session, the committee will be reviewing Health Services Research grant applications requesting dissertation support. In accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6), the Administrator, AHCPR, has made a formal determination that this latter session will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members or other relevant information should contact J. Terrell Hoffeld, D.D.S., Ph.D., Agency for Health Care Policy and Research, Suite 602, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594–1449.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: April 13, 1995.

Clifton R. Gaus,

Administrator.

[FR Doc. 95–9757 Filed 4–19–95; 8:45 am]

BILLING CODE 4160–90–M

Agency for Health Care Policy and Research

Notice of Health Care Policy and Research Special Emphasis Panel Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2) announcement is made of the following special emphasis panel scheduled to meet during the month of June 1995:

Name: Health Care Policy and Research Special Emphasis Panel

Date and Time: June 15–16, 1995, 8:30 a.m.

Place: Ramada Inn, 1775 Rockville Pike, Montrose Room, Rockville, MD 20852.

Open June 15, 8:30 a.m. to 9:30 a.m. Closed for remainder of meeting.

Purpose: This Panel is charged with conducting the initial review of grant applications on research that will provide convincing evidence for or against the effectiveness and cost effectiveness of alternative clinical interventions used to prevent, diagnose, treat, and manage common clinical conditions.

Agenda: The open session for the meeting on June 15, from 8:30 a.m. to 9:30 a.m. will be devoted to a business meeting covering administrative matters. During the closed session, the committee will be reviewing grant applications dealing with complex, clinical medical effectiveness issues in response to the medical treatment effectiveness PORT II initiative. In accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6), the Administrator, AHCPR, has made a formal determination that this latter session will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members or other relevant information should contract Gerald E. Calderone, Ph.D., Agency for Health Care Policy and Research, Suite 602, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594–2462.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: April 13, 1995.

Clifton R. Gaus,

Administrator.

[FR Doc. 95–9758 Filed 4–19–95; 8:45 am]

BILLING CODE 4160–90–M

Centers for Disease Control and Prevention

[Announcement 600]

Public Health Conference Support Grant Program

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of funds in fiscal year (FY) 1996 for the Public Health Conference Support Grant Program. The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2000,'' a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to all of Healthy People 2000 priority areas, except HIV Infection (an announcement for HIV entitled, ''Public Health Conference Support Cooperative

Agreement Program for Human Immunodeficiency Virus (HIV) Prevention'' will be published). (For ordering a copy of ''Healthy People 2000,'' see the Section ''Where To Obtain Additional Information.'')

Authority

This program is authorized under Section 301 [42 U.S.C. 241] and Section 310 [42 U.S.C. 242n] of the Public Health Service Act.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Eligible applicants include public and private (e.g., community-based, national and regional) organizations, nonprofit and for-profit organizations and governments and their agencies. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, State and local governments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations, and small, minority-and/or women-owned businesses are eligible for these grants.

Availability of Funds

Approximately $300,000 is expected to be available in FY 1996 to fund approximately 15–20 awards. The awards range from $1,000 to $30,000 with the average award being approximately $15,000. The awards will be made for a 12-month budget and project period. The funding estimates may vary and are subject to change, based on the availability of funds.

Use of Funds

- CDC funds may be used for direct cost expenditures: salaries, speaker fees, rental of necessary equipment, registration fees, and transportation costs (not to exceed economy class fare) for non-Federal employees.
- CDC funds may NOT be used for the purchase of equipment, payments of honoraria, alterations or renovations, organizational dues, entertainment or personal expenses, cost of travel and payment of a Federal employee, nor per diem or expenses other than local mileage for local participants.
- CDC funds may NOT be used for reimbursement of indirect costs.
- Although the practice of handing out novelty items at meetings is often employed in the private sector to provide participants with souvenirs, Federal funds CANNOT be used for this purpose.
- CDC funds may be used for only those parts of the conference specifically supported by CDC as documented in the grant award.
- CDC will NOT fund 100% of any conference proposed under this announcement.

Purpose

The purpose of conference support grants is to provide PARTIAL support for specific non-Federal conferences in the areas of health promotion and disease prevention information/education programs, (EXCEPT HIV INFECTION). Applications are being solicited for conferences on: (1) Chronic disease prevention; (2) infectious disease prevention; (3) control of injury or disease associated with environmental, home, and work-place hazards; (4) environmental health; (5) occupational safety and health; (6) control of risk factors such as poor nutrition, smoking, lack of exercise, high blood pressure, and stress; (7) health education and promotion; (8) laboratory practices; and (9) efforts that would strengthen the public health system. Because conference support by CDC creates the appearance of CDC co-sponsorship, there will be active participation by CDC in the development and approval of those portions of the agenda supported by CDC funds. In addition, CDC will reserve the right to approve or reject the content of the full agenda, speaker selection, and site selection. CDC funds will not be expended for non-approved portions of meetings. Contingency awards will be made allowing usage of only 10% of the total amount to be awarded until a final full agenda is approved by CDC. This will provide funds for costs associated with preparation of the agenda. The remainder of funds will be released only upon approval of the final full agenda. CDC reserves the right to terminate co-sponsorship if it does not concur with the final agenda.

Because CDC's mission and programs relate to the promotion of health and the *prevention* of disease, disability, and premature death, only conferences focusing on such programmatic areas will be considered. Those topics concerned with health-care and health-service issues and areas *other than prevention* should be directed to other public health agencies.

Program Requirements

Grantees must meet the following requirements:

A. Manage all activities related to program content (e.g., objectives, topics, attendees, session design, workshops, special exhibits, speakers, fees, agenda composition, and printing). Many of these items may be developed in concert with assigned CDC project personnel.

B. Provide draft copies of the agenda and proposed ancillary activities to CDC for approval. Submit copy of final agenda and proposed ancillary activities to CDC for approval.

C. Determine and manage all promotional activities (e.g., title, logo, announcements, mailers, press, etc.). CDC must review and approve any materials with reference to CDC involvement or support.

D. Manage all registration processes with participants, invitees, and registrants (e.g., travel, reservations, correspondence, conference materials and hand-outs, badges, registration procedures, etc.).

E. Plan, negotiate, and manage conference site arrangements, including all audio-visual needs.

F. Participate in the analysis of data from conference activities that pertain to the impact on prevention.

Letter of Intent

Potential applicants must submit an original and two copies of a one-page typewritten Letter of Intent that briefly describes the title, location, purpose, and date of the proposed conference and the intended audience (number and profession). This letter must also include the estimated total cost of the conference and the percentage of the total cost (which must be less than 100%) being requested from CDC. THE ONE PAGE LIMITATION MUST BE OBSERVED OR THE LETTER OF INTENT WILL BE RETURNED WITHOUT REVIEW.

Letters of Intent will be reviewed by program staff for consistency with CDC's health promotion and disease prevention goals and priorities and the purpose of this program.

An invitation to submit a final application will be made on the basis of the proposed conference's relationship to the CDC funding priorities and on the availability of funds.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria (TOTAL 100 POINTS):

A. Proposed Program and Technical Approach (25 points)

Evaluation will be based on:

1. The applicant's description of the proposed conference as it relates to specific non-Federal conferences in the areas of health promotion and disease prevention information/education programs (except HIV infection), including the public health need of the proposed conference and the degree to which the conference can be expected to influence public health practices. Evaluation will be based also on the extent of the applicant's collaboration with other agencies serving the intended audience, including local health and education agencies concerned with health promotion and disease prevention.

2. The applicant's description of conference objectives in terms of quality and specificity and the feasibility of the conference based on the operational plan.

3. The quality of the proposed agenda in addressing the chosen non-HIV health and disease prevention/education topic.

B. Applicant Capability (10 points)

Evaluation will be based on the adequacy of applicant's resources (additional sources of funding, organization's strengths, staff time, proposed facilities, etc.) available for conducting conference activities.

C. The Qualification of Program Personnel (20 points)

Evaluation will be based on the extent to which the application has described:

1. The qualifications, experience, and commitment of the principal staff person, and his/her ability to devote adequate time and effort to provide effective leadership.

2. The competence of associate staff persons, discussion leaders, speakers, and presenters to accomplish conference objectives.

3. The degree to which the application demonstrates the knowledge of nation-wide and education efforts currently underway which may affect, and be affected by, the proposed conference.

D. Conference Objectives (25 points)

Evaluation will be based on:

1. The overall quality, reasonableness, feasibility, and logic of the designed conference objectives, including the overall workplan and timetable for accomplishment.

2. The likelihood of accomplishing conference objectives as they relate to disease prevention and health promotion goals, and the feasibility of the project in terms of the operational plan.

E. Evaluation Methods (20 points)

Evaluation will be based on the extent to which evaluation mechanisms for the conference will be able to adequately assess increased knowledge, attitudes, and behaviors of the target attendees.

F. Budget Justification and Adequacy of Facilities (not scored)

The proposed budget will be evaluated on the basis of its reasonableness, concise and clear justification, and consistency with the intended use of grant funds. The application will also be reviewed as to the adequacy of existing and proposed facilities and resources for conducting conference activities.

Executive Order 12372 Review

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog Of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Number is 93.283.

Letter of Intent and Application Submission and Deadline

THE ORIGINAL AND TWO COPIES of the Letter of Intent must be postmarked by October 9, 1995, in order to be considered. (FACSIMILES ARE NOT ACCEPTABLE.)

Following submission of a Letter of Intent, successful applicants will receive a written notification to submit an application for funding. Applications may be accepted by CDC only after the Letter of Intent has been reviewed by CDC and written invitation from CDC has been received by prospective applicant. An invitation to submit an application does not constitute a commitment to fund the applicant. Availability of funds may limit the number of Letter of Intents, regardless of merit, that receive an invitation to submit an application.

The original and two copies of the invited application must be submitted on PHS Form 5161–1 (OMB Number 0937–0189) by January 26, 1996. The earliest possible award date is June 1996.

Invited applications must be postmarked on or before the deadline date to Henry S. Cassell, III, Grants Management Officer, Attention: Karen Reeves, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E–09, Room 300, Atlanta, GA 30305.

A. Deadline

Letters of Intent and 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 submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks will NOT be acceptable as proof of timely mailing.)

B. Late Applications

Applications that do not meet the criteria in A.1. or A.2. above are considered late applications and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information call (404) 332–4561. You will be asked to leave your name, address, and phone number and will need to refer to Announcement Number 600. You will receive a complete program description, information on application procedures. If you have questions after reviewing the contents of all the documents, business management assistance (application information) may be obtained from Karen Reeves, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–09, Atlanta, GA 30305, telephone (404) 842–6596. Programmatic technical assistance may be obtained from Bruce Granoff, Program Analyst, or Freida Quarles, Program Specialist, Public Health Practice Program Office, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop E–42, Atlanta, GA 30333, telephone (404) 639–0425.

Please refer to Announcement Number 600 when requesting information and when submitting your Letter of Intent and application in response to the announcement.

Potential applicants may obtain a copy of ''Healthy People 2000'' (Full Report, Stock No. 017–001–00474–0) or

''Healthy People 2000'' (Summary Report, Stock No. 017–001–00473–1) referenced in the ''Introduction'' through the Superintendent of Documents, Government Printing Office, Washington DC 20402–9325, telephone (202) 512–1800.

Dated: April 14, 1995.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–9768 Filed 4–19–95; 8:45 am]

BILLING CODE 4163–18–P

Food and Drug Administration

Grassroots Regulatory Partnership Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meetings.

SUMMARY: The Food and Drug Administration (FDA) (Office of External Affairs, Office of Regulatory Affairs, Office of the Southwest Region, Office of the Southeast Region, Office of the Mid-Atlantic Region, Office of the Pacific Region, and Office of the Mid-West Region) is announcing a series of five free public meetings around the country to promote the President's initiative for a partnership approach with front-line regulators and the people affected by the work of this agency, and to create local partnerships.

DATES: The public meetings are scheduled as follows:

1. Monday, April 24, 1995, 9 a.m. to 12 m., Dallas, TX.
2. Tuesday, April 25, 1995, 10 a.m. to 2 p.m., Atlanta, GA.
3. Tuesday, April 25, 1995, 9 a.m. to 12 m., Cherry Hill, NJ.
4. Thursday, April 27, 1995, 1 p.m. to 4 p.m., Burlingame, CA.
5. Thursday, April 27, 1995, 9 a.m., to 12 m., Chicago, IL.

ADDRESSES: The public meetings will be held at the following locations:

1. Dallas—FDA Regional Office, 7920 Elmbrook Rd., suite 102, Dallas, TX.
2. Atlanta—Sheraton Colony Square Hotel, Peachtree at 14th St., Atlanta, GA.
3. Cherry Hill—Cherry Hill Hilton Hotel, Cherry Hill, NJ.
4. Burlingame—Crowne Plaza San Francisco Airport, 600 Airport Blvd., Burlingame, CA.
5. Chicago—Sheraton Gateway Suites, 6501 North Manheim Rd., Rosemont, IL.

FOR FURTHER INFORMATION CONTACT:

Regarding attendance at the Dallas, TX public meeting: Marie T. Falcon, Small Business Representative Southwest Region, Food and Drug Administration, 7920 Elmbrook Dr., suite 102, Dallas, TX 75247, 214–655–8100, ext. 129 or FAX 214–655–8130.

Regarding attendance at the Atlanta, GA public meeting: Barbara Ward-Groves, Small Business Representative Southeast Region, Food and Drug Administration, 60 Eighth St., NE., Atlanta, GA 30309, 404–347–4347 or FAX 404–347–4349.

Regarding attendance at the Cherry Hill, NJ public meeting: Joseph X. Phillips, Deputy Regional Director, Mid-Atlantic Region, Food and Drug Administration, 900 U.S. Customhouse, 2d & Chestnut Sts., Philadelphia, PA 19106, 215–597–0492 or FAX 215–597–8212.

Regarding attendance at the Burlingame, CA public meeting: Mark S. Roh, Small Business Representative Pacific Region, Federal Office Bldg., 50 United Nations Plaza, rm. 526, San Francisco, CA, 94102, 415–556–2263 or FAX 415–556–2822.

Regarding attendance at the Chicago, IL public meeting: Joseph L. Petty, Small Business Representative Mid-West Region, 20 North Michigan Ave., rm. 510, Chicago, IL 60602, 312–353–9406, ext. 23 or FAX 312–886–1682.

SUPPLEMENTARY INFORMATION: The public meetings are free of charge, however due to space limitations, it will be necessary to contact the appropriate Small Business Representative listed above prior to the meeting to check on availability. If there are any specific comments or questions you wish to be addressed at the meetings, you may fax or send them to the contact person listed above. The goal of these meetings are to ''listen'' to concerns and ideas, and to identify next-steps for the agency.

Dated: April 14, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–9755 Filed 4–19–95; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[OFHR–001–N]

New Address and Telephone Numbers of the Office of Acquisition and Grants, Office of Financial and Human Resources

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the new address and telephone numbers of the primary staff of the Office of Acquisition and Grants, Office of Financial and Human Resources, Health Care Financing Administration. HCFA's Office of Acquisition and Grants (OAG) will relocate at Central 2–21–15, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

EFFECTIVE DATE: May 22, 1995.

FOR FURTHER INFORMATION CONTACT: Barry Mikesell, (410) 966–8090.

SUPPLEMENTARY INFORMATION: The following is a list of the new telephone numbers and locations for some of the primary OAG staff:

Director, Office of Acquisition and Grants, Ellen L. Angus, Central 2–22–08 (410) 786–9280.

Small and Disadvantaged Business Utilization Specialist, Fred Suggs, Central 2–21–23 (410) 786–5132.

Acquisition Policy Team Leader, Debbie Powell, Central 2–23–15 (410) 786–3077.

Grants Policy Officer, Charles A. Johnson, Central 2–22–07 (410) 786–6256.

Director, Research Contracts and Grants Division, Marian D. Webb, Central 2–18–03 (410) 786–5161.

Director, ADP, Telecommunications and Services Division, Edward Hodges, Central 2–19–07 (410) 786–5131.

Director, Planning and Health Services Contracts Division, Glennda Moragne El, Central 2–23–17 (410) 786–5128.

Only the prefix 966 of the existing telephone numbers of OAG staff will be changed when OAG moves to the new HCFA site. The new prefix is 786. Persons wishing to contact OAG personnel not shown on the list above may still do so on or after May 22 by adding the new 786 prefix to the last 4 existing digits of the old telephone number, e.g., the old 966–1234 telephone number will become the new 786–1234 telephone number. Inquiries regarding the location or telephone numbers of OAG staff may be directed to (410) 966–9280.

Dated: April 6, 1995.

Ellen L. Angus,

Director, Office of Acquisition and Grants, Office of Financial and Human Resources.

[FR Doc. 95–9843 Filed 4–19–95; 8:45 am]

BILLING CODE 4120–01–P

Health Resources and Services Administration

Grants To Improve Emergency Medical Services and Trauma Care in Rural Areas

AGENCY: Health Resources and Services Administration.

ACTION: Notice of availability of grant funds.

SUMMARY: The Health Resources and Services Administration announces that approximately $310,000 is available in fiscal year 1995 for grants to public and private nonprofit entities for the purpose of carrying out research and demonstration projects with respect to improving the availability and quality of emergency medical services and trauma care in rural areas. These grants are authorized by Section 1204 of the Public Health Service Act, as amended. Funds are appropriated under Public Law 103–333.

DATES: To receive consideration, grant applications must be received by the close of business June 19, 1995. Applications will meet 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 submission to the review committee. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be accepted as proof of timely mailing. Hand delivered applications must be received by 5:00 pm on June 19, 1995. Applications received after the deadline will be returned.

FOR FURTHER INFORMATION CONTACT: Additional information relating to technical or program issues may be obtained from Diane McMenamin, Deputy Director, or Mirtha Beadle, Emergency Medical Systems Analyst, Division of Trauma and Emergency Medical Systems, Bureau of Health Resources Development, Parklawn Building, Room 7–16, 5600 Fishers Lane, Rockville, Maryland 20857; 301–443–3401. Grant applications and additional information regarding business, administrative, or fiscal issues related to the awarding of grants under this Notice may be requested from the Grants Management Officer (GMO), Ms. Glenna Wilcom, Parklawn Building, Room 7–15, 5600 Fishers Lane, Rockville, Maryland 20857; 301–443–2280. Applicants for grants will use Form PHS 5161–1 (revised 7/92, approved under OMB No. 0937–0189). Completed applications should be sent to the GMO.

SUPPLEMENTARY INFORMATION:

Background and Objectives

The program provides assistance to public and private nonprofit organizations for the purpose of carrying out research and demonstration projects to improve the availability and quality of emergency medical services (EMS) and trauma care in rural areas. As mandated by legislation, applications must address one or more of the following five topics:

1. Developing innovative uses of communications technologies and the use of new communication technologies;

2. Developing model curricula for training EMS personnel, including first responders, emergency medical technicians, paramedics, emergency nurses, and physicians in the:

a. Assessment, stabilization, treatment, preparation for transport, and resuscitation of seriously injured patients, with special attention to problems that arise during long transports and methods of minimizing delays in transport to the appropriate facility; and

b. Management of the operation of an EMS system;

3. Making training for original certification, and continuing education, in the provision and management of EMS more accessible to emergency medical personnel in rural areas;

4. Developing innovative protocols and agreements to increase access to prehospital care and equipment necessary for the transportation of seriously injured patients to the appropriate facilities; and

5. Evaluating the effectiveness of protocols with respect to EMS and systems.

The program is not intended to purchase capital equipment or provide access to health resources. As such, a proposal should not be oriented towards the acquisition of new EMS or trauma care equipment, personnel, or other resources. Rather, as a research and demonstration program, proposed projects are intended to advance the science of rural EMS and trauma care through evaluation of a rural issue and statistical analysis of the project findings.

The Public Health Service urges applicants to submit workplans that address specific objectives of Healthy People 2000. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325; 202 783–3238.

Program Priorities

The legislation requires that special consideration be given to applicants providing services in any rural area identified by a State for which:

1. There is no system of access to EMS through the telephone number 9–1–1; or

2. There is no basic life-support system; or

3. There is no advanced life-support system.

In order to receive special consideration under this legislative provision, the State EMS Office must certify that the proposed study will be conducted in a rural area(s) meeting one or more of the above listed program priorities. Special consideration means that approved applications providing services in the rural areas identified above will have funding priority over other approved applications.

The definition of basic or advanced life-support systems must be consistent with the definition recognized by the State.

Availability of Funds

Approximately $310,000 is available to fund 1–4 grants. Project periods may be requested for one or two years. Grants to support projects beyond the first budget year will be contingent upon the availability of funds and satisfactory progress in meeting the project's objectives. Applicants are required to submit budgets for each proposed project year in the initial application.

Eligible Applicants

Any public or private nonprofit entity may apply. Although the applicant is not required to be located in a rural area, the applicant must perform a research and demonstration activity in a rural area(s). In order to meet the rural requirement, an area must be located: (1) *Outside* a Metropolitan Statistical Area (MSA) as defined by the Office of Management and Budget; or (2) in a rural census tract within an MSA. If the city or county name does not appear on the MSA list, the area would meet the definition of rural under the first definition in this program. However, if the city or county name does appear on the MSA list, the applicant may contact the applicable regional Census Bureau office to determine the census tract for the area. If the census tract for the area appears on the list of approved rural census tracts, the applicant is eligible to apply under the second rural definition in this program. A list of the cities and counties that are designated as being within an MSA, rural census tracts for each county, and telephone numbers for regional offices of the Census Bureau will be included with the application.

Application Evaluation Criteria

Grant applications will be evaluated by an objective review committee according to the following:

1. Capability of the Applicant: applicant's demonstrated experience and qualifications to complete the project proposed and to perform a research or demonstration project.

2. Impact of Study Objective: (1) impact of the study on the advancement of rural EMS and trauma care delivery; (2) contribution of the study to existing knowledge on EMS and trauma care such that further work on the issue is a high priority; and (3) development of new methods rather than a duplication of methods previously implemented.

3. Selection of Rural Community: appropriateness of the rural area(s) where the project will be conducted and the adequacy of justification for inclusion of non-rural areas in the research or demonstration activity.

4. Community Participation: extent to which an applicant that is not located in the rural community where the research or demonstration activity will be conducted has established an equal partnership and coordinated project development activities with the rural constituency under study, including: the prehospital, acute care, and rehabilitation sectors; local medical control; concerned advocates; the State EMS Office; and other interested parties.

5. Study Design: appropriateness of study design to the stated hypothesis, and the likelihood that the proposed research activity will yield expected results and improve rural EMS and trauma care.

6. Methodology: appropriateness and adequacy of the work plan for completion of project activities and project evaluation, and of the schedule for organizing and completing the project within the project period.

Allowable Costs

The basis for determining the allowability and allocability of costs charged to PHS grants is set forth in 45 CFR Part 74, Subpart Q, and 45 CFR Part 92. The four separate sets of cost principles prescribed for recipients of grants for public and private nonprofit entities are: OMB Circular A–87 for State and local governments; OMB Circular A–21 for institutions of higher education; 45 CFR Part 74, Appendix E for hospitals; and OMB Circular A–122 for nonprofit organizations.

Reporting Requirements

A successful applicant under this notice will submit quarterly reports in accordance with provisions of the general regulations which apply under 45 CFR Part 74, Subpart J, Monitoring and Reporting of Program Performance, with the exception of State and local governments to which 45 CFR Part 92, Subpart C reporting requirements will apply.

Public Health System Impact Statement

This program is subject to the Public Health System Reporting Requirements. Reporting requirements have been approved by the Office of Management and Budget—0937–0195. Under these requirements, the community-based non-governmental 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 by community-based non-governmental organizations within their jurisdictions.

Community-based non-governmental 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 or local health agencies.

PHS Smoke-free Policy

Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities in which education, library, day care, regular and routine health care and early childhood development services are provided to children. Smoking must also be prohibited in indoor facilities that are constructed, operated or maintained with Federal funds.

Executive Order 12372

Grants awarded under this notice are subject to the provisions of Executive Order 12372, which sets up a system for State and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribes) should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposals serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current list of SPOCS is included in the application kit. The SPOC has 60 days after the application deadline date to submit comments. The granting agency does not guarantee to ''accommodate or explain'' State recommendations received after that date.

The OMB Catalog of Federal Domestic Assistance Number for this program is 93.952.

Dated: Arpil 14, 1995.

Ciro V. Sumaya,

Administrator.

[FR Doc. 95–9756 Filed 4–19–95; 8:45 am]

BILLING CODE 4160–15–P

Public Health Service

Indian Health Service; Indians Into Medicine Programs

AGENCY: Indian Health Service.

ACTION: Notice of competitive grant applications for the Indians Into Medicine Program.

SUMMARY: The Indian Health Service (IHS) announces that competitive grant applications are being accepted for the Indians Into Medicine (INMED) Program established by section 114 of the Indian Health Care Improvement Act of 1976 (25 U.S.C. 1612), as amended by Public Law 102–573. There will be only one funding cycle during fiscal year (FY) 1995. This program is described at 93.970 in the catalog of Federal Domestic Assistance and is governed by regulations at 42 CFR 36.310 *et seq.* Costs will be determined in accordance with applicable OMB Circulars. Executive Order 12372 requiring intergovernmental review does not apply to this program.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led activity for setting priority areas. This program announcement is related to the priority area of Educational and Community-based programs. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325 (Telephone 202–783–3238).

Smoke Free Workplace: The PHS strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco

products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

DATES: A. Application Receipt Date—An original and two (2) copies of the completed grant application must be submitted with all required documentation to the Grants Management Branch, Division of Acquisition and Grants Operations, Twinbrook Building, Suite 100, 12300 Twinbrook Parkway, Rockville, Maryland 20852, by close of business June 2, 1995.

Applications shall be considered as meeting the deadline if they are either: (1) Received on or before the deadline with hand carried applications received by close of business 5 p.m.; or (2) postmarked on or before the deadline date and received in time to be reviewed along with all other timely applications. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be accepted as proof of timely mailing. Late applications not accepted for processing will be returned to the applicant and will *not* be considered for funding.

Additional Dates

1. Application Review: July 13, 1995.
2. Applicants Notified of Results (approved, approved unfunded, or disapproved): August 1, 1995.
3. Anticipated Start Date: September 1, 1995.

FOR FURTHER INFORMATION CONTACT: For program information, contact Ms. Rosh M. Foley, Chief, Scholarship Branch, Division of Health Professions Recruitment and Training, Indian Health Service, Twinbrook Building, 12300 Twinbrook Parkway, Suite 100A, Rockville, Maryland 20852, (301) 443–6197. For grants application and business management information, contact M. Kay Carpenter, Grants Management Officer, Division of Acquisition and Grants Operations, Indian Health Service, Twinbrook Building, 12300 Twinbrook Parkway, Suite 100, Rockville, Maryland 20852, (301) 443–5204. (The telephone numbers are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: This announcement provides information on the general program purpose, eligibility and priority, fields of health care considered for support, required affiliation, fund availability and period of support, and application procedures for FY 1995.

A. General Program Purpose

The purpose of the INMED program is to augment the number of Indian health professionals serving Indians by encouraging Indians to enter the health professions and removing the multiple barriers to their entrance into the IHS and private practice among Indians.

B. Eligibility and Priority

Public and nonprofit private colleges and universities with medical and other allied health programs are eligible. Nursing programs are not eligible under this announcement since the IHS currently funds the Nursing Recruitment grant program. The existing INMED grant program at the University of North Dakota has as its target population Indian tribes primarily within the States of North Dakota, South Dakota, Nebraska, Wyoming and Montana. A college or university applying under this announcement must propose to conduct its program among Indian tribes in States not currently served by the University of North Dakota INMED program.

C. Program Objectives

Each proposal must address the following five objectives to be considered for funding:

1. Provides outreach and recruitment for health professions to Indian communities including elementary and secondary schools and community colleges located on Indian reservations which will be served by the program.
2. Incorporates a program advisory board comprised of representatives from the tribes and communities which will be served by the program.
3. Provides summer preparatory programs for Indian students who need enrichment in the subjects of math and science in order to pursue training in the health professions.
4. Provides tutoring, counseling and support to students who are enrolled in a health career program of study at the respective college or university.
5. To the maximum extent feasible, employs qualified Indians into the program.

D. Fields of Health Care Considered for Support

The grant program must be developed to locate and recruit students with educational potential in a variety of health care fields. Primary recruitment efforts must be in the field of medicine with secondary efforts in other allied health fields such as pharmacy, dentistry, medical technology, X-ray technology, etc. The field of nursing is excluded since the IHS does fund the IHS Nursing Recruitment grant program.

E. Required Affiliations

The grant applicant must submit official documentation indicating a tribe's cooperation with and support of the program within the schools on its reservation and its willingness to have a tribal representative serving on the program advisory board. Documentation must be in the form prescribed by the tribe's governing body, i.e., letter of support or tribal resolution. Documentation must be submitted from every tribe involved in the grant program.

F. Fund Availability and Period of Support

It is anticipated that approximately $200,000 will be available for one award. The anticipated start date of the grant will be September 1, 1995, in order to begin recruitment for the 1995–1996 academic year. Projects will be awarded for a budget term of 12 months, with a maximum project period of up to three (3) years. Grant funding levels include both direct and indirect costs. Funding of succeeding years will be based on the FY 1995 level, continuing need for the program, satisfactory performance, and the availability of appropriations in those years.

G. Application Process

An IHS Grant Application Kit, including the required PHS 5161–1 (Rev. 7/92) (OMB Approval No. 0937–0189) and the U.S. Government Standard forms (SF–424, SF–424A and SF–424B), may be obtained from the Grants Management Branch, Division of Acquisition and Grants Operations, Indian Health Service, Twinbrook Parkway, Suite 100, Rockville, Maryland 20852, telephone (301) 443–5204. (This is not a toll free number.)

H. Grant Application Requirements

All applications must be single-spaced, typewritten, and consecutively numbered pages using black type not smaller than 12 characters per one inch, with conventional one inch border margins, on only one side of standard size 8½ x 11 paper that can be photocopied. The application narrative (not including abstract, tribal resolutions or letters of support, standard forms, table of contents or the appendix) must not exceed 15 typed pages as described above. All applications must include the following in the order presented:

—Standard Form 424, Application for Federal Assistance
—Standard Form 424A, Budget Information—Non-Construction Programs, (Pages 1 and 2)

—Standard Form 424B, Assurances—Non-Construction Programs (front and back)
—Certifications, PHS 5161–1 (pages 17–18)
—Checklist, PHS 5161–1 (pages 23–24)
—Project Abstract (one page)
—Table of Contents
—Program Narrative to include:
—Introduction and Potential Effectiveness of Project
—Project Administration
—Acessibility to Target Population
—Relationship of Objectives to Manpower Deficiencies
—Project Budget
—Appendix to include:
—Tribal Resolution(s) or Letters of Support
—Resumes (Curriculum Vitae) of key staff
—Position descriptions for key staff
—Organizational chart
—Workplan format
—Completed IHS Application Checklist
—Application Receipt Card, PHS 3038–1, Rev. 5–90

I. Application Instructions

The following instructions for preparing the application narrative also constitute the standards (criteria or basis for evaluation) for reviewing and scoring the application. Weights assigned each section are noted in parenthesis.

Abstract—An abstract may not exceed one typewritten page.

The abstract should clearly present the application in summary form, from a ''who-what-when-where-how-cost'' point of view so that reviewers see how the multiple parts of the application fit together to form a coherent whole.

Table of Contents—Provide a one page typewritten table of contents.

Narrative

1. Introduction and Potential Effectiveness of Project (30 Pts.)

a. Describe your legal status and organization.

b. State specific objectives of the project, which are measurable in terms of being quantified, significant to the needs of Indian people, logical, complete and consistent with the purpose of section 114.

c. Describe briefly what the project intends to accomplish. Identify the expected results, benefits, and outcomes or products to be derived from each objective of the project.

d. Provide a project specific workplan (milestone chart) which lists each objective, the tasks to be conducted in order to reach the objective, and the timeframe needed to accomplish each task. Timeframes should be projected in a realistic manner to assure that the scope of work can be completed within each budget period. (A workplan format is provided.)

e. In the case of proposed projects for identification of Indians with a potential for education or training in the health professions, include a method for assessing the potential of interested Indians for undertaking necessary education or training in such health professions.

f. State clearly the criteria by which the project's progress will be evaluated and by which the success of the project will be determined.

g. Explain the methodology that will be used to determine if the needs, goals, and objectives identified and discussed in the application are being met and if the results and benefits identified are being achieved.

h. Identify who will perform the evaluation and when.

2. Project Administration (20 Pts.)

a. Provide an organizational chart and describe the administrative, managerial and organizational arrangement and the facilities and resources to be utilized to conduct the proposed project (include in appendix).

b. Provide the name and qualifications of the project director or other individuals responsible for the conduct of the project; the qualifications of the principal staff carrying out the project; and a description of the manner in which the application's staff is or will be organized and supervised to carry out the proposed project. Include biographical sketches of key personnel (or job descriptions if the position is vacant) (include in appendix).

c. Describe any prior experience in administering similar projects.

d. Discuss the commitment of the organization, i.e., although not required, the level of non-Federal support. List the intended financial participation, if any, of the applicant in the proposed project specifying the type of contributions such as cash or services, loans of full or part-time staff, equipment, space, materials or facilities or other contributions.

3. Accessibility to Target Population (20 Pts.)

a. Describe the current and proposed participation of Indians (if any) in your organization.

b. Identify the target Indian population to be served by your proposed project and the relationship of your organization to that population.

c. Describe the methodology to be used to access the target population.

4. Relationship of Objectives to Manpower Deficiencies (20 Pts.)

a. Provide data and supporting documentation to substantiate need for recruitment.

b. Indicate the number of potential Indian students to be contacted and recruited as well as potential cost per student recruited. Those projects that have the potential to serve a greater number of Indians will be given first consideration.

5. Project Budget (10 Pts.)

a. Clearly define the budget. Provide a justification and detailed breakdown of the funding by category for the first year of the project. Information on the project director and project staff should include salaries and percentage of time assigned to the grant. List equipment purchases necessary for the conduct of the project.

b. The available funding level of $200,000 is inclusive of both direct and indirect costs. Because this project is for a training grant, the Department of Health and Human Services' policy limiting reimbursement of indirect cost to the lesser of the applicant's actual indirect costs or 8 percent of total direct costs (exclusive of tuition and related fees and expenditures for equipment) is applicable. This limitation applies to all institutions of higher education other than agencies of State and local government.

c. The applicant may include as a direct cost tuition and student support costs related only to the summer preparatory program. Tuition and stipends for regular sessions are not allowable costs of the grant; however, students recruited through the INMED program may apply for funding from the IHS Scholarship Programs.

d. Projects requiring a second and third year must include a program narrative and categorical budget and justification for each additional year of funding requested (this is not considered part of the 15-page narrative).

Appendix—to include:

a. Tribal Resolution(s) or Letters of Support
b. Resumes (Curriculum Vitae) of key staff
c. Position descriptions for key staff
d. Organizational chart
e. Workplan format
f. Completed IHS Application Checklist
g. Application Receipt Card, PHS 3038–1, Rev. 5–90

J. Reporting

1. Progress Report—Program progress reports may be required quarterly or

semi-annually. These reports will include a brief description of a comparison of actual accomplishments to the goals established for the period, reasons for slippage and other pertinent information as required. A final report is due 90 days after expiration of the budget/project period.

2. Financial Status Report—Quarterly or semiannually financial status reports will be submitted 30 days after the end of the quarter or half year. Final financial status reports are due 90 days after expiration of the budget/project period. Standard Form 269 (long form) will be used for financial reporting.

K. Grant Administration Requirements

Grants are administered in accordance with the following documents:

1. 45 CFR part 92, HHH, Uniform Administrative Requirements for grants and Cooperative Agreements to State and Local Governments or 45 CFR part 74, Administration of Grants,
2. PHS Grants Policy Statement, and
3. OMB Circular A–21, Cost Principles for Educational Institutions.

L. Objective Review Process

Applications meeting eligibility requirements that are complete, responsive, and conform to this program announcement will be reviewed by an Objective Review Committee (ORC) in accordance with IHS objective review procedures. The objective review process ensures a nationwide competition for limited funding. The ORC will be comprised of IHS (40% or less) and other federal or nonfederal individuals (60% or more) with appropriate expertise. The ORC will review each application against established criteria. Based upon the evaluation criteria, the reviewers will assign a numerical score to each application, which will be used in making the final funding decision. Approved applications scoring less than 60 points will not be considered for funding.

M. Results of the Review

The results of the objective review are forwarded to the Associate Director, Office of Human Resources (OHR), for final review and approval. The Associate Director, OHR, will also consider the recommendations from the Division of Health Professions Recruitment and Training and Grants Management Branch. Applicants are notified in writing on or about August 1, 1995. A Notice of Grant Award will be issued to successful applicants. Unsuccessful applicants are notified in writing of disapproval. A brief explanation of the reasons the application was not approved is provided along with the name of the IHS official to contact if more information is desired.

Dated: April 12, 1995.

Michael H. Trujillo,

Assistant Surgeon General, Director.

[FR Doc. 95–9759 Filed 4–19–95; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–95–3893; FR–3879–N–02]

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 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 thirty (30) 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, Southwest, Washington, DC 20410, telephone (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: 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).

The Notice lists the following information: (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) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (7) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (8) 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: April 14, 1995.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Emergency Shelter Grants Program Indian Set-Aside Application (FR–3879).

Office: Public and Indian Housing.

Description of the Need for the Information and Its Proposed Use: This program provides competitive grants to Indian tribes and Alaskan Native villages to help improve the quality of existing emergency shelters for the homeless, make available additional emergency shelters, meet the cost of operating emergency shelters, provide essential social services to homeless individuals, and help prevent homelessness.

Form Number: HUD–40114.

Respondents: State, Local or Tribal Governments and Not-For-Profit Institutions

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Application	40		1		32		1,280

Total Estimated Burden Hours: 1,280.

Status: New.

Contact: Maria-Lana Queen, HUD, (202) 755–0069, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: April 14, 1995.

[FR Doc. 95–9772 Filed 4–19–95; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N–95–3913; FR–3821–N–01]

Comprehensive Needs Assessments—Instead of Notices of Funding Availability (NOFAs) for Flexible Subsidy and Loan Management Set-Aside

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of funding through comprehensive needs assessments.

SUMMARY: HUD plans to exclude the Flexible Subsidy and the Loan Management Set-Aside programs from the traditional NOFA process, beginning with Fiscal Year 1995. Instead, the funding for the projects under those two programs will be made on a noncompetitive basis. Funding will be based on Comprehensive Needs Assessments (CNAs) and other applicable program requirements. Funds will be allocated on a first come, first served basis from among those projects selected by local HUD offices to participate in the CNA program. The CNA approach will provide HUD with the flexibility to target limited resources to those projects most in need of repair. At a later date, HUD will publish a separate notice announcing the funding and criteria for the Flexible Subsidy and Loan Management Set-Aside Programs.

EFFECTIVE DATE: Funding through Comprehensive Needs Assessments for the Flexible Subsidy and Loan Management Set-aside programs will be effective April 20, 1995.

FOR FURTHER INFORMATION CONTACT: Barbara Hunter, Acting Director, Planning and Procedures Division, Office of Multifamily Housing Management, Department of Housing and Urban Development, Room 6184, 451 Seventh Street, SW, Washington, DC 20410; Telephone (202) 708–3944, or (202) 708–4594 (voice/TDD). (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

I. Legal Authority and Purpose

(a) Authority

Comprehensive Needs Assessments (CNAs) are legislatively authorized by Title IV of the Housing and Community Development Act of 1992 (HCDA 1992) (12 U.S.C. 1715z–1a note), as amended by section 103 of the Multifamily Housing Property Disposition Reform Act of 1994 (Pub. L. 103–233; approved April 11, 1994).

(b) Purpose

HUD is publishing this notice to inform HUD clients of a forthcoming change in funding practice. HUD will fund the Flexible Subsidy program (24 CFR part 219) and the Loan Management Set-Aside program (LMSA) (24 CFR part 886) through the CNA approach instead of the Notice of Funding Availability (NOFA) process. The purpose of this change is to provide HUD with the flexibility to target limited resources to those projects HUD deems to be most in need of repair.

II. Description of the CNA Approach

HUD will publish a separate notice announcing the funding and criteria for the Flexible Subsidy and Loan Management Set-Aside programs. For the funding of the Flexible Subsidy program, all parts of section 201(n) of the HCDA of 1978 will be met, including the parts that provide that the Secretary may make exceptions to the CNA approach when funding flexible subsidy to address certain emergency needs in projects. Loan Management Set-Aside will be funded based upon the needs identified in the Comprehensive Needs Assessment and other program requirements. HUD has issued a separate notice (H–95–27, dated 3/30/95) to the local HUD offices and industry explaining the CNA Program and process, and informing them how to select projects, beginning in Fiscal Year (FY) 1995.

(a) Contents in General

The CNAs submitted by applicants for the Flexible Subsidy and LMSA programs must contain the following information about the property:

(1) A description of current and future financial resources and needs of certain multifamily projects;

(2) A description of the involvement of project residents in its development, from start to finish;

(3) The results of a thorough and detailed physical inspection of the project;

(4) A statement of any assistance needed under programs administered by HUD;

(5) A description of available funding for meeting the current and future needs of the project and the likelihood of obtaining such resources. These resources include the assistance of private foundations, State and local governments, any HUD programs (including Community Planning and Development programs), rent increases, refinancing, Flexible Subsidy, LMSA, and Section 241 loans;

(6) Descriptions of modernization needs and activities, supportive services needed and provided, and any personnel needs of the project.

(b) Applicability of CNA Approach

Unless their project has received or is receiving assistance under the HOME Investment Partnerships Act, owners of the following kinds of projects are required to submit a Comprehensive Needs Assessment:

(1) Section 221(d)(3) (Market Interest Rate) projects, Section 221(d)(5) (Below Market Interest Rate) projects, and Section 236 projects with mortgages insured, assisted or held by HUD (including State/Local Agency Section 236 projects), *unless* the owner is receiving or has received assistance under titles II (ELIHPHA) or VI (LIHPRHA) or has filed a Notice of Intent under those statutes.

Note: Projects subject to prepayment restrictions under Title II or Title VI and that have *not* received assistance or filed a Notice of Intent under those statutes may not participate in the CNA Program in fiscal years 1995 or 1996 but may do so thereafter.

(2) Section 202 projects for elderly and handicapped and Section 202 Supportive Housing for the Elderly.

(3) Section 811 Supportive Housing for Persons with Disabilities.

(c) Cost Features for CNA

The project's mortgagor is responsible to pay for the preparation of the CNA. Based on section 404(e) of the HCDA 1992, HUD will consider CNA expenses up to $5,000 as eligible project expenses (payable from project funds). Up to that limit, HUD will authorize releases from Residual Receipts accounts and Reserve Fund for Replacement accounts when a project's operating account is insufficient to fund the CNA. While CNA preparation costs are considered to be an eligible project expense, they cannot be included to calculate rent increases.

Dated: April 13, 1995.

Jeanne K. Engel,

General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 95–9728 Filed 4–19–95; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–310–1310]

Information Collection Submitted to the Office of Management and Budget for Review under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget, Paperwork Reduction Project (1004–0160), Washington, DC 20503, telephone (202) 395–7340.

Title: Geothermal Leasing Reports.

OMB Approval Number: 1004–0160.

Abstract: Respondents supply information on diligent efforts toward utilization of geothermal resources; bona fide efforts made to produce geothermal resources; and significant expenditure of funds made on the geothermal lease. This information allows the authorized officer to determine if the lessee qualifies for a lease extension.

Bureau Form Numbers: N/A.

Frequency: Diligent Efforts Report—Yearly. Bona Fide Efforts Report—Every five years. Significant Expenditures Report—Yearly.

Description of Respondents: Individuals, small businesses and large corporations.

Estimated Completion Time: 2 hours each report.

Annual Responses: 75.

Annual Burden Hours: 150.

Bureau Clearance Officer: Wendy Spencer (303) 236–6642.

Dated: March 15, 1995.

W. Hord Tipton,

Assistant Director, Resource Use and Protection.

[FR Doc. 95–9788 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–84–M

[AK–962–1410–00–P; AA–10957]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h), will be issued to Chugach Alaska Corporation for approximately 7.5 acres. The lands involved are in the vicinity of Prince William Sound, Alaska.

Seward Meridian, Alaska

T. 5 N., R. 9 E.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the *Anchorage Daily News.* Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until May 22, 1995 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Margaret J. McDaniel,

Acting Chief, Branch of Gulf Rim Adjudication.

[FR Doc. 95–9766 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–JA–P

[AK–962–1410–00–P; AA–11043]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h), will be issued to Chugach Alaska Corporation for approximately 15 acres. The lands involved are in the vicinity of Schrader Island, Alaska.

Seward Meridian, Alaska

T. 10 N., R. 12 E.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the *Anchorage Daily News.* Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until May 22, 1995 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Margaret J. McDaniel,

Acting Chief Branch of Gulf Rim Adjudication.

[FR Doc. 95–9769 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–JA–P

[NV–030–95–1220–00]

Temporary Closure of Public Lands: Nevada; Carson City District

AGENCY: Bureau of Land Management, Interior.

ACTION: Temporary closure of certain public lands in Lyon and Douglas Counties on and adjacent to an Off Highway Vehicle race course: May 27–28, 1995 Valley Off-Road Racing Association Yerington 300—Permit Number NV–035–95–12.

SUMMARY: The Walker Resource Area Manager announces the temporary closure of selected public lands under his administration. This action is being taken to provide for public safety and to protect adjacent resources during the official running of the Yerington 300 Off Highway Vehicle Race.

EFFECTIVE DATES: May 27 & 28, 1995.

FOR FURTHER INFORMATION CONTACT: Fran Hull, Walker Area Recreation Planner, Carson City District, Bureau of Land Management, 1535 Hot Springs Road, Suite 300, Carson City, Nevada 89706, Telephone: (702) 885–6000.

SUPPLEMENTARY INFORMATION: A map of the closure may be obtained from Fran Hull at the contact address. The event permittee is required to clearly mark and monitor the event route during the closure period. Spectators shall remain

in safe locations as directed by event officials and BLM personnel.

Specific information pertaining to each event is as follows:

1. Valley Off-Road Racing Association Yerington 300 Off-Road Race—Permit Number NV–035–95–12. A multiple-lap OHV race on roads and washes near Yerington, Nevada in Douglas and Lyon Counties, within T12N R24E; T13N R24E; T14N R24E; T15N R24E; T16N R24E; T13N R25E; T15N R25E; T16N R25E; T17N R25E; T17N R26E.

Bureau Lands to be closed include existing roads and washes identified on the ground as the 1995 Yerington 300 Off-Road Race route except at designated pit and spectator areas. Spectator areas are: the Start/Finish area and Gallagher Pass Road and Churchill Canyon Road. Camping on public lands in conjunction with the event must be a minimum of fifty yards away from the race course centerline. This closure will be in effect from 6:00 p.m. May 27 until midnight on May 28, 1995.

The above restrictions do not apply to race officials, law enforcement and agency personnel monitoring the event.

Authority: 43 CFR 8364 and 43 CFR 8372.

Penalty: Any person failing to comply with the closure order may be subject to the penalties provided in 43 CFR 8360.7.

Dated: April 7, 1995.

John Matthiessen,

Walker Resource Area Manager.

[FR Doc. 95–9738 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–HC–P

[NV–055–1150–00, 5–0151–LM]

Caliente Management Framework Plan Desert Tortoise Amendment and Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent and Additional Scoping Period.

SUMMARY: The Bureau of Land Management intends to amend the Caliente Management Framework Plan to implement the U.S. Fish and Wildlife Service Desert Tortoise (Mojave Population) Recovery Plan, issued June 1994. The purpose of the plan amendment is to outline the specific objectives and planned actions needed for desert tortoise recovery and for eventual removal of the desert tortoise from the federal list of threatened and endangered animals. The amendment will delineate Desert Wildlife Management Areas (Coyote Springs, Mormon Mesa, and Beaver Dam Slope) in desert tortoise habitat, and prescribe management actions inside and outside these areas in accordance with provisions in the recovery plan. These areas will be evaluated for potential designation as Areas of Critical Environmental Concern. Potential impacts will be analyzed through an environmental impact statement.

There will be an additional 30-day scoping period to solicit public comment on the desert tortoise amendment.

DATES: Additional written comments must be submitted and postmarked no later than May 22, 1995.

ADDRESSES: Written comments should be addressed to: Curtis G. Tucker, Area Manager, Caliente Resource Area, P.O. Box 237, Caliente, Nevada 89126.

FOR FURTHER INFORMATION CONTACT: Kyle Teel, Wildlife Biologist, at the above Caliente Resource Area Office address or telephone (702) 726–8100.

SUPPLEMENTARY INFORMATION: The Desert Wildlife Management Areas outlined in the Recovery Plan that are located within the Caliente Management Framework Plan area are: Coyote Springs, Mormon Mesa, and Beaver Dam slope. For a legal description and/or a map of these areas, contact the Caliente Resource Area Office. The boundaries of these areas may be modified based on public comments and resource information received during this land use plan amendment process.

This amendment was started in December of 1994 with a ''Notice of Intent and Scoping Period,'' published in the **Federal Register** on January 30, 1995, Vol. 60, No. 19, p. 5794. The original intent was to amend the Caliente Management Framework Plan and analyze the potential impacts through an environmental assessment. However, due to the complexity of the resource management issues and responses from the public, the determination was made to prepare an Environmental Impact Statement to fully analyze the impacts of implementing the recovery plan and complete the amendment.

Federal, state and local agencies, and other individuals or organizations who are interested in, or affected by aspects of amending the Caliente Management Framework Plan to implement the U.S. Fish and Wildlife Service Desert Tortoise (Mojave Population) Recovery Plan, are invited to participate in this planning process. If you submitted comments during the previous scoping period, you need not resubmit them. They will be considered along with comments received as a result of this notice.

Dated: April 7, 1995.

Ann J. Morgan,

State Director, Nevada.

[FR Doc. 95–9743 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–HC–M

[ID–943–5420–00–D010; IDI–31072]

Notice of Issuance of Disclaimer of Interest to Lands; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of issuance of disclaimer of interest in lands in Idaho.

SUMMARY: The United States of America, pursuant to the provisions of section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745), proposes to disclaim and release all interest to Bill Gatung, the owner of record, for the following described property, to wit:

Boise Meridian, Idaho

T. 20 N., R. 22 E.

All lands in section 7, lying between the adjusted original 1891 left and right bank meander lines and between the 1891 right bank meander line and the 1991 left bank meander line of the Salmon River, except for Lot 19, as shown on the plat of the dependent resurvey of Township 20 North, Range 22 East, Boise Meridian, Idaho, accepted July 23, 1993.

The official records, the original public land survey, and the dependent resurvey approved and accepted July 23, 1993, show that the land described above is a combination of avulsed, accreted, or non-substantial omitted land created when the river changed channels subsequent to the 1891 survey. The land, therefore, is not public land; and the application by Bill Gattung, for a disclaimer from the United States for this land will be approved if no valid objection is received. This action will clear a cloud on the title of the applicant's land.

DATES: Comments or protests to this action should be received by July 19, 1995.

ADDRESSES: Comments or protests must be filed with: State Director (943), Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

FOR FURTHER INFORMATION CONTACT: Cathie Foster, at the above address, or (208) 384–3163.

Dated: April 10, 1995.

Jerry L. Kidd,

State Office Team Leader for Operations Support Team.

[FR Doc. 95–9786 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–GG–M

[OR–080–05–1430–01: G5–103]

Realty Action; Revised Administrative Boundaries, Salem District

April 11, 1995.

The Salem District, Bureau of Land Management, announces a revision in its resource areas. Formerly, the Salem District was subdivided into five resource areas. Now, the Salem District is subdivided into three resource areas. Descriptions of the exterior management boundaries of the three resource areas are as follows:

Cascades Resource Area

Beginning at the Oregon state line at the confluence of the Columbia and Willamette Rivers; thence easterly along the Multnomah County line; thence southerly along the Multnomah-Hood River County line; thence southerly along the Clackamas-Hood River County line; thence southerly along the Clackamas-Wasco County line; thence southerly along the Marion-Wasco County line; thence southerly along the Marion-Jefferson County line; thence southerly along the Linn-Jefferson County line to its intersection with the township line between Ts. 13 and 14 S., Will. Mer., Oreg.; thence westerly along said township line to the center of the main channel of the Willamette River; thence northerly along the center of the main channel of the Willamette River to the place of beginning. The Resource Area combines the previous Clackamas and Santiam Resource Areas.

Tillamook Resource Area

Beginning at the Oregon state line at the confluence of the Columbia and Willamette Rivers; thence southerly along the center of the main channel of the Willamette River to the Yamhill-Polk County line; thence westerly along the said Yamhill-Polk County line; thence southerly along the Polk-Tillamook County line; thence westerly along the Tillamook-Lincoln County line to the Pacific Ocean; thence northerly along the Pacific Ocean to the mouth of the Columbia River; thence easterly along the Clatsop, Columbia, and Multnomah County lines to the place of beginning. The Resource Area combines the previous Tillamook Resource Area and the northern portion of the previous Yamhill Resource Area. The Resource Area headquarters is located in Tillamook, Oregon.

Marys Peak Resource Area

Beginning at a point on the Willamette River at the Yamhill-Polk County line; thence southerly along the center of the main channel of the Willamette River to the Benton-Lane County line; thence westerly along the existing Salem-Eugene District line to the Pacific Ocean; thence northerly along the Pacific Ocean to the Tillamook-Lincoln County line; thence easterly along the said Tillamook-Lincoln County line; thence northerly along the Polk-Tillamook County line; thence easterly along the Yamhill-Polk County line to the place of beginning. The Resource Area combines the previous Alsea Resource Area with the southern portion of the previous Yamhill Resource Area.

Maps showing the above-described boundaries are available for review at the Salem District Office, 1717 Fabry Road SE, Salem, Oregon 97306, and the Tillamook Resource Area Office, 4610 Third Street, Tillamook, Oregon 97141.

Van Manning,

Salem District Manager.

[FR Doc. 95–9790 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–33–M

[ID–030–05–1220–00]

Notice of Sanitation and Special Recreation Permit Requirements on the South Fork of the Snake River

SUMMARY: Pursuant to 43 CFR 8365.1–6 and 8372.1–1 the following acts are prohibited yearlong within the Snake River Special Recreation Management Area (SRMA) and Area of Critical Environmental Concern (ACEC) between Conant Boat Ramp (river mile 884) and Lufkin Bottom (river mile 875) on Bureau of Land Management lands.

(A) Boating, either float boating or power boating, on overnight trips without a portable sanitary device for carrying out all solid human waste (fecal matter).

(B) Camping without receipt of a properly executed self-issue permit allowing for overnight camping. A permit is required for each power boat and each float boat party for overnight trips. The permit is cost free, and it does not limit numbers of boaters.

SUPPLEMENTARY INFORMATION: These restrictions meet the requirements of the South Fork Activity Operations Plan and the Medicine Lodge Resource Management Plan for the Snake River SRMA and ACEC.

Implementing the portable toilet regulations will protect health and safety by removing fecal material from the camp areas. It will enhance the effort to keep campsites clean and free of litter (tissue paper) by requiring removal of waste. It will also aid in educating the public on no-trace camping techniques. Implementation of the regulations was highly favored by river users during visitor contacts.

Use of the South Fork of the Snake River has increased dramatically in recent years. Planning for present and future recreation demands requires specific information on amount and type of river use. Permits contain information and education that addresses social and environmental issues associated with resource use on the South Fork of the Snake River. Further, permit information provides for education concerning Bald Eagle Nesting Areas and requirements associated with their protection. Permits also provide accountability for user's actions when recreating in the permit area.

DATES: This notice is effective as of May 26, 1995.

ADDRESSES: Comments may be mailed to Bureau of Land Management, 1405 Hollipark Drive, Idaho Falls, ID 83401.

FOR FURTHER INFORMATION CONTACT: Wade Brown at (208) 524–7543.

Gary L. Bliss,

Associate District Manager.

[FR Doc. 95–9789 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–GG–M

[AZ–942–05–1420–00]

Notice of Filing of Plats of Survey; Arizona

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 supplemental plat showing amended lottings created by the segregation of certain mineral surveys in section 33, Township 13 North, Range 1 West, Gila and Salt River Meridian, Arizona, was approved January 23, 1995, and was officially filed January 26, 1995.

A supplemental plat showing amended lottings created by the segregation of certain mineral surveys in sections 20 and 21, Township 12½ North, Range 1 West, Gila and Salt River Meridian, Arizona, was approved January 23, 1995, and was officially filed January 26, 1995.

These plats were prepared at the request of Federal Land Exchange, Incorporated.

A plat, in four sheets, representing the dependent resurvey of the Gila and Salt River Base Line through a portion of Range 14 East, portions of Tract 40 and certain mineral surveys; and the surveys of Tracts 45 through 51, in unsurveyed Townships 1 North, Ranges 13 and 14 East, Gila and Salt River Meridian, Arizona, was approved January 31, 1995, and was officially filed February 9, 1995.

This plat was prepared at the request of the U.S. Forest Service, Tonto National Forest.

A supplemental plat depicting a new bearing of N. 1° 15′ W. on the north ½ of the section line between sections 33 and 34, Township 15 South, Range 17 East, Gila and Salt River Meridian, Arizona was approved February 6, 1995, and was officially filed February 9, 1995.

The plat was prepared at the request of the U.S. Forest Service, Coronado National Forest.

A plat, in two sheets, representing the dependent resurvey of a portion of the Tenth Standard Parallel North through Range 8 East, and a portion of the subdivisional lines; and the subdivision of certain sections, in Township 40 North, Range 8 East, Gila and Salt River Meridian, Arizona, was approved February 8, 1995, and was officially filed February 16, 1995.

A plat, in two sheets, representing the dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines and the subdivision of certain sections; and additional subdivision in section 25, Township 41 North, Range 8 East, Gila and Salt River Meridian, Arizona, was approved February 8, 1995, and was officially filed February 16, 1995.

A plat representing the retracement of a portion of the subdivisional lines and a portion of the subdivision of section 19, in Township 41 North, Range 9 East, Gila and Salt River Meridian, Arizona, was approved February 8, 1995, and was officially filed February 16, 1995.

These plats were prepared at the request of the National Park Service, Glen Canyon Recreation Area.

A plat representing the dependent resurvey of a portion of the south boundary, the west boundary, the north boundary, and a portion of the subdivisional lines; and the subdivision of sections 20 and 29, in Township 18 North, Range 27 East, Gila and Salt River Meridian, Arizona, was approved February 27, 1995, and was officially filed March 9, 1995.

A plat, in three sheets, representing the dependent resurvey of the Seventh Auxiliary Guide Meridian East (east boundary), the south boundary, the west boundary, the north boundary, a portion of the subdivisional lines; and the subdivision of section 2, and a metes-and-bounds survey, and an informative traverse, in Township 18 North, Range 28 East, Gila and Salt River Meridian, Arizona, was approved February 27, 1995, and was officially filed March 9, 1995.

A plat representing the dependent resurvey of the south, east and north boundaries, and a portion of the subdivisional lines, in Township 18 North, Range 29 East, Gila and Salt River Meridian, Arizona, was approved February 27, 1995, and was officially filed March 9, 1995.

A plat, in 3 sheets, representing the dependent resurvey of the Fifth Standard Parallel North (south boundary), the Seventh Auxiliary Guide Meridian East (west boundary), and a portion of the subdivisional lines; and the subdivision of sections 7, 17, and 22, and a metes-and-bounds survey in section 7, Township 21 North, Range 29 East, Gila and Salt River Meridian, Arizona, was approved March 16, 1995, and was officially filed March 23, 1995.

These plats were prepared at the request of the Navajo and Hopi Relocation Commission.

A plat representing the dependent resurvey of portions of the San Rafael del Valle Land Grant, a portion of the subdivisional lines; the subdivision of sections 18 and 19, and metes-and-bounds surveys and informative traverses of portions of the Southern Pacific Railroad in Township 21 South, Range 22 East, Gila and Salt River Meridian, Arizona, was approved February 28, 1995, and was officially filed March, 9, 1995.

This plat was prepared at the request of the Bureau of Land Management, Safford District Office.

A plat representing the dependent resurvey of a portion of the south boundary, and a portion of the subdivisional lines; and the subdivision, informative traverse and metes-and-bounds surveys in section 35, Township 4 North, Range 4 East, Gila and Salt River Meridian, Arizona, was approved March 7, 1995, and was officially filed March 16, 1995.

This plat was prepared at the request of the National Park Service, Santa Fe, New Mexico.

A supplemental plat showing amended lotting in section 32, Township 11 North, Range 18 West, Gila and Salt River Meridian, Arizona, was approved March 22, 1995, and was officially filed March 30, 1995.

A supplemental plat showing a subdivision of original lot 4, section 19, and new lotting in sections 20 and 29, Township 12 North, Range 18 West, Gila and Salt River Meridian, Arizona, was approved March 22, 1995, and was officially filed March 30, 1995.

These plats were prepared at the request of the Bureau of Land Management, Resource Planning, Use and Protection Division.

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.

Dale C. Wilson,

Acting Chief Cadastral Surveyor of Arizona.

[FR Doc. 95–9745 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–32–M

[ID–942–1420–00]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., April 13, 1995.

The plat representing the dependent resurvey of portions of the south and west boundaries, and subdivisional lines, and the subdivision of sections 19, 29, 30, 31, and 32, and metes-and-bounds survey in section 31, T. 14 S., R. 30 E., Boise Meridian, Idaho, Group No. 884, was accepted, April 7, 1995.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: April 13, 1995.

Harry K. Smith,

Acting Chief Cadastral Surveyor for Idaho.

[FR Doc. 95–9783 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–GG–M

[NV–930–1430–01; N–57922]

Approved Amendment and Decision Record

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: The Caliente Management Framework Plan and Nellis Air Range Resource Plan Approved White Sides

Land Withdrawal Amendment and Decision Record has been completed and is available to the public. This amendment will allow for the implementation of a United States Air Force proposal to withdraw 3,972 acres of public land in Lincoln County, Nevada. The purpose of the withdrawal is to provide a security and safety buffer to the adjacent withdrawn Nellis Air Force Range.

ADDRESSES: Copies of the Approved Land Use Plan Amendment and Decision Record may be obtained by writing to: Bureau of Land Management, Las Vegas District Office, 4765 W. Vegas Drive, Las Vegas, Nevada, 89108.

FOR FURTHER INFORMATION CONTACT: Mike Dwyer, District Manager, at the above Las Vegas District address or telephone (702) 647–5000.

SUPPLEMENTARY INFORMATION: The withdrawal will remove the subject lands from settlement, sale, or entry under the public land laws, including the mining laws of the United States subject to valid existing rights. It will be for a period of about six years, ending November 6, 2001, with the opportunity for reviews and renewal. All forms of public access, recreation, mineral exploration, oil and gas leasing, and mineral development will be prohibited. The land withdrawal will not allow for the construction of any on-site facilities or air-to-ground targeting activities. However, it will allow for the maintenance of existing roads and placing of security devises (e.g., posting, warning signs, sensors) along or near the boundary of the withdrawal area.

The Caliente Management Framework Plan is amended to exclude the withdrawal area. The Nellis Air Force Range Resource Plan is amended to include the additional acreage. Management of the land to be withdrawn will conform to decisions in the Nellis Air Force Range Resource Plan. The Bureau of Land Management will continue to administer livestock grazing on the Bald Mountain Allotment. The Caliente Management Framework Plan will continue to provide management direction for the non-withdrawn portions of the grazing allotment and the Nellis Air Force Range Resource Plan will provide management direction for those portions of the allotment within the military withdrawal.

Copies of the Approved Plan Amendment and Decision Record will be mailed to all individuals who participated in the planning process and other individuals upon request.

Dated: April 7, 1995.

Ann J. Morgan,

State Director, Nevada.

[FR Doc. 95–9742 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–HC–M

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: John Monson, Bedford, NH, PRT–801217.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. L. Tonks, Sondagsrivierhoek, Graaff Reinet, Republic of South Africa, for the purpose of enhancement of the survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: April 14, 1995.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 95–9710 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–55–P

Availability of Environmental Assessment/Habitat Conservation Plans and Receipt of Applications for Incidental Take Permits for Construction of Single-family Residences Within Travis County, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The following applicants have applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act). The requested permits would authorize the incidental take of the endangered golden-cheeked warbler (*Dendroica chrysoparia*). The proposed take would occur as a result of the construction of one single-family residence on each individually owned lot within Travis County, Texas.

The Service has prepared the Environmental Assessment/Habitat Conservation Plans (EA/HCP's) for the incidental take applications. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made before 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received on or before May 22, 1995.

ADDRESSES: Persons wishing to review the application(s) may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Persons wishing to review the individual EA/HCP(s) may obtain a copy by contacting Joseph E. Johnston or Alma Barrera, Ecological Services Field Office, 10711 Burnet Road, suite 200, Hartland Bank Building, Austin, TX 78758 (512/490–0063). Documents will be available for public inspection by written request, by appointment only, during normal business hours (9:00 to 4:30) U.S. Fish and Wildlife Service, Austin, TX. Written data or comments concerning the application(s) and EA/HCP(s) should be submitted to the Acting Field Supervisor, Ecological Services Field Office, Austin, TX (see **ADDRESSES** above). Please refer to the applicable Permit Number when submitting comments.

FOR FURTHER INFORMATION CONTACT: Joseph E. Johnston or Alma Barrera at the above Austin Ecological Service Field Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the golden-cheeked warbler. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

Applicant: Steven G. Madere (Permit Number PRT–799859) plans to construct a single-family residence on Lot 22, Block H, Long Canyon Phase IIA Subdivision, a k a 9000 Bell Mountain Drive. This action will eliminate less than one half acre of land and indirectly impact less than one half additional acre of golden-cheeked warbler habitat. The applicant proposes to compensate for this incidental take of golden-cheeked warbler habitat by placing $1,500 into the City of Austin Balcones Canyonlands Conservation Fund to acquire/manage lands for the conservation of the golden-cheeked warbler.

Applicant: Cecil Eugene Ethridge and Doug Van Skyock (Permit Number PRT–799946) plan to construct a single-family residence on Lot 44 on Mountain Trail, Comanche Trail #3 Resubdivision. This action will eliminate less than one half acre of land and indirectly impact less than one half additional acre of golden-cheeked warbler habitat. The applicant proposes to compensate for this incidental take of golden-cheeked warbler habitat by placing $1,500 into the City of Austin Balcones Canyonlands Conservation Fund to acquire/manage lands for the conservation of the golden-cheeked warbler.

Applicant: Steven I. Adler (Permit Number PRT–800130) plans to construct a single-family residence on Lot 12 on Wildwind Point, Westlake Highlands Section 5, Phase 2, Revised Subdivision. This action will eliminate less than one half acre of land and indirectly impact less than one additional acre of golden-cheeked warbler habitat. The applicant proposes to compensate for this incidental take of golden-cheeked warbler habitat by placing $1,500 into the City of Austin Balcones Canyonlands Conservation Fund to acquire/manage lands for the conservation of the golden-cheeked warbler.

Applicant: Richard S. Baggett (Permit Number PRT–800131) plans to construct a single-family residence on Lot 2, Block L, Long canyon, Phase IIB, a k a 9611 Bell Mountain Drive. This action will eliminate less than one half acre of land and indirectly impact less than one additional acre of golden-cheeked warbler habitat. The applicant proposes to compensate for this incidental take of golden-cheeked warbler habitat by placing $1,500 into the City of Austin Balcones Canyonlands Conservation Fund to acquire/manage lands for the conservation of the golden-cheeked warbler.

Applicant: Mr. and Mrs. Larry Michael Beasley (Permit Number PRT–800080) plan to construct a single-family residence on Lot 4 on Lime Creek Road, Lake Travis Subdivision No. 2. This action will eliminate less than one half acre of land and indirectly impact less than one additional acre of golden-cheeked warbler habitat. The applicant proposes to compensate for this incidental take of golden-cheeked warbler habitat by placing $1,500 into the City of Austin Balcones Canyonlands Conservation Fund to acquire/manage lands for the conservation of the golden-cheeked warbler.

Alternatives to these actions were rejected by the Applicant(s) because selling or not developing the individually owned subject property with federally listed species present was not economically feasible.

Lynn B. Starnes,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 95–9767 Filed 4–19–95; 8:45 am]

BILLING CODE 4510–55–M

Minerals Management Service

[DES 95–17]

Outer Continental Shelf, Gulf of Mexico Region, Proposed Central and Western Gulf Sales 157 and 161

AGENCY: Minerals Management Service.

ACTION: Notice of availability of the draft environmental impact statement and intent to hold public hearings regarding proposed central and western Gulf of Mexico sales 157 and 161.

The Minerals Management Service has prepared a draft environmental impact statement (EIS) relating to proposed 1996 Outer Continental Shelf (OCS) oil and gas lease sales in the Central and Western Gulf of Mexico. The proposed Central Gulf Sale 157 will offer for lease approximately 31.2 million unleased acres, and the Western Gulf Sale 161 will offer approximately 28.3 million unleased acres. Single copies of the draft EIS can be obtained from the Minerals Management Service, Gulf of Mexico OCS Region, Attention: Public Information Unit (MS 5034), 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana 70123–2394.

Copies of the draft EIS will also be available for review by the public in the following libraries:

Texas

Alma M. Carpenter Public Library, 330 South Ann, Sourlake
Aransas Pass Public Library, 110 North Lamont Street, Aransas Pass
Austin Public Library, 402 West Ninth Street, Austin
Bay City Public Library, 1900 Fifth Street, Bay City
Brazoria County Library, 410 Brazoport Boulevard, Freeport
Calhoun County Library, 301 South Ann, Port Lavaca
Chambers County Library System, 202 Cummings Street, Anahuac
Comfort Public Library, Seventh & High Streets, Comfort
Corpus Christi Central Library, 805 Comanche Street, Corpus Christi
Dallas Public Library, 1513 Young Street, Dallas
Houston Public Library, 500 McKinney Street, Houston
Jackson County Library, 411 North Wells Street, Edna
Lamar University, Gray Library, Virginia Avenue, Beaumont
LaRatama Library, 505 Mesquite Street, Corpus Christi
Liberty Municipal Library, 1710 Sam Houston Avenue, Liberty
Orange Public Library, 220 North Fifth Street, Orange
Port Arthur Public Library, 3601 Cultural Center Drive, Port Arthur
Port Isabel Public Library, 213 Yturria Street, Port Isabel
Reber Memorial Library 193 North Fourth, Raymondville
Refugio County Public Library, 815 South Commerce Street, Refugio
Rice University, Fondren Library, 6100 South Main Street, Houston
R.J. Kleberg Public Library, Fourth and Henrietta, Kingsville
Rockwall County Library, 108 South Fannin Street, Rockwall
Rosenberg Library, 2310 Sealy Street, Galveston
Sam Houston Regional Library & Research Center, FM 1011 Governors Road, Liberty
Texas A & M University, Corpus Christi Library, 6300 Ocean Drive, Corpus Christi
Texas A & M University, Evans Library, Spence and Lubbock Streets, College Station
Texas Southmost College Library, 1825 May Street, Brownsville
Texas State Library, 1200 Brazos Street, Austin
University of Houston Library, 4800 Calhoun Boulevard, Houston
University of Texas at Brownsville, Arnulfo Oliveria Memorial Library, 80 Fort Brown, Brownsville
University of Texas Law School, Tarlton Law Library, 727 East 26th Street, Austin
University of Texas, LBJ School of Public Affairs Library, 2313 Red River Street, Austin,

University of Texas Library, 21st and Speedway Streets, Austin
Victoria Public Library, 320 North Main, Victoria

Louisiana

Calcasieu Parish Library, 327 Broad Street, Lake Charles
Cameron Parish Library, Marshall Street, Cameron
Grand Isle Branch Library, Highway 1, Grand Isle
Government Documents Library, Loyola University, 6363 St. Charles Avenue, New Orleans
Iberville Parish Library, 24605 J. Gerald Berret Boulevard, Plaquemine
Jefferson Parish Lobby Branch Library, 3410 North Causeway Boulevard, Metairie
Jefferson Parish West Bank Outreach Branch Library, 2751 Manhattan Boulevard, Harvey
Louisiana State University Library, 760 Riverside Road, Baton Rouge
Lafayette Public Library, 301 W. Congress Street, Lafayette
Lafitte Branch Library, Route 1, Box 2, Lafitte
Lafourche Parish Library, 303 West 5th Street, Thibodaux
Louisiana Tech University, Prescott Memorial Library, Everet Street, Ruston
LUMCON, Library, Star Route 541, Chauvin
McNeese State University, Luther E. Frazar Memorial Library, Ryan Street, Lake Charles
New Orleans Public Library, 219 Loyola Avenue, New Orleans
Nicholls State University, Nicholls State Library, Leighton Drive, Thibodaux
Plaquemine Parish Library, 203 Highway 11, South, Buras
St. Bernard Parish Library, 1125 East St. Bernard Highway, Chalmette
St. Charles Parish Library, 105 Lakewood Drive, Luling
St. John The Baptist Parish Library, 1334 West Airline Highway, Laplace
St. Mary Parish Library, 206 Iberia Street, Franklin
St. Tammany Parish Library, Covington Branch, 310 West 21st Street, Covington
St. Tammany Parish Library, Slidell Branch, 555 Robert Boulevard, Slidell
Terrebonne Parish Library, 424 Roussell Street, Houma
Tulane University, Howard Tilton Memorial Library, 7001 Freret Street, New Orleans
University of New Orleans Library, Lakeshore Drive, New Orleans
University of Southwestern LA, Dupre Library, 302 East St. Mary Boulevard, Lafayette
Vermillion Parish Library, Abbeville Branch, 200 North Street, Abbeville

Mississippi

Gulf Coast Research Laboratory, Gunter Library, 703 East Beach Drive, Ocean Springs
Hancock County Library System, 312 Highway 90, Bay Saint Louis
Harrison County Library, 14th and 21st Avenues, Gulfport
Jackson George Regional Library System, 3214 Pascagoula Street, Pascagoula

Alabama

Dauphin Island Sea Lab, Marine Environmental Science Consortium, Library, Bienville Boulevard, Dauphin Island
Gulf Shores Public Library, Municipal Complex, Route 3, Gulf Shores
Mobile Public Library, 701 Government Street, Mobile
Montgomery Public Library, 445 South Lawrence Street, Montgomery
Thomas B. Norton Public Library, 221 West 19th Avenue, Gulf Shores
University of South Alabama, University Boulevard, Mobile

Florida

Bay County Public Library, 25 West Government Street, Panama City
Florida A & M University, Coleman Memorial Library, Martin Luther King Boulevard, Tallahassee
Florida Northwest Regional Library System, 25 West Government Street, Panama City
Florida State University, Strozier Library, Call Street and Copeland Avenue, Tallahassee
Fort Walton Beach Public Library, 105 Miracle Strip Parkway, Fort Walton Beach
Leon County Public Library, 200 West Park Avenue, Tallahassee
University of Florida Library, University Avenue, Gainesville
University of Florida, Holland Law Center Library, Southwest 25th Street and 2nd Avenue, Gainesville
West Florida Regional Library, 200 West Gregory Street, Pensacola

Public Hearings for Proposed Central and Western Gulf of Mexico Sales 157 and 161

In accordance with 30 CFR 256.26, the Minerals Management Service will hold three public hearings (dates, times, and locations are listed below) soliciting comments on the draft environmental impact statement (EIS) for proposed 1996 Gulf of Mexico Sales 157 and 161. The hearings will provide the Secretary of the Interior with information from interested parties that will help in the evaluation of the potential effects of proposed lease Sales 157 and 161. These hearings will also serve as an early opportunity for determining the scope of significant issues related to the development of a draft EIS for proposed 1997 Gulf of Mexico Sales 166 and 168, as well as for the draft EIS for the 5-year OCS oil and gas leasing program for 1997–2002. The hearings will provide information for the development of appropriate alternatives and mitigating measures, as well as for the identification of significant issues, to be considered in that draft EIS.

Persons who wish to testify at these hearings may register the day of the hearing at the hearing sites beginning one hour prior to the meeting. Oral testimony should be limited to 10 minutes. Each hearing will begin at the specified time and will recess when all speakers have had an opportunity to testify. If there are no additional speakers, the hearing will adjourn immediately after the recess. Testimony may be supplemented by a written statement that, if submitted at a hearing, will be considered as part of the hearing record. Those unable to attend the hearing may submit written statements until the close of the comment period, July 14, 1995. Written statements should be submitted to the Regional Director, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394.

Alabama: Dauphin Island on June 8, 1995; 7:00–9:00 p.m.
Dauphin Island Sea Lab, 101 Bienville Boulevard, Dauphin Island, Alabama
Texas: Houston on June 13, 1995; 1:00–3:00 p.m.
Marriott International Airport Hotel, 18700 John F. Kennedy Boulevard, Houston, Texas
Louisiana: New Orleans on June 14, 1995; 1:00–3:00 p.m.
Minerals Management Service, 1201 Elmwood Park Boulevard, Conference Room 111, Jefferson, Louisiana

Dated: April 14, 1995.

Thomas Gernhofer,

Associate Director for Offshore Minerals Management.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 95–9705 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–MR–P

Minerals Management Service (MMS)

Minerals Management Advisory Board, Outer Continental Shelf (OCS), Scientific Committee (SC); Announcement of Plenary Session

This Notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92–463, 5 U.S.C., Appendix I, and the Office of Management and Budget Circular A–63, Revised.

The Minerals Management Advisory Board OCS SC will meet in plenary sessions on Wednesday, June 7, and Thursday, June 8, 1995, at the Regal Alaskan Hotel, 4800 Spenard Road, Anchorage, Alaska 99517–3236, telephone (907) 243–2300.

The SC is an outside group of scientists which advises the Director, MMS, on the feasibility,

appropriateness, and scientific value of the MMS' OCS Environmental Studies Program (ESP).

Below is a schedule of meetings that will occur.

The SC will meet in plenary session on Wednesday, June 7, from 8:30 a.m. to 5:30 p.m.

The Committee will also meet in plenary session on Thursday, June 8, from 8:30 a.m. to 5 p.m. Discussion will focus on continued review of Fiscal Years 1996 and 1997 proposed ESP and OCS activities off Alaska, and MMS future study plans for OCS areas with ongoing operations and planned activities.

The meetings are open to the public. Approximately 30 visitors can be accommodated on a first-come-first-served basis at the plenary session.

A copy of the agenda may be requested from the MMS by writing Ms. Phyllis Clark at the address below.

Other inquiries concerning the OCS SC meeting should be addressed to Dr. Ken Turgeon, Executive Secretary to the OCS Scientific Committee, Minerals Management Service, 381 Elden Street, Mail Stop 4310, Herndon, Virginia 22070. He may be reached by telephone at (703) 787–1717.

Dated: April 13, 1995.

Thomas M. Gernhofer,

Associate Director for Offshore Minerals Management.

[FR Doc. 95–9784 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–MR–M

Call for Comment on Proposed Policy Options and Announcement of Related Workshop for Outer Continental Shelf (OCS) Natural Gas and Oil Resource Management

AGENCY: Minerals Management Service (MMS), Department of the Interior.

ACTION: Call for Comment on proposed policy options and announcement of workshop.

SUMMARY: On December 7, 1993, the MMS published a Call for Public Comment on General Leasing Policies in the Central and Western Gulf of Mexico Planning Areas. The MMS has reviewed the comments it received and conducted additional analyses. In this Call for Comment, the MMS describes specific policy options being considered.

The primary objectives to be met are to slow expected declines in infrastructure and production in producing areas, to promote development of infrastructure in certain non-producing areas, and to assure continued receipt of fair market value for OCS leases. Implementation of one new policy, expanding the tract-specific data made available to all prospective bidders prior to a sale, has just begun. Other options under consideration are to publish specific guidelines for the treatment of applications for royalty relief, to offer more flexible royalty terms on some new leases, to increase flexibility to respond to requests for extensions in lease terms, to modify rental and minimum bid policies, to revise bid adequacy procedures, and to propose coastal impact assistance.

A 2-day workshop to discuss current policy options will be held in the Gulf of Mexico region in mid-June 1995. The first day will be devoted to an overall discussion of the various options. The second day will be spent on the guidelines being developed by the MMS for royalty relief on active leases. Details will be published in a second **Federal Register** Notice later this month.

DATES: Written responses should be received by July 19, 1995. Comments also may be presented in person at the workshop announced in this notice.

ADDRESSES: Written responses should be mailed to the Acting Deputy Associate Director, Resources and Environmental Management, Minerals Management Service (MS–4430), 381 Elden Street, Herndon, VA 22070. Hand deliveries may be made at 381 Elden Street, Room 3408, Herndon, Virginia (dial 1178 from lobby telephone). Envelopes or packages should be marked ''Comments on Proposed Policy Options for the Gulf of Mexico.'' If any privileged or proprietary information is submitted that the respondent wishes to be treated as confidential, both the envelope and the contents should be marked ''Confidential Information.''

FOR FURTHER INFORMATION CONTACT: For information pertaining to this Call for Comment on Proposed Policy Options and Announcement of Workshop, telephone Marshall Rose or Mary Vavrina, Economic Evaluation Branch, at (703) 787–1536.

SUPPLEMENTARY INFORMATION: In the December 7, 1993, Call for Public Comment on General Leasing Policies in the Central and Western Gulf of Mexico Planning Areas, suggestions and comments were requested from States, local governments, Federal agencies, the oil and gas industry, environmental groups, and other interested individuals and groups to assist the MMS and the Department of the Interior in planning for the Central and Western GOM sales remaining under the Comprehensive OCS Natural Gas and Oil Resource Management Program for 1992–1997. After considering the comments received and conducting additional internal analyses, the MMS and the Department decided that, overall, the regulations and policies already in place were appropriate. However, the MMS did identify several areas where improvement was possible and has developed a number of options for further consideration.

The MMS has decided that the current approach of offering annual, area-wide sales in the Central and Western GOM is the most appropriate leasing system for those planning areas at this time. In other planning areas, the MMS may hold narrowly targeted sales, more typical tract selection sales, or tract nomination sales (where all tracts specifically nominated are offered, absent environmental or other concerns).

The MMS also has decided that an extension of the period used to evaluate bids from a lease sale is no longer needed. Its Resource Evaluation staff now has sufficient training in the use of new computer systems and interpretation of technical data to complete the evaluation of bids within the existing 90-day requirement.

Several commenters supported impact assistance. The Administration recognizes that coastal states and localities can incur impacts disproportionate to their share of the national benefits. The Administration supports impact assistance as a means to more equitably share the benefits and burdens of OCS production, protect coastal and marine resources, and strengthen the Federal-State partnership. The critical issue in designing an impact assistance program, however, is the budget offsets required so that there is no net impact on the Federal Treasury. The Administration is currently reviewing impact assistance but does not have a proposal at this time.

Primary Objectives

In considering the main purpose of the OCS oil and gas program (to contribute to the Nation's energy supply) and the range of opportunities currently available to make beneficial changes within its existing authority, the MMS decided to focus on three objectives:

—Slow expected declines in infrastructure and production in the producing portions of the Central and Western GOM

—Promote development of infrastructure in promising deep-water portions of the Central and Western GOM (and possibly in frontier planning areas) to encourage the domestic market to replenish reserves and to increase its ability to

respond to sudden decreases in the availability of moderately priced supplies of oil and gas from foreign sources

—Assure receipt of fair market value for OCS leases.

Policy Options for Comment

I. New Policy: Information on Tracts with Indicated Hydrocarbons

The MMS believes that early identification of available tracts with low geologic risk (those with indicated hydrocarbons) would be a service to potential bidders and would result in greater competition for some tracts. Scarce resources may make it difficult for some potential bidders to identify the tracts on their own. Fifty percent of the tracts with high bids rejected between 1990–92 had well bores with confirmed resources. In subsequent sales, both the number of bids per tract and high bids, on average, increased significantly. These findings suggest that wider dissemination of relevant geologic data on discovered resources would increase the bidding competition and high bid amounts in future sales.

An initial Indicated Hydrocarbon List has been prepared and distributed that identifies relevant unleased tracts by class in the Central GOM. The three classes are those that were fields or portions of fields that produced; those with well bores that qualified under 30 CFR 250.11 but did not produce; and those with well bores that the MMS believes would qualify under 30 CFR 250.11 but were never classified and never produced. Basic information relating to production, well bores, and pay range for every tract in each class also is included in the list. The data are available in hard copy and digital format. An updated list will be available to the public approximately 3 months before each GOM sale.

Specific Information Requested

The MMS would like two kinds of information on this new policy: evaluations of the usefulness of the information provided for the May 1995 Central GOM sale and suggestions for improvement or expansion. If the information has not been useful, why not? Are there ways to make it more useful? Are there other kinds of useful, non-proprietary data that could be provided by the MMS that are not readily available on the private market?

II. Royalty Policies for Active Leases

The MMS is authorized by the OCS Lands Act to reduce or eliminate royalties on oil-, gas-, and sulphur-producing leases in order to increase production from those leases. The MMS is considering guidelines for such royalty relief that would distinguish between two categories of requests. One is relief for expense type projects, which is designed to promote continued production from a lease by lowering lease royalty rates for a relatively short duration. The other is relief for capital investment projects, which focuses on encouraging incremental production from specific projects on the lease by lowering reservoir or lease royalty rates for extended periods. Royalty relief would be granted only for leases already in production.

For expense type projects, MMS would try to set royalty rates so that operators would more than cover their cost of continuing operations. For capital investment projects, to the extent possible through adjusting royalties, MMS will seek to ensure a targeted rate of return on the new capital invested before all but a nominal royalty becomes due.

Qualification for relief under expense type projects typically would require that the lease has a negative operating cash flow that is expected to persist for subsequent periods. Depending upon the anticipated stability of future prices and costs, MMS may use either a fixed or variable adjustment in the royalty rate for qualifying projects.

Under either approach for expense type projects, the MMS would calculate the minimal amount of relief needed to stimulate continuing operations, e.g., a royalty rate at which the lessee retains 25 percent of the difference between revenues and operating costs (excluding royalties). At about the point where the lease revenues would cover operating costs with the full royalty (the break-even operating level), the original lease royalty rate would apply.

When prices and/or costs are expected to be highly variable, or the interval between review periods is extended, then a variable royalty rate system would be considered. In this approach, the royalty rate that applies in any period could vary as product prices and production levels change. As with the case of the fixed royalty modification, the functional form of the royalty rate would reflect only that amount of relief needed to induce continued production, e.g., the lessee retains 25 percent of the difference between revenues and operating costs (excluding royalties), up to about the break-even operating level.

Qualification for relief under capital investment projects would require the lessee to demonstrate that the eligible project is not expected to generate an adequate rate of return to justify the needed expenditures which would promote increased production. In those cases where MMS is convinced that the additional production directly attributable to the proposed project is not economical under existing royalty terms, it would first determine whether royalty relief would make the proposed project worth pursuing.

If this appears to be the case, then the project may qualify for relief. Following documented payments for the development activities, incremental production would be charged a royalty at a predetermined lower rate, e.g., one-twenty fourth of the wellhead value of production. This rate would remain in effect until the project earned a specified rate of return, e.g., equal to the BBB bond rate, allowing for realized receipts, actual investment and transportation costs, and predetermined allowances for operating and overhead costs.

Production value in excess of the break-even operating level at the reduced royalty rate subsequently would be charged at the original royalty rate. Further, the lessee incurs a repayment obligation if the project proves, in retrospect, not to have needed the full amount of relief. Over the production interval between the investment break-even point at the reduced royalty rate and the break-even point at the original royalty rate, the lessee will incur an obligation to repay an increasing proportion of the difference in royalties owing to approval of the original application for relief. The required repayment will be the amount needed to provide the lessee with the specified return on investment up to that point. No additional obligation beyond the original royalty rate is incurred thereafter.

The repayment obligation would need to be paid either at the time the project ceases producing commercial amounts of production in excess of the investment break-even operating level at the modified royalty rate, or at the time the project generates sufficient revenues to break even on the original investment at the original royalty rate, whichever occurs first. The lessee could further manage the size and timing of the repayment obligation by requesting that the terms of the royalty modification cease earlier than planned and possibly forwarding payment at that time for any incurred or anticipated repayment obligations.

In addition, studies are underway to estimate the extent to which a particular category of reserves known as ''behind-the-pipe,'' tend to be left in the ground when the producing reserves are abandoned. ''Behind-the-pipe'' reserves

are those through which an operator has drilled—but is not producing—to get to another reservoir that is producing. If it is not economic to produce these reservoirs through an existing wellbore, it is highly unlikely that in the future they would justify the cost of drilling a new well, plus the attendant costs of completion and production. The following additional options may be considered for behind-the-pipe reserves:

A. Develop general (across-the-board or interpretive) guidelines for royalty relief for this category of reserves.

B. Develop procedures for case-by-case review of royalty rate requests for ''behind-the-pipe'' and related reserves that involve reductions in royalties and periodic reviews.

C. Initiate administrative reviews of development and conservation issues that could substitute for or supplement royalty relief in inducing lessees to produce socially beneficial reserves. Specifically, a lessee's plan to abandon a well or move to a new horizon would be reviewed in more depth to ensure that economically recoverable reserves are not left behind.

Specific Information Requested

The MMS is seeking comments on several questions pertaining to the proposed more specific interpretive guidelines for granting royalty relief on active leases.

1. Is the demarcation by the two types of projects the best approach? Are there other types of projects not adequately addressed by the proposed guidelines?

2. Are there particular categories of tracts that should be considered?

3. Would the establishment of more specific, interpretive guidelines encourage more lessees to apply for such relief? If so, how much additional production of oil, gas, and sulphur might result from expense-type projects? From capital investment projects? Would this appreciably affect the kind and level of infrastructure in the GOM?

4. Are there aspects of the proposal that would be burdensome or that would otherwise discourage lessees from applying? For example, would the documentation or payback requirements be problems?

5. A fee might be charged to cover the costs of processing applications. How high could this fee be without discouraging applicants?

III. Royalty Policies for New Leases

During the past 10 years, about 240 tracts have been relinquished despite the discovery of potentially economical reserves. An estimated 2 billion barrels of oil equivalent have been discovered but not produced on 30 deep-water leases. The Government holds in its inventory over 700 tracts in water depths of at least 200 meters each of which has, at least once, received a bonus bid of more than one million dollars. Thus, more flexible royalty policies might encourage production of discovered reserves when the price of the oil and gas exceeds the cost, excluding royalties, of bringing those resources to market.

The following options are being considered:

A. Offer reduced or deferred royalties on tracts that have a history of prior discoveries without production.

B. In deep-water areas, offer tracts with suspensions of royalties on substantial volumes or market values of production.

C. Offer suspension of royalties on tracts that have never received a bid or have not received a bid for over 10 years.

The MMS intends to seek the flexibility to offer royalty suspensions or lower fixed royalty rates for new leases. The OCS Lands Act requires for specified bidding systems that leases stipulate an initial royalty rate of at least 12½ percent. However, alternative bidding systems can be implemented under Section 8 of the OCS Lands Act [43 U.S.C. 1337(a)(1)(H)], as long as they are consistent with the duty to assure receipt of fair market value and help accomplish the purposes and policies of the Act. The new bidding systems could provide for leases containing royalty suspensions or lower fixed royalty rates for all tracts in deep water or for selected tracts, such as previously relinquished tracts with qualifying wells or marginal tracts in shallow waters.

By offering the same favorable royalty terms to all bidders, the MMS should be able to obtain correspondingly higher bonus bids for such leases. (Bid adequacy procedures would remain in effect.) At the same time, those who are successful in both bidding and exploration would face lower royalty costs, allowing them to develop and produce discoveries that would otherwise be uneconomic.

The MMS may want to provide additional or stronger incentives for exploration and production in some frontier areas, where the value to the Nation as a whole—but not the potential revenues for the lessee—would exceed the private costs of developing and producing certain discoveries. Additional exploration provides important information about the geology and prospective nature of the area. Each discovery that goes into production provides transportation and other infrastructure that generates an increase in the value of blocks in the vicinity of the development. Getting one or more leases in frontier areas into production could reduce the perceived risk of subsequent exploratory drilling and significantly improve the economics for future production on other leases. Because the incentives are meant to help compensate for the risks and costs that must be borne by those undertaking early investment in exploration and infrastructure development, they might be eliminated or offered in reduced amounts for leases offered after the initial discoveries and development in a targeted area.

For high-cost areas (such as the deep-water GOM) or frontier areas, the MMS also is considering the possibility of offering tracts that are larger than the standard size, in addition to favorable royalty terms or other incentives.

Possible Rulemaking

The MMS is likely to publish a Notice of Proposed Rulemaking before the end of the fiscal year that would propose changing the bidding systems for newly offered tracts under the OCS Lands Act to permit the MMS to (1) lower the prescribed minimum initial royalty rate below 12½ percent; (2) allow operating allowances in determining receipts subject to royalty; (3) suspend or defer royalty for periods, volumes, or values of production; and (4) extend the forms for calculating royalty rates under variable rate systems to include product prices, as well as value and amount of production. Ideally, the MMS would like to have any regulatory changes in place in time to accommodate proposed sale design options for the 1996 Central and Western GOM sales. However, given the obstacles inherent in the current regulatory process, an implementation target of 1997 sales may be more realistic.

Specific Information Requested

The MMS would like respondents to provide comments and suggestions both on the additional authority it seeks and on the new policy options it is considering.

First, which of the policy options above are most likely to help achieve the stated objectives or other relevant objectives? To what extent are they likely to make a difference? Are there ways to make them more effective or more efficient? Are there other policy options the MMS should be considering?

Second, if the MMS should be considering other alternative bidding systems or related policy options for which it has general rulemaking

authority, what regulatory changes would be most appropriate?

IV. Increased Flexibility in Length of Lease Terms, With Possible Changes in Rental Rates and Minimum Bids

Several industry respondents to the December 1993 **Federal Register** Call for Public Comment requested increased flexibility involving Suspensions of Operations (SOOs), Suspensions of Production (SOPs), and similar provisions, particularly for leases on deep-water tracts. Some lessees also have asked for more flexibility where sub-salt prospects exist. Lessees have complained that technical data and information developed for a prospect cannot always be evaluated in time to identify optimal drill sites and commence drilling to better develop exploratory targets within the primary lease term. There may be some benefit to providing industry more time for analysis or other tasks leading to exploration or development where adverse or unusual conditions exist.

However, there is an inventory of 3,000 undrilled tracts in industry hands. Most leases in the GOM are either explored early in their primary lease term or held undrilled until the end of their term. Less than 1 percent of the deep-water leases that were issued for $50 per acre or less since 1982 have been drilled. The MMS would like to grant additional flexibility where it is needed but also, where possible, to encourage earlier drilling or relinquishment so that tracts are not kept off the market by lessees who are unlikely to undertake exploration activity. Changes in minimum bid and rental policies, in combination with other new policies, may be an effective way to achieve this.

Currently, leases are issued with 5-year, 8-year, and 10-year terms for water depths of 400 meters or less, 400–900 meters, and greater than 900 meters, respectively. The 8-year leases require that an exploratory well be drilled within the first 5 years. With a few exceptions, the lessee must demonstrate a qualifying discovery to hold a lease beyond the primary term. Undrilled leases will be continued in effect if the lease is part of a unit agreement with other leases with a discovery, where there is continuous drilling, or as long as the leases in the unit are under a SOO or an SOP. No regulation specifically allows suspensions for the purpose of conducting analysis.

At present, the MMS is considering several options to increase flexibility and/or to encourage diligence:

A. Offer 7- or 8-year leases on some tracts in less than 400 meters of water based on pre-sale identification or post-sale evidence of ''adverse conditions,'' such as sub-salt prospects. Higher rental rates (e.g., $25–$50 per acre, per year) could be charged in years 6–8.

B. Amend 30 CFR 250.13(b), by deleting the words ''where environmental conditions warrant,'' to authorize MMS Regional Directors to approve a period of time greater than 180 days between termination of production, drilling, or well-reworking operations and the commencement of production, new drilling, or well-reworking operations in cases that are in the national interest. Escalating rental rates could be imposed for the additional years.

C. Develop general guidelines for escalating rentals that would apply to broad categories of tracts (e.g., 5-year lease term, 8-year lease term, etc.) in combination with a reduced minimum bid level (e.g., $10 per acre) so that the net present value of the reduced minimum bid and escalating rentals would be about equal to the present value of a $25 per acre minimum bid and $5 per-acre, per-year rental during the first 2–3 years of the lease. In addition, the escalating rental provision could substitute for the rigid requirement to initiate exploration drilling by the fifth year of leases with an 8-year term.

If escalating rental rates are imposed, another option would be to allow the additional rental payments to be applied to future royalty obligations from the same lease.

Possible Rulemaking

The MMS may issue a Notice of Proposed Rulemaking to delete the words ''where environmental conditions warrant'' from 30 CFR 250.13(b) and insert language specifically granting the Regional Director authority to require higher rental (or minimum royalty) rates during the additional time requested by, and granted to, the lessee under this regulation. Other appropriate changes to 30 CFR 250.13 and to 30 CFR 250.10 may be considered as well.

Specific Information Requested

Respondents may wish to consider the following questions.

1. What flexibility not now available to lessees would help increase production and develop or maintain infrastructure? In what cases should the flexibility be available? In what cases should it not be available (e.g., where it merely allows delays that deprive other companies the opportunity to lease and expeditiously develop the resources)?

2. Are there cases where this need might be temporary? For example, will new technology and additional experience make it possible to evaluate sub-salt prospects in less time?

3. What can the MMS do to provide flexibility where needed without ignoring its responsibility to enforce statutory diligence requirements? Should the MMS be considering other changes in its regulations?

4. When combined with additional flexibility, would rentals of $25–$50 per acre for additional years be appropriate? Would they provide incentives for diligence or would they be too low to influence timing decisions? Would they defeat the purpose of providing the flexibility?

5. Would a lower minimum bid, combined with an increasing rental rate help increase production without imposing undesirable timing constraints? If so, what levels of minimum bid and rentals would be effective and appropriate?

V. Bid Adequacy Procedures

The Bid Adequacy decision procedures have essentially remained the same since the advent of the area-wide leasing program in 1983. In recent years, it has been shown that rejected tracts, on average, receive much higher bids in subsequent sales. (This finding takes into account the foregone original bids for those few rejected tracts not receiving bids in subsequent sales.) Use of the 3-Bid Rule and the Bid Averaging Rule occasionally has resulted in the acceptance of some tracts that were highly valued by the MMS but received relatively low bids. The Office of the Inspector General has expressed concern that the Bid Averaging Rule places too much emphasis on losing bids in determining whether to accept the high bid on tracts about which the MMS has relatively good information.

In Phase 1 of the two-phased bid adequacy procedures, a high bid on a wildcat or confirmed tract can be accepted without further MMS evaluation if the tract receives three or more bids. The 3-Bid Rule was originally adopted to place reliance on the market to ensure receipt of fair market value when there was a sufficient number of competitive bids. Also, the rule was adopted to devote scarce tract evaluation resources on those cases where competition was weakest (i.e., tracts receiving one or two bids) or where MMS data were considered most reliable and some bidders might have an informational advantage over the rest of the market (i.e., drainage and development tracts).

Possible changes in Phase 1 procedures that are being considered include eliminating the 3-Bid Rule and

applying the 3-Bid Rule to wildcat tracts only.

In Phase 2 of the two-phased bid adequacy procedures, the MMS estimate of tract value is averaged (geometrically) with the bids submitted. If the high bid exceeds the ''average'' bid, it is accepted. This averaging rule is applied to wildcat and confirmed tracts receiving two bids and to drainage and development tracts receiving three or more bids.

The three options currently being considered for Phase 2 procedures include replacing the geometric average with the median of the MMS tract value estimate and a lower percentile parameter as the number of bids on the tract increases, replacing the geometric average with an arithmetic average in the GOM Region and with the median elsewhere, and eliminating the geometric average with no replacement.

Whether or not changes are made in its bid adequacy procedures, the MMS is likely to adopt or retain at least one criterion incorporating market information provided by bids. In the past, changes in bid adequacy procedures have applied uniformly to all OCS lease sales, regardless of the planning area.

Should a decision be made to change the status quo, a notice to prospective bidders would be published in the **Federal Register**, and a discussion of the changes would be included in the appropriate Notice of Sale.

Specific Information Requested

The MMS would like any information that would help it, in the face of changing conditions, to continue to fulfill its obligation under the OCS Lands Act to assure the receipt of fair market value for oil and gas leases. Given the high return on rejected bids, what changes if any might be appropriate in current bid adequacy procedures? Are there options not identified above that MMS should consider?

Request for Comments

Specific kinds of comments are requested at the end of each of the five groups of policy options identified immediately above. In general, it would be helpful to the MMS for respondents to focus on the extent to which the options would help to achieve the objectives stated in this Call for Comment.

The MMS also requests any information indicating that certain options may have the potential for important negative consequences or would be less effective or less efficient than other actions under MMS control.

In addition to comments on the workability and possible effectiveness of individual options, the MMS would appreciate any suggestions for combinations of policies that might be superior to any individual options in achieving the stated objectives.

Respondents should not limit themselves to addressing the questions in this Call for Comment and should feel free to respond through the workshop, through written comments, or both. None of the policies discussed in this Call for Comment, with the exception of publishing the Indicated Hydrocarbon List, will receive final approval until after the comment period has closed and all comments—whether made at the workshop or submitted in writing—have been considered fully.

Workshop on Proposed Policy Options

A 2-day workshop to discuss the options presented in this Call for Comment will be held in the Gulf of Mexico region in mid-June 1995. The most likely site is Houston, with Metairie, Louisiana, as an alternate, and the tentative dates are June 14–15. The dates, exact location, and agenda will be announced in a **Federal Register** Notice later this month.

The first day of the workshop will be devoted to an overall discussion of the full set of options in this Call for Comment. This will include a limited discussion of the proposed guidelines for royalty relief on active leases and the purposes they are designed to achieve. The second day will be reserved for a more detailed discussion of how the proposed guidelines for royalty relief on active leases would work. All interested parties are invited to both sessions, but it would be especially valuable for those who might write the applications for royalty relief under the new guidelines to attend on the second day.

While the workshop is open, free of charge, to anyone who wishes to attend, the MMS requests that those wishing to attend any part of the two-day session register in advance. Registration information will be provided in the upcoming Notice announcing details of the workshop.

Assuming that a decision is made to issue specific royalty relief guidelines after comments have been analyzed, a training session will be held to explain the plan for implementation of the final guidelines.

Timing and Means of Implementation

As mentioned above, the MMS may issue two Notices of Proposed Rulemaking to gain more flexibility in the implementation of existing statutory authority for royalty rates and the effective length of lease terms. The decision to seek additional regulatory flexibility should not be interpreted as a decision to implement any particular policy option.

Most of the other options being considered could be implemented under existing authority. If, after considering the responses to this Call for Comment and any information gained from the workshop, a decision is made to change existing policies, the MMS hopes to announce in the **Federal Register** a package of proposals in time for implementation in the mid-1996 Western GOM sale (Sale 161) and subsequent GOM sales. Ideally, any decisions to change policies toward active leases would be made at the same time.

However, the MMS is not committed to adopting any specific options or to meeting a specific schedule for implementation. Regardless of any preferred timing, the MMS will assure that it has had adequate opportunity to hear and consider comments from industry, States, and other affected parties prior to any final decisions. In addition, the MMS will provide affected parties sufficient time to adjust to the decisions that eventually come out of this process.

Cynthia Quarterman,

Director, Minerals Management Service.

[FR Doc. 95–9704 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–MR–P

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32682]

RailTex, Inc.—Corporate Family Transaction Exemption—Georgia and Alabama Lines, South Carolina Central Railroad Co., Inc. and Georgia Southwestern Railroad, Inc.

RailTex, Inc. (RailTex), South Carolina Central Railroad Co., Inc. (SCC), and Georgia Southwestern Railroad, Inc. (GSWR), have filed a notice of exemption under 49 CFR 1180.2(d)(3) for a corporate family transaction.

RailTex, a noncarrier corporation, controls through stock ownership: (1) SCC, a class III shortline rail carrier; and (2) GSWR, a noncarrier company.

SCC currently operates about 56 miles of railroad in South Carolina. SCC also owns three railroad lines in Georgia and Alabama: (1) Georgia Southwestern Division, extending from Rochelle, GA to Mahrt, AL, and from Columbus to Bainbridge, GA; (2) Georgia & Alabama Division, extending from Smithville, GA

to White Oak, AL; and (3) Georgia Great Southern Division, extending from Dawson to Albany, GA. The railroad lines in Georgia and Alabama are separately managed as divisions of SCC.

As part of a corporate restructuring, SCC will transfer to GSWR its interests in the railroad lines in Georgia and Alabama. SCC and GSWR will function as separate corporate entities, with separate revenue centers, and each will be managed, administered, directed, and accounted for separately. The parties intended to consummate on or about April 1, 1995.

This is a transaction within a corporate family of the type specifically exempted from prior approval under 49 CFR 1180.2(d)(3) because it will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to use of this exemption, any employees adversely affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979). Imposition of labor protective conditions is mandatory for transactions under 49 U.S.C. 11343.

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the exemption's effectiveness. Pleadings must be filed with the Commission and served on: Michael W. Blaszak, 211 South Leitch Ave., LaGrange, IL 60525.

Decided: April 14, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–9781 Filed 4–19–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32686]

Union County Industrial Railroad Company—Acquisition and Operation Exemption—Consolidated Rail Corporation

Union County Industrial Railroad Company (Union), a noncarrier, has filed a verified notice under 49 CFR Part 1150, Subpart D—*Exempt Transactions* to acquire and operate a 3.9-mile rail line, owned by Consolidated Rail Corporation (Conrail), between milepost 169.7, at or near New Columbia, and milepost 173.6, at or near Milton, in Union County, PA. The transaction was consummated April 4, 1995.

This proceeding is related to *Richard D. Robey—Continuance in Control Exemption—Union County Industrial Railroad Company,* Finance Docket No. 32686 (Sub-No. 1), wherein Richard D. Robey has concurrently filed a petition for exemption to continue to control Union upon its becoming a rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to reopen will not stay the exemption's effectiveness. An original and 10 copies of all pleadings must be filed with the Commission. In addition, one copy must be served on Richard R. Wilson, Vuono, Lavelle & Gray, 2310 Grant Building, Pittsburgh, PA 15219.

Decided: April 14, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–9780 Filed 4–19–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; COPS AHEAD and COPS FAST Grant Programs; Notice

AGENCY: Department of Justice, Office of Community Oriented Policing Services.

ACTION: Notice of final program guidelines adopting with no changes.

SUMMARY: On January 18, 1995, the Office of Community Oriented Policing Services, U.S. Department of Justice published, for a 45-day public comment period, interim guidelines to accompany the COPS AHEAD and COPS FAST programs (60 FR 3648). The 45-day period elapsed with one comment received and the interim guidelines are adopted as final.

DATES: Final guidelines are effective April 20, 1995.

FOR FURTHER INFORMATION CONTACT:

Charlotte C. Black, Assistant General Counsel, Office of Community Oriented Policing Services, U.S. Department of Justice, 1100 Vermont Avenue NW., Washington, DC 20005; telephone (202) 514–3750.

SUPPLEMENTARY INFORMATION: The Catalog of Federal Domestic Assistance Number for COPS AHEAD and COPS FAST is 16.710.

Dated: April 10, 1995.

Joseph E. Brann,

Director.

[FR Doc. 95–9800 Filed 4–19–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging a Final Judgment by Consent Pursuant to the Comprehensive Environmental Response Compensation and Liability Act (CERCLA)

Notice is hereby given that on April 10, 1995, a proposed consent decree in *United States* v. *Edward Azrael, et al.,* Civ. A. No. WN–89–2898, was lodged with the United States District Court for the District of Maryland. The complaint in this action seeks recovery of costs and injunctive relief under Sections 106 and 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99–499, 42 U.S.C. 9606, 9607(a). This action involves the Kane and Lombard Superfund Site located in Baltimore, Maryland. Under the proposed Consent Decree, Edward Azrael, Harriet Azrael and the Estate of Cele Landay (the ''Settlors'') will pay $375,000.00 to the United States and $175,000.00 to the State of Maryland toward reimbursement of past and future costs incurred by the United States and the State of Maryland in performing certain response actions at the Kane and Lombard Superfund Site. The Decree also requires the Settlors to provide to EPA and the State of Maryland access to the Site at all times for the performance of further response actions at the Site. The Decree reserves the right of the United States to seek further injunctive relief should the Settlors fail to meet the requirements of the Decree and to seek recovery of costs associated with damage to natural resources.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044, and should refer to *United States* v. *Edward Azrael, et al.,* DOJ Reference No. 90–11–2–299.

The proposed consent decree may be examined at the Office of the United States Attorney for the District of Maryland, U.S. Courthouse, Eighth Floor, 101 W. Lombard Street, Baltimore, Md. 21201; Region III Office

of the Environmental Protection Agency, 841 Chestnut Street, Philadelphia, Pa.; and at the Consent Decree Library, 1120 ''G'' Street NW., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed decree may be obtained in person or by mail from the Consent Decree Library at the address listed above. In requesting a copy, please refer to the referenced case and number, and enclose a check in the amount of $6.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–9805 Filed 4–19–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act/Oil Pollution Act and the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Burlington Northern Railroad Company*, Civil Action No. 94C 0386C, was lodged on April 3, 1995 with the United States District Court for the Western District of Wisconsin. The proposed consent decree resolves the United States' claims for a civil penalty pursuant to the Clean Water Act, as amended by the Oil Pollution Act, 33 U.S.C. § 1321(b)(3), and for reimbursement of the United States' response costs pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607(a), and the Oil Pollution Act, 33 U.S.C. 2702(b)(2). In addition, the proposed consent decree resolves Burlington Northern Railroad Company's liability pursuant to 42 U.S.C. 9607(a) and 33 U.S.C. 2702(b)(2) for injury to natural resources.

The action and settlement arise from Burlington Northern's illegal discharges of oil and hazardous substances into waters of the United States as a result of three separate derailments: (1) On June 30, 1992 into the Nemadji River near Superior, Wisconsin; (2) on January 9, 1993 into the North Platte River near Guernsey, Wyoming; and (3) on May 6, 1993 into a tributary of the Bighorn River near Worland, Wyoming.

Under the proposed settlement, Burlington Northern agrees to pay a civil penalty in the amount of $1.1 million, to reimburse response costs spent by the United States in association with the Nemadji spill in the amount of $260,000, and to pay $140,000 into a fund to be jointly managed by the U.S. Department of Interior, the Bad River Band of Lake Superior Chippewas and the Red Cliff Band of Lake Superior Chippewas to address natural resources damaged as a result of the Nemadji spill. In addition, the settlement requires Burlington Northern to acquire improved rail inspection cars at an estimated cost of $1.2 million, and to contribute $100,000 to a fund to be used to study internal rail defects of the type that were involved in two of the three derailments in the case.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Burlington Northern Railroad Company*, Civil Action No. 94C 0386C and the Department of Justice Reference Nos. 90–11–3–1008 and 90–5–1–1–4103.

The proposed consent decree may be examined at the Office of the United States Attorney, Western District of Wisconsin, 660 West Washington Avenue, Suite 200, Madison, Wisconsin 53703; the Region V Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590; the Region VIII Office of the Environmental Protection Agency, 999 18th Street, Suite 500, Denver, Colorado 80202; 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 refer to the referenced case and enclose a check in the amount of $4.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–9804 Filed 4–19–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to Clean Air Act

In accordance with Department of Justice policy, 28 C.F.R. § 50.7, notice is hereby given that on April 3, 1995 a proposed Consent Decree in *United States* v. *Coleman Trucking, Inc. et al.*, Case No. 1:91CV0499, was lodged in the United States District Court for the Northern District of Ohio. The Complaint filed by the United States alleged violations of the Clean Air Act and the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Asbestos, 40 C.F.R. part 61, subpart M. The Consent Decree requires the defendant to comply with the asbestos NESHAP and provide U.S. EPA approved training to its asbestos abatement workers and inspectors during the term of the decree. The Consent Decree also requires the defendant to pay a civil penalty of $60,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044, and should refer to *United States* v. *Coleman Trucking, Inc. et al.*, D.J. Ref. No. 90–5–2–1–1378A.

The proposed Consent Decree may be examined at any of the following offices: (1) The United States Attorney for the Northern District of Ohio, Room 208 U.S. Courthouse, 2 South Main St, Akron, Ohio 44308 (contact Assistant United States Attorney James L. Bickett); (2) the U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590 (contact Assistant Regional Counsel Deborah Carlson); and (3) at the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, D.C. 20005, (202) 624–0892. Copies of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005. For a copy of the Consent Decree please enclose a check in the amount of $3.00 (25 cents per page reproduction charge) payable to Consent Decree Library.

Joel Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–9741 Filed 4–19–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended

Notice is hereby given that a Consent Decree in *United States* v. *Southern*

Foundry Supply, Inc., et al, Civ. Act. No. 1:92–CV–567, was lodged with the United States District Court for the Eastern District of Tennessee on March 29, 1995. This action was brought pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9607.

The parties to this Consent Decree are Southern Foundry Supply, Inc.; the City of Chattanooga, Tennessee; Phelps-Dodge Corporation; Textile Rubber and Chemical Company, Inc.; NSPS, Inc.; Norfolk Southern Railway Company; Provident Life and Accident Insurance Company; CSX Transportation, Inc.; Edward and Helen Gomberg; and Browning-Ferris Industries of Tennessee, Inc. These parties agree to pay the United States $1,159,000 in reimbursement of costs incurred in responding to the release or threatened release of hazardous substances at the Amnicola Dump Site in Chattanooga, Tennessee.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue NW., Washington, D.C. 20530. All comments should refer to *United States* v. *Southern Foundry Supply, Inc., et al,* DOJ Ref. #90–11–3–664A.

The proposed Consent Decree may be examined at the office of the United States Attorney, 1110 Market Street, Chattanooga, Tennessee 37402. 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. When requesting a copy, please refer to the referenced case and enclose a check in the amount of $7.75 (25 cents per page copying cost), payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–9799 Filed 4–19–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Safe Drinking Water Act, the Clean Air Act, and the Resource Conservation and Recovery Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Witco Corporation, et al.,* Civil Action No. CV–F–92–5705 REC, was lodged on April 5, 1995 with the United States District Court for the Eastern District of California.

The proposed consent decree resolves a case brought by the United States pursuant to the Clean Air Act, Safe Drinking Water Act, and Resource Conservation and Recovery Act against Witco Corporation (''Witco'') and Catalyst Golden Bear Cogeneration Partnership (''Catalyst'') for violations committed at Witco's refinery located in Oildale, California (''Refinery'').

The proposed consent decree requires Witco and Catalyst jointly to pay $700,000 in civil penalties. The proposed decree also requires Witco to construct and operate a wastewater recycling system as a supplemental environmental Project and to comply with the following injunctive relief demands: Conducting site characterization work to determine the extent of soil and groundwater contamination at and around the Refinery; permanently closing and abandoning all injection wells at the Refinery; installing air pollution control and emissions monitoring equipment on certain Refinery equipment and complying with all federal regulations applicable to that equipment; complying with the applicable State Implementation Plan; and training Refinery employees concerning the proper disposal of solvents in the Refinery's laboratory.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Witco Corporation, et al.,* DOJ Ref. #90–5–1–1–3643.

The proposed consent decree may be examined at the office of the United States Attorney, 3654 Federal Building, 1130 ''O'' Street, Fresno, CA 93721 (209) 487–5820; the Region IX Office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105; 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 refer to the referenced case and enclose a check in the amount of $16.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–9740 Filed 4–19–95; 8:45 am]

BILLING CODE 4410–01–M

[AAG/A Order No. 100–95]

Privacy Act of 1974; Modified System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and Office of Management and Budget Circular No. A–130, notice is given that the Department of Justice (DOJ), Federal Bureau of Investigation (FBI), is modifying the following system of records which was last published in the **Federal Register** on March 10, 1992 (57 FR 8479):

National Crime Information Center (NCIC), Justice/FBI–001

The NCIC is maintained for law enforcement purposes and provides a computerized data base for ready access by a criminal justice agency making an inquiry, and for prompt disclosure of responsive information in the system from other criminal justice agencies about crime and criminals. The FBI is modifying this system to add the names and identifying data of persons who are members of violent criminal gangs and terrorist organizations. This information will assist law enforcement in criminal investigations of these individuals and organizations, and in the protection of officers and others encountering these individuals. Changes related to this modification have been made throughout the system description.

In addition, the FBI is removing a reference to exemption from subsection (f) which it had inadvertently included in the prior publication of this system of records. However, a rule document which would include a reason for the exemption was never promulgated, and the DOJ/FBI is in compliance with this provision. Therefore, the erroneous reference to subsection (f) had no effect on the public, and the removal of any reference thereto constitutes a minor correction. Other minor changes have been made to improve and add clarity. Where possible, changes have been noted by italics for the convenience of the public.

Title 5 U.S.C. 552a(e) (4) and (11) provide that the public be given 30 days in which to comment on any new or intended uses of information in the system. While no new routine uses have been added, an opportunity to comment

is provided because the existing routine uses may affect the new categories of individuals. In addition, the Office of Management and Budget (OMB), which has oversight responsibilities under the Act, requires that OMB and the Congress be given 40 days in which to review major changes to the system.

Therefore, the public, OMB, and the Congress are invited to submit written comments to Patricia E. Neely, Staff Assistant, Systems Policy Staff, Information Resources Management, Department of Justice, Washington, DC 20530 (Room 850, WCTR Building). Comments from the public should be submitted May 22, 1995.

In accordance with Privacy Act requirements, the DOJ has provided a report on the modified system to the OMB and the Congress.

Dated: April 4, 1995.

Stephen R. Colgate,

Assistant Attorney General for Administration.

JUSTICE/FBI 001

SYSTEM NAME:

National Crime Information Center (NCIC).

SYSTEM LOCATION:

Federal Bureau of Investigation: J. Edgar Hoover Bldg., 10th and Pennsylvania Avenue NW., Washington, DC 20535.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A. Wanted Persons: 1. Individuals for whom Federal warrants are outstanding.

2. Individuals who have committed or have been identified with an offense which is classified as a felony or serious misdemeanor under the existing penal statutes of the jurisdiction originating the entry and *for whom a* felony or misdemeanor warrant has been issued with respect to the offense which was the basis of the entry. Probation and parole violators meeting the foregoing criteria.

3. A ''Temporary Felony Want'' may be entered when a law enforcement agency has need to take prompt action to establish a ''want'' entry for the apprehension of a person who has committed or the officer has reasonable grounds to believe has committed, a felony and who may seek refuge by fleeing across jurisdictional boundaries and circumstances preclude the immediate procurement of a felony warrant. A ''Temporary Felony Want'' shall be specifically identified as such and subject to verification and support by a proper warrant within 48 hours following the entry of a temporary want. The agency originating the ''Temporary Felony Want'' shall be responsible for subsequent verification or re-entry of a permanent want.

4. Juveniles who have been adjudicated delinquent and who have escaped or absconded from custody, even though no arrest warrants were issued. Juveniles who have been charged with the commission of a delinquent act that would be a crime if committed by an adult, and who have fled from the state where the act was committed.

5. Individuals who have committed or have been identified with an offense committed in a foreign country, which would be a felony if committed in the United States, and for whom a warrant of arrest is outstanding and for which act an extradition treaty exists between the United States and that country.

6. Individuals who have committed or have been identified with an offense committed in Canada and for whom a Canada-Wide Warrant has been issued which meets the requirements of the Canada-U.S. Extradition Treaty, 18 U.S.C. 3184.

B. Individuals who have been charged with serious and/or significant offenses:

1. Individuals who have been fingerprinted and whose criminal history record information has been obtained.

2. Violent Felons: Persons with three or more convictions for a violent felony or serious drug offense as defined by 18 U.S.C. § 924(e).

C. Missing Persons: 1. A person of any age who is missing and who is under proven physical/mental disability or is senile, thereby subjecting *that person* or others to personal and immediate danger.

2. A person of any age who is missing under circumstances indicating that *the* disappearance was not voluntary.

3. A person of any age who is missing under circumstances indicating that *that person's* physical safety *may be* in danger.

4. A person of any age who is missing after a catastrophe.

5. A person who is missing and declared unemancipated as defined by the laws of *the person's* state of residence and does not meet any of the entry criteria set forth in *1–4* above.

D. Individuals designated by the U.S. Secret Service as posing a potential danger to the President and/or other authorized protectees.

E. Members of Violent Criminal Gangs: Individuals about whom investigation has developed sufficient information to establish membership in a particular violent criminal gang by either:

1. Self admission at the time of arrest or incarceration, or

2. Any two of the following criteria:

a. Identified as a gang member by a reliable informant;

b. Identified as a gang member by an informant whose information has been corroborated;

c. Frequents a gang's area, associates with known members, and/or affects gang dress, tattoos, or hand signals;

d. Has been arrested multiple times with known gang members for offenses consistent with gang activity; or

e. Self admission (other than at the time of arrest or incarceration).

F. Members of Terrorist Organizations: Individuals about whom investigations has developed sufficient information to establish membership in a particular terrorist organization using the same criteria listed above in paragraph E, items 1 and 2 a–e, as they apply to members of terrorist organizations rather than members of violent criminal gangs.

G. Unidentified Persons: 1. Any unidentified deceased person. 2. Any person who is living and unable to ascertain *the person's* identity (e.g., infant, amnesia victim). 3. Any unidentified catastrophe victim. 4. Body parts when a body has been dismembered.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. Stolen Vehicle File: 1. Stolen vehicles. 2. Vehicles wanted in conjunction with felonies or serious misdemeanors. 3. Stolen vehicle parts including certificates of origin or title.

B. Stolen License Plate File.

C. Stolen Boat File.

D. Stolen Gun File: 1. Stolen guns. 2. Recovered guns, when ownership of which has not been established.

E. Stolen Article File.

F. Securities File: 1. Serially numbered stolen, embezzled *or* counterfeited, securities.

2. ''Securities'' for present purposes of this file are currently (e.g., bills, bank notes) and those documents or certificates which generally are considered to be evidence of debt (e.g., bonds, debentures, notes) or ownership of property (e.g., common stock, preferred stock), and documents which represent subscription rights, warrants and which are of *the* types traded in the securities exchanges in the United States, except for commodities futures. Also, included are warehouse receipts, travelers checks and money orders.

G. Wanted Person File: Described in ''CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM. A. Wanted Persons, *1–4.*''

H. Foreign Fugitive File: Identification data regarding persons

who are fugitives from foreign countries, who are described in ''CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: A. Wanted Persons, 5 *and 6*.''

I. Interstate Identification Index File: A cooperative Federal-state program for the interstate exchange of criminal history record information for the purpose of facilitating the interstate exchange of such information among criminal justice agencies. *Described in ''CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: B. 1.''*

J. Identification records regarding persons enrolled in the United States Marshals Service Witness Security Program who have been charged with serious and/or significant offenses: Described in ''CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: B.''

K. Bureau of Alcohol, Tobacco, and Firearms (BATF) Violent Felon File: Described in ''CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: B. 2.''

L. Missing Person File: Described in ''CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: C. Missing Persons.''

M. U.S. Secret Service Protective File: Described in ''CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: D.''

N. Violent Criminal Gang File: A cooperative Federal-state program for the interstate exchange of criminal gang information. For the purpose of this file, a ''gang'' is defined as a group of three or more persons with a common interest, bond, or activity characterized by criminal or delinquent conduct. Described in ''CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: E. Members of Violent Criminal Gangs.''

O. Terrorist File: A cooperative Federal-state program for the exchange of information about terrorist organizations and individuals. For the purposes of this file, ''terrorism'' is defined as activities that involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or any state or would be a criminal violation if committed within the jurisdiction of the United States or any state, which appear to be intended to:

1. Intimidate or coerce a civilian population,

2. Influence the policy of a government by intimidation or coercion, or

3. Affect the conduct of a government by crimes or kidnapping. Described in ''CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: F. Members of Terrorist Organizations.''

P. Unidentified Person File: Described in ''CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: *G.* Unidentified Persons.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with 28 U.S.C. *§* 534; Department of Justice Appropriation Act, 1973, Pub. L. 92–544, 86 Stat. 1115, Securities Acts Amendment of 1975, Pub. L. 94–29, 89 Stat. 97; *and 18 U.S.C. § 924 (e).* Exec. Order No. 10450, 3 CFR (1974).

PURPOSE:

The purpose for maintaining the NCIC system of record is to provide a computerized data base for ready access by a criminal justice agency making an inquiry and for prompt disclosure of information in the system from other criminal justice agencies about crimes and criminals. This information assists authorized agencies in criminal justice objectives, such as apprehending fugitives, locating missing persons, locating and returning stolen property, as well as in the protection of the law enforcement officers encountering the individuals described in the system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data in NCIC files is exchanged with and for the official use of authorized officials of the Federal Government, the States, cities, penal and other institutions, and certain foreign governments. The data is exchanged through NCIC lines to Federal criminal justice agencies, criminal justice agencies in the 50 States, the District of Columbia, Puerto Rico, U.S. Possessions and U.S. Territories. Additionally, data contained in the various ''want files,'' i.e., the stolen vehicle file, stolen license plate file, stolen gun file, stolen article file, wanted person file, securities file, boat file, *and missing person data* may be accessed by the Royal Canadian Mounted Police. Criminal history data is disseminated to non-criminal justice agencies for use in connection with licensing for local/state employment or other uses, but only where such dissemination is authorized by Federal or state statutes and approved by the Attorney General of the United States.

Data in NCIC files, other than the *information described in ''CATEGORIES OF RECORDS IN THE SYSTEM: I, J, K, M, N, and O,'' is* disseminated to (1) a nongovernmental agency *subunit* thereof which allocates a substantial part of its annual budget to the administration of criminal justice, whose regularly employed peace officers have full police powers pursuant to state law and have complied with the minimum employment standards of governmentally employed police officers as specified by state statute; (2) a noncriminal justice governmental department of motor vehicle or driver's license registry established by a statute, which provides vehicles registration and driver record information to criminal justice agencies; (3) a governmental regional dispatch center, established by a state statute, resolution, ordinance or Executive order, which provides communications services to criminal justice agencies; and (4) the national Automobile Theft Bureau, a nongovernmental nonprofit agency which acts as a national clearinghouse for information on stolen vehicles and offers free assistance to law enforcement agencies concerning automobile thefts, identification and recovery of stolen vehicles.

Disclosures of information from this system, as described above, are for the purpose of providing information to authorized agencies to facilitate the apprehension of fugitives, the location of missing persons, the location and/or return of stolen property, or similar criminal justice objectives.

Information on missing children, missing adults who were reported missing while children, and unidentified living and deceased persons may be disclosed to the National Center for Missing and Exploited Children (NCMEC). The NCMEC is a nongovernmental, nonprofit, federally funded corporation, serving as a national resource and technical assistance clearinghouse focusing on missing and exploited children. Information is disclosed to NCMEC to assist it in its efforts to provide technical assistance and education to parents and local governments regarding the problems of missing and exploited children, and to operate a nationwide missing children hotline to permit members of the public to telephone the Center from anywhere in the United States with information about a missing child.

In addition, information may be released to the news media and the public pursuant to 28 CFR 50.2, unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy;

To a Member of Congress or staff acting upon the member's behalf whom the member or staff requests the information on behalf of and at the request of the individual who is the subject of the record; and,

To the National Archives and Records Administration and the General Services Administration in records management inspections conducted under the authority of 44 U.S.C. §§ 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE

Information maintained in the NCIC system is stored electronically for use in a computer environment.

RETRIEVABILITY:

On line access to data in NCIC is achieved by using the following search descriptors:

A. Stolen Vehicle File:

1. Vehicle identification number;

2. Owner applied number;

3. License plate number;

4. NCIC number (unique number assigned by NCIC computer to each NCIC record.)

B. Stolen License Plate File:

1. License plate number;

2. NCIC number.

C. Stolen Boat File:

1. Registration document number;

2. Hull serial number;

3. Owner applied number;

4. NCIC number.

D. Stolen Gun File:

1. Serial number of gun;

2. NCIC number.

E. Stolen Article File:

1. Serial number of article;

2. Owner applied number;

3. NCIC number.

F. Securities File:

1. Type, serial number, denomination of security, and issuer for other than U.S. Treasury issues and currency;

2. Type of security and name of owner of security;

3. Social Security number of owner of security (it is noted the requirements of the Privacy Act with regard to the solicitation of Social Security numbers have been brought to the attention of the members of the NCIC system);

4. NCIC number.

G. Wanted Person File:

1. Name and one of the following numerical identifiers:

a. Date of birth;

b. FBI number (number assigned by the Federal Bureau of Investigation to an arrest fingerprint record);

c. Social Security number (it is noted the requirements of the Privacy Act with regard to the solicitation of Social Security numbers have been brought to the attention of the members of the NCIC system);

d. Operator's license number (driver's number);

e. Miscellaneous identifying number (military number or number assigned by Federal, state, or local authorities to an individual's record);

f. Originating agency case number;

2. Vehicle or license plate known to be in the possession of the wanted person;

3. NCIC number.

H. Foreign Fugitive File: See G, above.

I. Interstate Identification Index File:

1. Name, sex, race, and date of birth;

2. FBI number;

3. State identification number;

4. Social Security number;

5. Miscellaneous identifying number.

J. Witness Security Program File: See G, above.

K. BATF Violent Felon File: See G, above.

L. Missing Person File: See G, above, plus the age, sex, race, height and weight, eye and hair color of the missing person.

M. U.S. Secret Service Protective File: See G, above.

N. Violent Criminal Gang File: See G, above.

O. Terrorist File: See G, above.

P. Unidentified Person File: the age, sex, race, height and weight, eye and hair color of the unidentified person.

SAFEGUARDS:

Data stored in the NCIC is documented criminal justice agency information and access to that data is restricted to duly authorized criminal justice agencies. The following security measures are the minimum to be adopted by all criminal justice agencies having access to the NCIC.

Interstate Identification Index (III) File. These measures are designed to prevent unauthorized access to the system data and/or unauthorized use of data obtained from the computerized file.

1. Computer Center. a. The criminal justice agency computer site must have adequate physical security to protect against any unauthorized personnel gaining access to the computer equipment or to any of the stored data. b. Since personnel at these computer centers can have access *to* data stored in the system, they must be screened thoroughly under the authority and supervision of an NCIC control terminal agency. (This authority and supervision may be delegated to responsible criminal justice agency personnel in the case of a satellite computer center being serviced through a state control terminal agency.) This screening will also apply to non-criminal justice maintenance or technical personnel. c. All visitors to these computer centers must be accompanied by staff personnel at all times. d. Computers having access to the NCIC must have the proper computer instructions written and other built-in controls to prevent criminal history data from being accessible to any terminals other than authorized terminals. e. Computers having access to the NCIC must maintain a record of all transactions against the criminal history file in the same manner the NCIC computer logs all transactions. The NCIC identifies each specific agency entering or receiving information and maintains a record of those transactions. This transaction record must be monitored and reviewed on a regular basis to detect any possible misuse of criminal history data. f. Each State Control terminal shall build its data system around a central computer, through which each inquiry must pass for screening and verification. The configuration and operation of the center shall provide for the integrity of the data base.

2. Communications: a. Lines/channels being used to transmit criminal history information must be dedicated solely to criminal justice, i.e., there must be no terminals belonging to agencies outside the criminal justice system sharing these lines/channels. b. Physical security of the lines/channels must be protected to guard against clandestine devices being utilized to intercept or inject system traffic.

3. Terminal Devices Having Access to NCIC: a. All agencies having terminals on this system must be required to physically place these terminals in secure locations within the authorized agency. b. The agencies having terminals with access to criminal history must *screen* terminal operators and restrict access to the terminal to a minimum number of authorized employees. c. Copies of criminal history data obtained from terminal devices must be afforded security to prevent any unauthorized access to or use of the data. d. All remote terminals on NCIC *III* will maintain a *manual or automated log* of computerized criminal history inquiries with notations of individuals making requests for records *for a minimum of one year.*

RETENTION AND DISPOSAL:

Unless otherwise removed, records will be retained in files as follows:

A. Vehicle File: a. Unrecovered stolen vehicle records (including snowmobile records) which do not contain vehicle identification numbers (VIN) *or Owner-applied number (OAN)* therein, will be purged from file 90 days after date of entry. Unrecovered stolen vehicle records (including snowmobile records) which contain VIN's *or OANs* will

remain in file for the year of entry plus *4.*

b. Unrecovered vehicles wanted in conjunction with a felony will remain in file for 90 days after entry. In the event a longer retention period is desired, the vehicle must be reentered. c. Unrecovered stolen VIN plates, certificates of origin or title, and serially numbered stolen vehicle engines or transmissions will remain in file for the year of entry plus 4.

(Job No. NC1–65–82–4, Part E. 13 h.(1))

B. License Plate File: Unrecovered stolen license plates will remain in file for one year after the end of the plate's expiration year as shown in the record.

(Job No. NC1–65–82–4, Part E. 13 h.(2))

C. Boat File: Unrecovered stolen boat *records, which contain a hull serial number of an OAN,* will be retained in file for the balance of the year entered plus 4. Unrecovered stolen boat records which do not contain a hull serial number *or an OAN* will be purged from file 90 days after date of entry.

(Job No. NC1–65–82–4, Part E. 13 h.(6))

D. Gun file: a. Unrecovered weapons will be retained in file for an indefinite period until action is taken by the originating agency to clear the record. b. Weapons entered in file as ''recovered'' weapons will remain in file for the balance of the year entered plus 2.

(Job No. NC1–65–82–4, Part E. 13 h.(3))

E. Article File: Unrecovered stolen articles will be retained for the balance of the year entered plus one year.

(Job No. NC1–65–82–4, Part E. 13 h.(4))

F. Securities File: Unrecovered stolen, embezzled *or* counterfeited securities will be retained for the balance of the year entered plus 4, except for travelers checks and money orders, which will be retained for the balance of the year entered plus 2.

(Job No. NC1–65–82–4, Part E. 13 h.(5))

G. Wanted Person File: Person not located will remain in file indefinitely until action is taken by the originating agency to clear the record (except ''Temporary Felony Wants'', which will be automatically removed from the file after 48 hours).

(Job No. NC1–65–87–114, Part E. 13 h.(7))

H. Foreign Fugitive File: Person not located will remain in file indefinitely until action is taken by the originating agency to clear the record.

I. Interstate Identification Index File: When an individual reaches age of 80.

(Job No. NC1–65–76–1)

J. Witness Security Program File: Will remain in file until action is taken by the U.S. Marshals Service to clear or cancel the records.

K. BATF Violent Felon File: Will remain in file until action is taken by the BATF to clear or cancel the records.

L. Missing Persons File: Will remain in the file until the individual is located *or action is taken by the originating agency to clear the record.*

(Job No. NC1–65–87–11, Part E 13h (8))

M. U.S. Secret Service Protective File: Will be retained until names are removed by the U.S. Secret Service.

N. Violent Criminal Gang File: Records will be subject to mandatory purge if inactive for five years.

O. Terrorist File: Records will be subject to mandatory purge if inactive for five years.

P. Unidentified Person File: Will be retained for the remainder of the year of entry plus 9.

SYSTEM MANAGER AND ADDRESS:

Director, Federal Bureau of Investigation, J. Edgar Hoover Building, 10th and Pennsylvania Avenue NW., Washington, DC 20535.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

It is noted the Attorney General *has exempted* this system from the access and contest procedures of the Privacy Act. However, the following alternative procedures are available to requester. The procedures by which *computerized criminal history record information about an individual may be obtained by that individual* are as follows:

If an individual has a criminal record supported by fingerprints and that record has been entered in the NCIC *III file, criminal history record information,* it is available to that individual for review, upon presentation of appropriate identification and in accordance with applicable State and Federal administrative and statutory regulations.

Appropriate identification includes being fingerprinted for the purpose of insuring that the individual *is who the individual* purports to be. The record on file will then be verfied through comparison of fingerprints.

Procedure: 1. All requests for review must be made by the subject of *the* record through a law enforcement agency which has access to the NCIC *III* File. That agency within statutory or regulatory limits can require additional identification to assist in securing a positive identification.

2. If the cooperative law enforcement agency can make an identification with fingerprints previously taken which are on file locally and if the FBI identification number of the individual's record is available to that agency, it can make an on-line inquiry of NCIC to obtain *the* record on-line or, if it does not have suitable equipment to obtain an on-line response, obtain the record from Washington, DC by mail. The individual will then be afforded the opportunity to see that record.

3. Should the cooperating law enforcement agency not have the individual's fingerprints on file locally, it is necessary for that agency to relate *the* prints to an existing record by having *the* identification prints compared with those already on file in the FBI or possibly in the State's central identification agency.

CONTESTING RECORD PROCEDURES:

The Attorney General has exempted this system from the contest procedures of the Privacy Act. Under this alternative procedure described above under ''Record Access Procedures,'' the subject of the requested record shall request the appropriate arresting agency, court, or correctional agency to initiate action necessary to correct any stated inaccuracy in *subject's* record or provide the information needed to make the record complete.

RECORD SOURCE CATEGORIES:

Information contained in the NCIC system is obtained from local, state, Federal and international criminal justice agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsection (c) (3) and (4), (d), (e)(1) (2), and (3), (e)(4) (G), (H), (e)(8) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(3). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register**.

[FR Doc. 95–9739 Filed 4–19–95; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Affymetrix, Inc./Molecular Dynamics, Inc.

Notice is hereby given that, on January 17, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''),

Affymetrix, Inc. and Molecular Dynamics, Inc. have 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: Affymetrix, Inc., Santa Clara, CA; and Molecular Dynamics, Inc., Sunnyvale, CA. The research and development activities relate to miniaturized integrated nucleic acid diagnostic (MIND™) development.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–9803 Filed 4–19–95; 8:45 am]

BILLING CODE 4410–-01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The ATM Forum

Notice is hereby given that, on February 9, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The ATM Forum (the ''ATM Forum'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes 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, the identities of the new members of ATM Forum are: Amdahl Corp., Sunnyvale, CA; Auspex Systems Inc., Santa Clara, CA; Cascade Communications, Westford, MA; Com21 Inc., Mountain View, CA; Cornell University, Ithaca, NY; Corning Inc., Corning, NY; Desknet Systems Inc., Armonk, NY; Divicom, Milpitas, CA; Helsinki Telephone Company, Helsinki, FINLAND; Ipsilon Networks Inc., Menlo Park, CA; Korea Telecom, Seoul, KOREA; Methode Electronics Inc., Chicago, IL; NTIA/ITS, Boulder, CO; Net2net Corp., Hellis, NH; Next Level Communications, Rohnert Park, CA; Optical Data Systems, Richardson, TX; Ossipee Networks, Waltham, MA; Rockwell International, Santa Barbara, CA; Samsung Electronics Co., Seoul, KOREA; Silcom Mfg Technology Inc., Mississauga, CANADA; TUT Systems, Pleasant Hill, CA; Telecom Lab MOTC ROC, Chung-Li, TAIWAN; and Telenetworks, Petaluma, CA.

No changes have been made in the planned activities of ATM Forum. Membership remains open, and the members intend to file additional written notifications disclosing all changes in membership.

On April 19, 1993, ATM 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 June 2, 1993 (58 FR 31415).

The last notification was filed with the Department on November 10, 1994. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 23, 1995 (60 FR 15308).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–9802 Filed 4–19–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Universal Instruments Corporation

Notice is hereby given that, on January 16, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Universal Instruments Corporation 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: Apple Computer Corp., Cupertino, CA; Allen-Bradley, Milwaukee, WI; AMD, Incorporated, Sunnyvale, CA; Amkor-Anam, Chandler, AZ; AT&T Bell Labs, Allentown, PA; Bosch, Ansbach-brodswinden, GERMANY; Bull, Brighton, MA; Cabletron Systems, Inc., Rochester, NH; DEK Printing Machines, Ltd., Dorset, ENGLAND; Delco Electronics, Kokomo, IN; DOVatron International, Binghamton, NY; Eastman Kodak, Rochester, NY; Hadco, Salem, NH; Hewlett Packard, Palo Alto, CA; Intel Corporation, Chandler, AZ; LSI Logic, Milpitas, CA; Magnetic Marelli, Pavia, ITALY; Motorola, Schaumburg, IL; MPM Corporation, Franklin, MA; Plexus Corporation, Neenah, WI; Texas Instruments, Dallas, TX; and Universal Instruments Corporation, Binghamton, NY.

The nature and objectives of the joint venture are to investigate the problems associated with the attachment of Ball Grid Array (BGA) and Flip Chip (DCA) components to printed circuit boards for the development of new products in the electronics industry. The two technologies to be addressed are the process, component and material variables in: (1) BGA attachment with a lead pitch from 0.5–1.5mm with eutectic and 10/90 Sn/Pb solder balls; and (2) DCA attachment with a lead pitch from 0.18–0.05mm with eutectic and 10/90 Sn/Pb solder bumps.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–9801 Filed 4–19–95; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 23, 1995, Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cocaine (9041)	II
Benzoylecgonine (9180)	II

The firms plans to manufacture bulk Cocaine for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 22, 1995.

Dated: April 7, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–9715 Filed 4–19–95; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Information Collection Requirements

AGENCY: Office of the Secretary, Labor.

SUMMARY: The Director, Office of Information Resources Management Policy, invites comments on the following proposed expedited review information collection request as required by the Paperwork Reduction Act of 1980, as amended.

DATES: This expedited review is being requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by April 26, 1995.

ADDRESSES: Written comments should be addressed to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, 725 17th St., NW., Room 10235, New Executive Office Building, Wash., DC 20503. Requests for copies of the proposed information collection request should be addressed to Kenneth A. Mills, Department of Labor, 200 Constitution Ave., NW., Room N–1301, Wash., DC 20210.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Mills, (202) 219–5095. Individuals who use a telecommunications device for the deaf (TTY/TDY) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with the agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management Policy, publishes this notice simultaneously with the submission of this request to OMB. This notice contains the following information:

Type of Review: Expedited.
Title: NAFTA Petition Form (ETA Form 9042)
Frequency of Response: As needed.
Affected Public: Individuals or households; farms; businesses or other for-profit.
Number of Respondents: 1,200.
Estimated Time Per Response: 20 minutes.
Total Annual Burden Hours: 400.
Respondents Obligation to Reply: Voluntary.

Title: NAFTA Confidential Data Request Form (ETA Form 9043)
Frequency of Response: As needed.
Affected Public: Businesses or other for-profit.
Number of Respondents: 1,200.
Estimated Time Per Response: 7½ hours.
Total Annual Burden Hours: 9,000 hours.
Respondents Obligation To Reply: Mandatory.

Title: NAFTA Customer Survey Data Request Form (ETA Form 9044).
Frequency of Response: As needed.
Affected Public: Businesses or other for-profit.
Number of Respondents: 1,260.
Estimated Time Per Response: One hour and 30 minutes.
Total Annual Burden Hours: 1,890.
Respondents Obligation To Reply: Mandatory.

Description: The North American Free Trade Agreement-Transitional Adjustment Assistance program (NAFTA–TAA) provides support and assistance to workers whose employment is adversely affected as a result of the North American Free Trade Agreement Implementation Act. Section 250 of the North American Free Trade Agreement Implementation Act amended Chapter 2 of Title II of the Trade Act of 1974 to provide assistance for workers in primary firms that are directly affected by imports from or shifts in production to Mexico or Canada. Through administrative action, the Secretary of Labor applies existing authority under Title III of the Job Training Partnership Act to provide assistance to workers in secondary firms that supply or assemble products produced by primary firms. The governor of each State accepts petitions from workers of primary firms that are directly affected and from workers in secondary firms. A petition may be filed by a group of workers or by their authorized representative, a company official or a family farmer. Within ten days of receipt of petition, the Governor makes a preliminary finding as to whether the petition meets certain criteria of the NAFTA–TAA program. The Governor forwards the petition to the Secretary of Labor. The Department of Labor collects data from firms to determine workers' eligibility for adjustment assistance services. The Petition, Confidential Data Request, and Customer Survey Data Request forms that have been used since January 1, 1994 are currently being revised to extend the expiration date and to include textual changes.

The Petition form is being revised to inform workers that assistance is available for workers in secondary firms and to provide space for workers in secondarily-affected firms to address activities that have occurred at their firm. The revised petition form also clarifies who needs to sign the petition form and provides a box to specify the date of the worker's separation from employment.

The Confidential Data Request and the Customer Survey Request forms are being revised to provide assurances of confidentiality to respondents and to clarify and simplify several questions addressed to company officials.

Signed at Washington, DC, this 18th day of April 1995.

Theresa M. O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 95–9940 Filed 4–19–95; 8:45 am]

BILLING CODE 4510–30–M

Glass Ceiling Commission; Criteria and Application Process for the National Award for Diversity and Excellence in American Executive Management; Extension of Deadline for Applications

SUMMARY: This document extends the deadline for applications from April 30, 1995 until May 30, 1995. The criteria and application process were previously published in the **Federal Register** on March 9, 1995 at 60 FR 12978.

DATES: Applications are due by May 30, 1995.

ADDRESSES: Applications should be sent to: The Glass Ceiling Commission, Perkins-Dole Award, c/o U.S. Department of Labor, 200 Constitution Avenue, N.W., Room C–2313, Washington, D.C. 20210. Telephone (202) 219–7342.

FOR FURTHER INFORMATION CONTACT: René A. Redwood, Executive Director, The Glass Ceiling Commission, c/o U.S. Department of Labor, 200 Constitution Avenue, N.W., Room C–2313,

Washington, D.C. 20210. Telephone (202) 219–7342.

Signed at Washington, DC, this 14th day of April, 1995.

René A. Redwood,

Executive Director, Glass Ceiling Commission.

[FR Doc. 95–9815 Filed 4–19–95; 8:45 am]

BILLING CODE 4510–23–M

Office of the Secretary

Secretary's Task Force on Excellence in State and Local Government Through Labor-Management Cooperation: Meeting

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of public meeting.

SUMMARY: The Secretary's Task Force on Excellence in State and Local Government Through Labor-Management Cooperation was established in accordance with the Federal Advisory Committee Act (FACA) (Pub. L. 82–463). Pursuant to Section 10(a) of FACA, this is to announce that the Task Force will meet at the time and place shown below.

TIME AND PLACE: The meeting will be held on Tuesday, May 16, from 9 a.m. to 4 p.m. and on Wednesday, May 17, from 9 a.m. to 3 p.m. in Conference Room N–3437 B–D in the Department of Labor, 200 Constitution Avenue, NW, Washington, DC.

AGENDA: At this meeting, the Task Force intends to hear testimony on and discuss the following topics, among others: (1) Trends in privatization of state and local government services, (2) features of high-performance workplace environments, and (3) experiences of state and local elected officials in implementing workplace changes.

PUBLIC PARTICIPATION: The meeting will be open to the public. Seating will be available on a first-come, first-served basis. Individuals with disabilities wishing to attend should contact the Task Force to request appropriate accommodations. Individuals or organizations wishing to submit written statements should send 20 copies on or before May 8 to Mr. Charles A. Richards, Designated Federal Official, Secretary of Labor's Task Force on Excellence in State and Local Government Through Labor-Management Cooperation, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S–2203, Washington, DC 20210. These statements will be thoroughly reviewed and become part of the record.

For the purposes of this meeting, the Task Force is primarily interested in statements that address the topics mentioned above under the heading ''Agenda.'' However, the Task Force continues to welcome submissions that address the questions in the mission statement and the following eight general areas: (1) Finding Models, Ingredients, and Barriers to Service Excellence and Labor-Management Cooperation and, as the following relate to promoting workplace cooperation and excellence; (2) Bargaining and Related Institutions and Practices; (3) Conflict Resolution Skills, Practices, and Institutions; (4) Legal and Regulatory Issues; (5) Affects of Civil Service; (6) Ensuring a High-Performance Work Environment; (7) Political and Electoral Considerations and Relationships; and (8) Financial Background, Financial Security, and Budget Systems.

FOR FURTHER INFORMATION CONTACT: Mr. Charles A. Richards, Designated Federal Official, Secretary of Labor's Task Force on Excellence in State and Local Government Through Labor-Management Cooperation, U.S. Department of Labor, Room S–2203, Washington, DC 20210, (202) 219–6231.

Signed at Washington, DC, this 13th day of April 1995.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 95–9808 Filed 4–19–95; 8:45 am]

BILLING CODE 4510–23–M

Employment and Training Administration

[TA–W–29,956]

Anchor Drilling Fluids USA, Inc.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of: Anchor Drilling Fluids USA, Inc. (Formerly Known as Unibar Energy Services, Inc.), Sidney, Montana and operating at various locations in the following states: TA–W–29,956A Utah, TA–W–29,956B Colorado, TA–W–29,956C Wyoming, TA–W–29,956D North Dakota, TA–W–29,956E South Dakota, TA–W–29,956F Montana (exc Sidney).

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance on September 23, 1994, applicable to all workers of the subject firm in Sidney, Montana. The Notice was published in the **Federal Register** on November 1, 1994 (59 FR 54632).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations occurred in Colorado, Wyoming, Utah, North Dakota, South Dakota and in Montana. Other findings show that Unibar Energy Services, Inc. was the predecessor-in-interest firm. Unibar Energy Services, Inc., was purchased by Anchor Drilling Fluids, USA in October, 1992.

Accordingly, the Department is amending the certification to include all workers of the subject firm including those who had their unemployment insurance (UI) taxes paid to Unibar Energy Services, Inc.

The amended notice applicable to TA–W–29,956 is hereby issued as follows:

All workers of Anchor Drilling Fluids, USA, Inc. (Formerly known as Unibar Energy Services, Inc.), Sidney, Montana and operating at various other locations in the following states: Utah, Colorado, Wyoming, North Dakota, South Dakota and Montana (except Sidney) who became totally or partially separated from employment on or after May 6, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 10th day of April, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–9809 Filed 4–19–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–27, 456, etc.]

Conoco Inc.; Exploration and Production, North America; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of: TA–W–27,456 Oklahoma City, OK; TA–W–27,456A Oklahoma (exc Oklahoma City); TA–W–27,480 New Orleans, LA; TA–W–27,480A Louisiana (exc New Orleans); TA–W–27,545 Midland, TX; TA–W–27,812 Headquartered in Houston, TX and operating out of other locations in the following States: TA–W–27,812A Alaska, TA–W–27,812B California, TA–W–27,812C Michigan, TA–W–27,812D Mississippi, TA–W–27,812E North Dakota, TA–W–27,812F New Mexico, TA–W–27,812G Texas (exc, Houston and Midland), TA–W–27,812H Wyoming.

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 21, 1992, applicable to all workers of the subject firm. The certification notice was published in the **Federal Register** on October 13, 1992 (57 FR 46881).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The findings show that support workers (Purchasing, Administration, etc.) should have been included under the above certification.

The intent of the Department's certification is to include all workers who were adversely affected by increased imports. Accordingly, the Department is amending the certification to include support workers at Conoco's E&P facilities.

The amended notice applicable to TA–W–27,456, TA–W–27,480, TA–W–27,545 and TA–W–27,812 is hereby issued as follows:

All workers and former workers of Conoco, Inc., Exploration and Production, North America engaged in employment related to the production of crude oil and natural gas in Oklahoma (TA–W–27,456 and TA–W–27,456A) and in Louisiana (TA–W–27,480 and TA–W–27,480A) and in Midland, Texas (TA–W–27,545) who became totally or partially separated from employment on or after June 18, 1991; June 30, 1991; and July 20, 1991, respectively, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974 and All workers of Conoco, Inc., Exploration and Production, North America engaged in employment related to the production of crude oil and natural gas headquartered in Houston, Texas (TA–W–27,812) and operating out of other locations in the following states: Alaska (TA–W–27,812A), California (TA–W–27,812B), Michigan (TA–W–27,812C), Mississippi (TA–W–27,812D), North Dakota (TA–W–27,812E), New Mexico (TA–W–27,812F), Texas, except Houston and Midland (TA–W–27,812G) and Wyoming (TA–W–27,812H) who became totally or partially separated from employment on or after August 13, 1991 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 10th day of April, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–9810 Filed 4–19–95; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 1, 1995.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 1, 1995.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 10th day of April, 1995.

Victor J. Trunzo,

Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
CPC Vending(Wkrs)	Greenville, TX	04/10/95	03/28/95	30,898	Vending Machines.
Al Tech Specialty Steel Corp. (USWA)	Dunkirk, NY	04/10/95	03/21/95	30,899	Specialty Steel.
Al Tech Specialty Steel Corp.(USWA)	Watervliet, NY	04/10/95	03/21/95	30,900	Specialty Steel.
Caron International(Co.)	Rochelle, IL	04/10/95	03/21/95	30,901	Yarn.
Dartmouth Finishing Corp(Wkrs)	New Bedford, MA	04/10/95	03/23/95	30,902	Textiles—Ladies' Apparel.
Ullenberg Corp(Wkrs)	Chattanooga, TN	04/10/95	03/23/95	30,903	Jewelry.
Alliant Techsystems Inc.(USWA)	Kenvil, NJ	04/10/95	03/30/95	30,904	Smokeless Gunpowder.
Mitchell Energy Corp., Expl. & Prod(Wkrs).	Midland, TX	04/10/95	03/27/95	30,905	Crude Oil & Natural Gas.
United Engineering, Inc(Co)	Pittsburgh, PA	04/10/95	03/21/95	30,906	Hot and Cold Steel.
EVI-Highland(Wkrs)	Odessa, TX	04/10/95	03/31/95	30,907	Pumps for Oil and Gas.
EVI-Highland(Wkrs)	Oklahoma City, OK	04/10/95	03/31/95	30,908	Pumps for Oil and Gas.
Redpath Apparel Group(Wkrs)	Falfurrias, TX	04/10/95	03/22/95	30,909	Girl's Dresses & Infantwear.
Lakeview Lumber Co(WCIW)	Lakeview, OR	04/10/95	03/22/95	30,910	Dimensional Lumber.
Ferno-Washington(Wkrs)	Wilmington, OH	04/10/95	03/23/95	30,911	Emergency Patient Handling Equipment.
Elastic Stop Nut Div/Harvard Ind.(UAW)	Union, NJ	04/10/95	03/31/95	30,912	Aerospace Fasteners.
Heublein, Inc.(Co.)	Hartford, CT	04/10/95	03/25/95	30,913	Vodka & Other Spirits.
Dual Marine Drilling Co.(Wkrs)	Dallas, TX	04/10/95	03/01/95	30,914	Oil Drilling.
Circuit Tech., Inc.(Wkrs)	Wareham, MA	04/10/95	03/26/95	30,915	Printed Circuit Boards.

[FR Doc. 95–9812 Filed 4–19–95; 8:45 am]

BILLING CODE 4510–30–M

Job Training Partnership Act: Native American Employment and Training Council; Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and section 401(h)(1) of the Job Training Partnership Act (JTPA), as amended (29 U.S.C. 1671(h)(1), notice is hereby given of a meeting of the Native American Employment and Training Council.

Time and Date: The meeting will begin at 1:30 p.m. on May 18, 1995, and continue until close of business that day, and will

reconvene at 9:00 a.m. on May 19, 1995, and adjourn at close of business that day. From 3:30 to 5:00 p.m. on March 18 will be reserved for participation and presentations by members of the public.

Place: Heart Room, Radisson Inn Bismarck, 800 South Third Street, Bismarck, North Dakota.

Status: The meeting will be open to the public. Persons with disabilities, who need special accommodations, should contact the undersigned no less than 10 days before the meeting.

Matters To Be Considered: The agenda will focus on the following topics: automated reporting pilot, communications network, nominations for expiring memberships, program evaluation, proposed revised regulations, Congressional activities, and establishment of subcommittees.

Contact Person for More Information: Thomas M. Dowd, Chief, Division of Indian and Native American Programs, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N–4641, Washington, D.C. 20210. Telephone: 202–219–8502 (this is not a toll-free number).

Signed at Washington, DC, this 14th day of April, 1995.

Doug Ross,

Assistant Secretary of Labor.

[FR Doc. 95–9816 Filed 4–19–95; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA–00252, etc]

Footwear Management Co.; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In the matter of: Nafta–00252 Nocona Boot Company, Nocona, Texas, Nafta–00252A Tony Lama Division, El Paso, Texas, A/K/A Justin Management Company, El Paso, Texas, Nafta–00252B Justin Boot Company, Fort Worth, Texas, Nafta–00252C Justin Boot Company, Cassville, Missouri, Nafta–00252D Justin Boot Company, Sarcoxie, Missouri, and Nafta–00252E Justin Boot Company, Carthage, Missouri.

In accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued an Amended Certification for NAFTA Transitional Adjustment Assistance on February 6, 1995, applicable to all workers at the subject firm. The amended notice as published in the **Federal Register** on February 17, 1995 (60 FR 9409).

New information received from the company show that some of the workers at the Tony Lama Division, El Paso, Texas, had their unemployment insurance (UI) taxes paid to Justin Management Company.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to NAFTA—00252 is hereby issued as follows:

All workers of Footwear Management Company in the following divisions: Tony Lama Division, El Paso, Texas, a/k/a/ Justin Management Company, El Paso, Texas; Justin Boot Company, Fort Worth, Texas; Cassville, Missouri; Sarcoxie, Missouri; and Carthage Missouri and the Nocona Boot Company in Nocona, Texas who became totally or partially separated from employment on or after November 29, 1993 are eligible to apply for NAFTA–TAA Section 250 of the Trade Act of 1974.

Signed at Washington, DC this 6th day of April 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–9813 Filed 4–19–95; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (P.L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under Section 250(a) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Director of the Office of Trade Adjustment Assistance (OTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes actions pursuant to paragraphs (c) and (e) of Section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment after December 8, 1993 (date of enactment of P.L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Director of OTAA at the U.S. Department of Labor (DOL) in Washington, D.C., provided such request is filed in writing with the Director of OTAA not later than May 1, 1995.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of OTAA at the address shown below not later than May 1, 1995.

Petitions filed with the Governors are available for inspection at the Office of the Director, OTAA, ETA, DOL, Room C–4318, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, DC, this 11th day of April, 1995.

Victor J. Trunzo,

Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received at Governor's office	Petition No.	Articles produced
General Electric Inc.; G.E. Motors (IUE)	Murfreesboro, TN	03/14/95	NAFTA–00389	Small Appliance Motors.
Universal Medical Instrument Corp. (Wkrs)	Ballsto Spa, NY	03/13/95	NAFTA–00390	Spring Guides and Various Types of Catheters.
Raytheon Engineers & Constructors, Inc.; Raytheon Engineers (Wkrs).	Richland, WA	03/14/95	NAFTA–00391	Electricity.
General Mills, Inc.; CFTO—South Chicago (AFGM).	Chicago, IL	03/13/95	NAFTA–00392	Ready-to-Eat-Breakfast-Cereals.
Upper Peninsula Power Co. (IBEW)	Houghton, MI	03/07/95	NAFTA–00393	Electricity.
Modoc Lumber Co. (Wkrs)	Klamath Falls, OR	03/09/95	NAFTA–00394	Lumber.
Paul-Son Gaming Corporation (Wkrs)	Las Vegas, NV	03/16/95	NAFTA–00395	Playing Cards.
Voyager Emblems Inc. (USOA)	Sanborn, NY	03/16/95	NAFTA–00396	Embroidered Emblems and Caps.

APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received at Governor's office	Petition No.	Articles produced
Plastmo, Inc. (Wkrs)	Creswell, OR	03/02/95	NAFTA–00397	Plastics.
Hancock Lumber Inc. (Wkrs)	Salem, OR	03/16/95	NAFTA–00398	Medium Density Fibreboard.
Teledyne Industries, Inc.; Fluid Systems (IAM).	Palisades Park, NJ	03/16/95	NAFTA–00399	Safety Relief Valves.
Takata Fabrication Corporation (Wkrs)	Piqua, OH	03/20/95	NAFTA–00400	Safety Restraints (Seat Belts).
Stewart Warner Instruments Corporation (Wkrs).	El Paso, TX	03/20/95	NAFTA–00401	Metal Stamped Parts for Automobiles i.e., Gauges.
Johnson Controls Inc.; Battery Division (UAW).	Garland, TX	03/20/95	NAFTA–00402	Automobile Batteries.
Trans World Airlines Inc.; Kansas City Overhaul Base (IAMAW).	Kansas City, MO	03/20/95	NAFTA–00403	Aircraft Parts.
Dobie Industries Inc.; Edgecombe Mfg. & Wilson Mfg. (Co.).	Tarboro, NC	03/20/95	NAFTA–00404	Ladies and Children's Apparel.
Paragon Trade Brands Inc.; Diaper Plant (GCU).	La Puente, CA	03/20/95	NAFTA–00405	Disposable Diapers.
Moore Business Forms; Systems Div. (Co.)	Buckhannon, WV	03/22/95	NAFTA–00406	Business Forms i.e., Credit Card Charge Forms.
Summit Timber Co. (Wkrs)	Dappington, WA	03/23/95	NAFTA–00407	Lumber/Timber.
Smith Valve Corp.; Ball Valve (Wkrs)	Whitinsville, MA	03/27/95	NAFTA–00408	Ball Valves.
Strattec Security Corporation (UIPU)	Glendale, WI	03/27/95	NAFTA–00409	Automotive Locks and Keys.
Bechtel Corp.; WNP–2 Engineering Services (Wkrs).	Richland, WA	03/27/95	NAFTA–00410	Electricity.
Anchor Hocking Packaging Co.; Closure Division (GMP).	Glassboro, NJ	03/24/95	NAFTA–00411	Metal Closures.
Polk Audio, Inc. (Co.)	Baltimore MD	03/28/95	NAFTA–00412	Loudspeakers.
Amphenol Corporation; Amphenol Aerospace (Wkrs).	Torrance, CA	03/28/95	NAFTA–00413	Electronic Connectors.
Geptek Building Products, Inc.; Siding Division (Co.).	Woodbridge, NJ	03/29/95	NAFTA–00414	Vinyl Siding.
APC Corporation (SNW)	Houthorne, NJ	03/30/95	NAFTA–00415	Skylights.
Cabot Oil & Gas Corp.; (various locations) (Co.).	Houston, TX	03/31/95	NAFTA–00416	Natural Gas and Oil.
Redpath Apparel Group; Falfurias Plant (Wkrs).	Falfurias, TX	03/31/95	NAFTA–00417	Children's Clothing.
McCormick Ridge Company (Co.)	Copalis Crossing, WA.	03/31/95	NAFTA–00418	Cedar Ridges and Shakes.
Power Systems Inc. (Co.)	Bloomfield, CT	03/30/95	NAFTA–00419	Power Supplies.
ITT Hancock Engineered Products; Roscommon (Wkrs).	Roscommon, MI	03/23/95	NAFTA–00420	Winch Line for Spare Tire Holders.
Campbell Soup; Dry Soup Div. (Wkrs)	Sidney, OH	04/03/95	NAFTA–00421	Dry Soup Noodles.
General Electric Company; Medium Transformer Operations (IUE).	Rome, GA	04/04/95	NAFTA–00422	Medium Transformers.
Central Products Co.; Linden Plant (Co.)	Linden, NJ	04/03/95	NAFTA–00423	Carton Sealing Tape.
Astronautics Corporation of America; Milwaukee Div. 1 & 4 (Wkrs).	Milwaukee, WI	04/05/95	NAFTA–00424	Electronic and Mechanical Subassemblies for Aircraft Instruments.
Val Mode Lingerie (Co.)	Bridgeton, NJ	04/03/95	NAFTA–00425	Ladies Sleepwear.
Collegenille Imagineering; Zionsville Plant (Wkrs).	Collegeville, PA	04/05/95	NAFTA–00426	Halloween Costumes.

[FR Doc. 95–9811 Filed 4–19–95; 8:45 am]
BILLING CODE 4510–30–M

Notice of Attestations Filed by Facilities Using Nonimmigrant Aliens as Registered Nurses

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is publishing, for public information, a list of the following health care facilities that have submitted attestations (Form ETA 9029 and explanatory statements) to one of four Regional Offices of DOL (Boston, Chicago, Dallas and Seattle) for the purpose of employing nonimmigrant alien nurses. A decision has been made on these organizations' attestations and they are on file with DOL.

ADDRESSES: Anyone interested in inspecting or reviewing the employer's attestation may do so at the employer's place of business.

Attestations and short supporting explanatory statements are also available for inspection in the U.S. Employment Service, Employment and Training Administration, Department of Labor, Room N–4456, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Any complaints regarding a particular attestation or a facility's activities under that attestation, shall be filed with a local office of the Wage and Hour Division of the Employment Standards Administration, Department of Labor. The address of such offices are found in many local telephone directories, or may be obtained by writing to the Wage and Hour Division, Employment Standards Administration, Department of Labor, Room S–3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: *Regarding the Attestation Process:* Chief, Division of Foreign Labor Certifications, U.S. Employment Service. Telephone: 202–219–5263 (this is not a toll-free number).

Regarding the Complaint Process: Questions regarding the complaint process for the H–1A nurse attestation program will be made to the Chief, Farm Labor Program, Wage and Hour Division. Telephone: 202–219–7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Immigration and Nationality Act requires that a health care facility seeking to use nonimmigrant aliens as registered nurses first attest to the Department of Labor (DOL) that it is taking significant steps to develop, recruit and retain United States (U.S.) workers in the nursing profession. The law also requires that these foreign nurses will not adversely affect U.S. nurses and that the foreign nurses will be treated fairly. The facility's attestation must be on file with DOL before the Immigration and Naturalization Service will consider the facility's H–1A visa petitions for bringing nonimmigrant registered nurses to the United States. 26 U.S.C. 1101(a)(15)(H)(i)(a) and 1181(m). The regulations implementing the nursing attestation program are at 20 CFR Parts 655, Subpart D, and 29 CFR Part 504, (January 6, 1994). The Employment and Training Administration, pursuant to 20 CFR 655.310(c), is publishing the following list of facilities which have submitted attestations which have been accepted for filing and those which have been rejected.

The list of facilities is published so that U.S. registered nurses, and other persons and organizations can be aware of health care facilities that have requested foreign nurses for their staff. If U.S. registered nurses or other persons wish to examine the attestation (on Form ETA 9029) and the supporting documentation, the facility is required to make the attestation and documentation available. Telephone numbers of the facilities chief executive officer also are listed to aid public inquiries. In addition, attestations and explanatory statements (but not the full supporting documentation) are available for inspection at the address for the Employment and Training Administration set forth in the **ADDRESSES** section of this notice.

If a person wishes to file a complaint regarding a particular attestation or a facility's activities under the attestation, such complaint must be filed at the address for the Wage and Hour Division of the Employment Standards Administration set forth in the **ADDRESSES** section of this notice.

Signed at Washington, D.C., this 5th day of April 1995.

John M. Robinson,

Deputy Assistant Secretary, Employment and Training Administration.

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS

[Form ETA–9029]

CEO—Name/Facility name/Address	State	Action date
ETA REGION 1 03/06/95 TO 03/12/95		
Delores Turco, Andover Nursing Center, P.O. Box 1279 99 Mulford Road, Andover, NJ 07821, 201–383–6200 ..... ETA CONTROL NUMBER—1/217776 ACTION—ACCEPTED	NJ	03/06/95
Collin Tierney, Woodcrest Center, 800 River Road, New Milford, NJ 07646, 201–967–1700 ..... ETA CONTROL NUMBER—1/217775 ACTION—ACCEPTED	NJ	03/06/95
Meyer Rosenbaum, American Geri Care, Inc., 40 Heyward St., Brooklyn, NY 11211, 718–858–6200 ..... ETA CONTROL NUMBER—1/217906 ACTION—ACCEPTED	NY	03/09/95
Susana Dugay, Lifeline Health Services Int'l., 187–12 Hillside Avenue, Jamaica Estates, NY 11432, 718–479–3700 . ETA CONTROL NUMBER—1/217777 ACTION—ACCEPTED	NY	03/07/95
David S. Orentreich, Orentreich Medical Group, 909 Fifth Avenue, New York, NY 10021, 212–794–0800 ..... ETA CONTROL NUMBER—1/217903 ACTION—ACCEPTED	NY	03/09/95
ETA REGION 1 03/13/95 TO 03/19/95		
Daniel Straus, Norwalk Care & Rehabilitation Ctr., 73 Strawberry Hill Avenue, Norwalk, CT 06855, 203–852–8833 ... ETA CONTROL NUMBER—1/218071 ACTION—ACCEPTED	CT	03/16/95
Edmund W. DelPrete, Del Manor Nursing Home, Inc., 56 Webster Street, Rockland, MA 02370, 871–0555 ..... ETA CONTROL NUMBER—1/218156 ACTION—ACCEPTED	MA	03/16/95
Patricia D. Barnes, Absolute Home Health Care, Inc., 401 Broadway, Suite 805, New York, NY 10013, 212–219–0243. ETA CONTROL NUMBER—1/218157 ACTION—ACCEPTED	NY	03/16/95
Jody Meddy, Haym Salomon Home for the Aged, 2300 Cropsey Avenue, Brooklyn, NY 11214, 718–373–1700 ..... ETA CONTROL NUMBER—1/218081 ACTION—ACCEPTED	NY	03/16/95
Anisha K. Casimir, Hurtig-Evans Nursing Services, 200 North Avenue, Suite 5, New Rochelle, NY 10801, 914–636–5600. ETA CONTROL NUMBER—1/218009 ACTION—ACCEPTED	NY	03/15/95
Nicholas Silao, International Healthcare Providers, 234 5th Avenue, New York, NY 10001, 212–213–0473 ..... ETA CONTROL NUMBER—1/217988 ACTION—ACCEPTED	NY	03/15/95
Michael Kearney, Kearney Home Care Services, Inc., 44–21 Queens Boulevard, Long Island City, NY 11104, 718–472–2273. ETA CONTROL NUMBER—1/217985 ACTION—ACCEPTED	NY	03/15/95
Susana Dugay, Lifeline Personnel Agency, 187–12 Hillside Avenue, Jamaica Estates, NY 11432, 718–361–7843 ..... ETA CONTROL NUMBER—1/218101 ACTION—ACCEPTED	NY	03/16/95
Michael Melnicke, Rockaway Care Center, 353 Beach 48th Street, Edgemere, NY 11691, 718–471–5000 ..... ETA CONTROL NUMBER—1/218080 ACTION—ACCEPTED	NY	03/16/95
John B. Steffens, Southern Manhattan Dialysis Center, 330–342 West 13th Street, New York, NY 10014, 212–675–6880. ETA CONTROL NUMBER—1/218010 ACTION—ACCEPTED	NY	03/15/95
Jerome M. Mann, Willoughby Nursing Home, 949 Willoughby Avenue, Brooklyn, NY 11221, 718–443–1600	NY	03/16/95

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued

[Form ETA–9029]

CEO—Name/Facility name/Address	State	Action date
ETA CONTROL NUMBER—1/218158 ACTION—ACCEPTED		
ETA REGION 10 03/06/95 TO 03/12/95		
Clarence Adolphus, A.A.A. Home Health Services, 326 North Vermont Avenue, Los Angeles, CA 90004, 213–663–1134. ETA CONTROL NUMBER—10/206673 ACTION—ACCEPTED	CA	03/08/95
Carl Shusterman, Century City Hospital, 2070 Century Park East, Los Angeles, CA 90067, 213–623–4592 ETA CONTROL NUMBER—10/206678 ACTION—ACCEPTED	CA	03/08/95
Michael Giardullo, Madera Rehab. & Convalescent Center, 517 South A Street, Madera, CA 93638, 209–673–9228 . ETA CONTROL NUMBER—10/206675 ACTION—ACCEPTED	CA	03/08/95
ETA REGION 10 03/27/95 TO 04/02/95		
A G De Guzman, Pro Re Nata, Inc., 4037 West Bethany Home Road, Phoenix, AZ 85019, 602–841–6139 ETA CONTROL NUMBER—10/206798 ACTION—ACCEPTED	AZ	03/30/95
Lilia Ababao, Casa Allegre Nursing Home, 5901 Rose Arbor Avenue, San Pablo, CA 94806, 510–724–1484 ETA CONTROL NUMBER—10/206767 ACTION—ACCEPTED	CA	03/28/95
Joan Barlow, El Dorado Convalescent Hospital, 3280 Washington Street, Placerville, CA 95677, 916–624–6230 ETA CONTROL NUMBER—10/206835 ACTION—ACCEPTED	CA	03/30/95
Ana Rosenberg, Home Health Care of The Valley Inc., 18305 Sherman Way, Suite 202, Reseda, CA 91335, 818–345–9811. ETA CONTROL NUMBER—10/206766 ACTION—ACCEPTED	CA	03/28/95
Vicki Arellano, Live Oak Home Health Inc., 18000 Studebaker Road, Suite 600, Cerritos, CA 90701, 310–402–6819 ETA CONTROL NUMBER—10/206837 ACTION—ACCEPTED	CA	03/30/95
K. J. Page, Sunnyvale Convalescent Hospital, 1291 South Bernardo Avenue, Sunnyvale, CA 94087, 408–245–8070 ETA CONTROL NUMBER—10/206879 ACTION—ACCEPTED	CA	03/30/95
May Mallari, Unicare Health Services, 3400 West Sixth Street, Suite 302, Los Angeles, CA 90020, 213–385–9470 ... ETA CONTROL NUMBER—10/206836 ACTION—ACCEPTED	CA	03/27/95
Janet Slay, Nye Regional Medical Center, P.O. Box 391, 825 South Main Street, Tonopah, NV 89049, 702–482–6233. ETA CONTROL NUMBER—10/206770 ACTION—ACCEPTED	NV	03/28/95
ETA REGION 5 03/06/95 TO 03/12/95		
Michael Gillman, Care Centre of Urbana, 907 North Lincoln Avenue, Urbana, IL 61901, 217–367–8421 ETA CONTROL NUMBER—5/237982 ACTION—ACCEPTED	IL	03/06/95
Lilia Banawa, Columbus Park Inc., 901 S. Austin Blvd., Chicago, IL 60644, 312–287–5959 ETA CONTROL NUMBER—5/237979 ACTION—ACCEPTED	IL	03/06/95
Jess Cole, Sunset House, 5701 W. 79th Street, Burbank, IL 60459, 708–636–3850 ETA CONTROL NUMBER—5/237986 ACTION—ACCEPTED	IL	03/06/95
Holli Titus, Oak Pointe Villa Nursing Centre, 18901 Meyers Street, Detroit, MI 48235, 313–864–8481 ETA CONTROL NUMBER—5/237980 ACTION—ACCEPTED	MI	03/06/95
Velma Davis, Shore Pointe Associates, Inc., d/b/a Americare Convalescent Centre, 19211 Anglin, Detroit, MI 48234, 313–893–9745. ETA CONTROL NUMBER—5/237984 ACTION—ACCEPTED	MI	03/06/95
Kurt L. Luth, Park Place Nursing Center, 610 N. Darr, Grand Island, NE 68803, 308–372–2635 ETA CONTROL NUMBER—5/237981 ACTION—ACCEPTED	NE	03/06/95
ETA REGION 5 03/13/95 TO 03/19/95		
Michael Gillman, Care Centre of Champaign, 1915 South Mattis, Champaign, IL 61821, 217–352–0516 ETA CONTROL NUMBER—5/238375 ACTION—ACCEPTED	IL	03/14/95
Michael Gillman, Care Centre to Wauconda, 176 Thomas Court, Wauconda, IL 60084, 708–526–5551 ETA CONTROL NUMBER—5/238377 ACTION—ACCEPTED	IL	03/14/95
Michael Gillman, Countryside Healthcare Centre, 2330 Galena Blvd., Aurora, IL 60506, 708–896–4686 ETA CONTROL NUMBER—5/238372 ACTION—ACCEPTED	IL	03/14/95
Michael Gillman, Deerbrook Nursing Centre, 306 N. Larkin Avenue, Joliet, IL 60435, 815–744–5560 ETA CONTROL NUMBER—5/238379 ACTION—ACCEPTED	IL	03/14/95
Michael Gillman, Holt Healthcare Centre, 707 W. Riverside Blvd., Rockford, IL 61103, 815–877–5752 ETA CONTROL NUMBER—5/238380 ACTION—ACCEPTED	IL	03/14/95
Michael Gillman, Northwoods Healthcare Centre, 2250 S. Pearl Street Road, Belvidere, IL 61008, 815–544–0358 .... ETA CONTROL NUMBER—5/238381 ACTION—ACCEPTED	IL	03/14/95
Nancy Hefferon, Royal Nursing Center, 91 Glendale, Highland Park, MI 48203, 313–869–7711 ETA CONTROL NUMBER—5/238370 ACTION—ACCEPTED	MI	03/14/95
Timothy Spiro, West Bloomfield Nursing & Conval., 6445 W. Maple Road, West Bloomfield, MI 48322, 810–661–1600.	MI	03/14/95

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued

[Form ETA–9029]

CEO—Name/Facility name/Address	State	Action date
ETA CONTROL NUMBER—5/238383 ACTION—ACCEPTED		
ETA REGION 5 03/20/95 TO 03/26/95		
Mindy Kmetz, Firwood Health Care Center, 520 Fabyan Parkway, Batavia, IL 60510, 708–879–5266 ETA CONTROL NUMBER—5/239039 ACTION—ACCEPTED	IL	03/24/95
Michael Kaplan, Forest Villa, Ltd., 6840 W. Touhy Avenue, Niles, IL 60648, 708–647–8994 ETA CONTROL NUMBER—5/239033 ACTION—ACCEPTED	IL	03/24/95
Sue Morse, Grundy County Home, Clay & Quarry Streets, P.O. Box 669, Morris, IL 60450, 815–942–3255 ETA CONTROL NUMBER—5/239038 ACTION—ACCEPTED	IL	03/24/95
Wanda Bowling, Kenwood Health Care, Inc., 6125 S. Kenwood, Chicago, IL 60637, 312–752–6000 ETA CONTROL NUMBER—5/239030 ACTION—ACCEPTED	IL	03/24/95
Michael Kaplan, Morton Terrace, 191 East Queenland, Morton, IL 61550, 309–266–5331 ETA CONTROL NUMBER—5/239034 ACTION—ACCEPTED	IL	03/24/95
Neal Kjos, North Shore Terrace, 2222 West 14th, Waukegan, IL 60085, 708–249–2400 ETA CONTROL NUMBER—5/239032 ACTION—ACCEPTED	IL	03/24/95
Michael Kaplan, York Convalescent Center, 127 W. Diversey, Elmhurst, IL 60126, 708–530–5225 ETA CONTROL NUMBER—5/239035 ACTION—ACCEPTED	IL	03/24/95
Roderic Flowers, University of Maryland Medical Sys, 22 South Greene Street, Baltimore, MD 21201–1595, 410–328–2756. ETA CONTROL NUMBER—5/239040 ACTION—ACCEPTED	MD	03/24/95
David S. Midenberg, Lakeland Convalescent Center, Inc., P.O. Box 189, 751 E. Grand Blvd., St. Clair Shores, MI 48080, 313–921–0998. ETA CONTROL NUMBER—5/239029 ACTION—ACCEPTED	MI	03/24/95
Christy Albin, Ramona Villa Nursing Home, 8575 N. Granby Avenue, Kansas City, MO 64154, 816–436–8575 ETA CONTROL NUMBER—5/239036 ACTION—ACCEPTED	MO	03/24/95
Susan Foreman, Heritage Hall Incorporated, 122 Morven Park Road, NW, Leesburg, VA 22075, 703–777–8700 ETA CONTROL NUMBER—5/239031 ACTION—ACCEPTED	VA	03/24/95
ETA REGION 5 03/27/95 TO 04/02/95		
Jacqueline L. Mason or JoAnne Fishe, Burgess Square Healthcare Ctr., 5801 S. Cass Avenue, Westmont, IL 60559, 708–971–2645. ETA CONTROL NUMBER—5/239190 ACTION—ACCEPTED	IL	03/29/95
Janice Soukup, Lutheran Home and Services, 800 W. Oakton St., Arlington Hghts., IL 60004, 708–253–3710 ETA CONTROL NUMBER—5/239197 ACTION—ACCEPTED	IL	03/30/95
Charles Stumpf, Sacred Heart Home, 1550 South Albany Avenue, Chicago, IL 60623, 312–277–6868 ETA CONTROL NUMBER—5/239193 ACTION—ACCEPTED	IL	03/30/95
Frances Lachowicz, St. Agnes Health Care Center, 60 East 18th Street, Chicago, IL 60616, 312–922–2777 ETA CONTROL NUMBER—5/239192 ACTION—ACCEPTED	IL	03/30/95
Kathleen Stumpf, St. Martha Manor, 4621 North Racine Avenue, Chicago, IL 60640, 312–784–2300 ETA CONTROL NUMBER—5/239194 ACTION—ACCEPTED	IL	03/30/95
Kenneth J. Lewis, IHS-I Inc., 5160 Parkstone Drive, Suite 140, Chantilly, VA 22021, 703–222–3900 ETA CONTROL NUMBER—5/239189 ACTION—ACCEPTED	VA	03/29/95
ETA REGION 6 03/06/95 TO 03/12/95		
Ms. Adela Baldo, IHS of Florida at Lake Worth, 1201 12th Avenue South, Lake Worth, FL 33460, 407–586–7404 ETA CONTROL NUMBER—6/225640 ACTION—ACCEPTED	FL	03/08/95
Mr. Edward J. Rosasco, Jr., Mercy Hospital, 3663 South Miami Avenue, Miami, FL 33133, 305–285–2100 ETA CONTROL NUMBER—6/225782 ACTION—ACCEPTED	FL	03/09/95
Mr. Alan Pilgrim, MRA Staffing Systems, Inc., 7771 W. Oakland Park Blvd. Suite 100, Ft. Lauderdale, FL 33351, 800–327–2759. ETA CONTROL NUMBER—6/225646 ACTION—ACCEPTED	FL	03/08/95
Mr. Eduardo R. Hernando, Ventech Rehab, Inc., 300 71st Street Suite 300, Miami Beach, FL 33141, 305–868–7080 ETA CONTROL NUMBER—6/225647 ACTION—ACCEPTED	FL	03/08/95
Mr. Walter M. Lawson III, Georgia Reg. Hospital at Savannah, 1915 Eisenhower Drive P.O. Box 13607, Savannah, GA 31416, 912–356–2011. ETA CONTROL NUMBER—6/225641 ACTION—ACCEPTED	GA	03/08/95
Ms. Donna Horton, High Plains Nursing Center, 1400 West 21st Street, Clovis, NM 88101, 505–762–4705 ETA CONTROL NUMBER—6/225643 ACTION—ACCEPTED	NM	03/08/95
Mr. Dean Beamer, Byerly Hospital, 413 East Carolina Avenue, Hartsville, SC 29550, 803–339–2100 ETA CONTROL NUMBER—6/225784 ACTION—ACCEPTED	SC	03/09/95
Ms. Clarisse Christine C. Toledo, Carolina Medical Services, 304 Hillside Drive, Dillon, SC 29536, 803–774–4164 ETA CONTROL NUMBER—6/225785 ACTION—ACCEPTED	SC	03/09/95
Mr. Don Spaulding, Fort Duncan Medical Center, 350 S. Adams Street, Eagle Pass, TX 78852, 210–757–7512 ETA CONTROL NUMBER—6/225748 ACTION—ACCEPTED	TX	03/08/95
Mr. Milagros R. Aquino, Golden Comfort Adult Day Care Ctr., 4344 Thousand Oaks, San Antonio, TX 78217, 210–696–3316.	TX	03/08/95

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued

[Form ETA–9029]

CEO—Name/Facility name/Address	State	Action date
ETA CONTROL NUMBER—6/225642 ACTION—ACCEPTED		
Mr. Ray Alway, Hays Nursing Center, 1900 Medical Parkway, San Marcos, TX 78666, 512–396–1888	TX	03/09/95
ETA CONTROL NUMBER—6/225780 ACTION—ACCEPTED		
Milagros R. Aquino, R&F Rehabilitation & Health Agency, 11212 Woodridge Forest, San Antonio, TX 78249, 210–696–3316.	TX	03/08/95
ETA CONTROL NUMBER—6/225644 ACTION—ACCEPTED		
Mr. Charles W. Thompson, Southeast Nursing & Rehab Center, 4302 E. Southcross, San Antonio, TX 78222, 210–333–1223.	TX	03/09/95
ETA CONTROL NUMBER—6/225781 ACTION—ACCEPTED		
ETA REGION 6 03/13/95 TO 03/19/95		
Ms. Joyce E. Plourde, Heartland Health Care Ctr. (Miami), 5275 N.W. 186th Street, Hialeah, FL 33015, 305–625–9857.	FL	03/15/95
ETA CONTROL NUMBER—6/225898 ACTION—ACCEPTED		
Senator Robert Crook, North Sunflower County Hospital, 840 North Oak Avenue, Ruleville, MS 38771, 601–756–2711.	MS	03/16/95
ETA CONTROL NUMBER—6/225896 ACTION—ACCEPTED		
Mr. Richard Barr, Presbyterian Healthcare Services, 1100 Central Ave. SE, Albuquerque, NM 87106, 505–841–1234	NM	03/15/95
ETA CONTROL NUMBER—6/225935 ACTION—ACCEPTED		
Mr. Louis Milite, Brian Center of Columbia, 2451 Forest Drive, Columbia, SC 29204, 803–254–5960	SC	03/15/95
ETA CONTROL NUMBER—6/225982 ACTION—ACCEPTED		
ETA REGION 6 03/20/95 TO 03/26/95		
Mr. Hal Firestone, Paradigm Rehab Consultants, Inc., 2907–A Fritzke Road, Dover, FL 33527, 813–986–7746	FL	03/21/95
ETA CONTROL NUMBER—6/225993 ACTION—ACCEPTED		
Mr. James Reiss, Pinecrest Convalescent Center, 13650 N.E. Third Court, North Miami, FL 33161, 305–893–1170 ..	FL	03/21/95
ETA CONTROL NUMBER—6/226001 ACTION—ACCEPTED		
Ms. Francine Grimsley, Canterbury Villa of Falfurrias, 1301 South Terrell P.O. Box 417, Falfurrias, TX 78355, 512–325–3658.	TX	03/21/95
ETA CONTROL NUMBER—6/226000 ACTION—ACCEPTED		
Mr. Gerald D. Phillips, Crockett County Hospital, 103 North Ave. H and 1st, Ozona, TX 76943, 915–392–2671	TX	03/21/95
ETA CONTROL NUMBER—6/225999 ACTION—ACCEPTED		
Ms. Connie Trunk, Sunrise Convalescent Center, 50 Briggs Street, San Antonio, TX 78224, 210–921–0184	TX	03/21/95
ETA CONTROL NUMBER—6/225997 ACTION—ACCEPTED		
ETA REGION 6 03/27/95 TO 04/02/95		
Ms. Lucinda DeBruce, Charter Behavioral Health System, 4253 Crossover Road, Fayetteville, AR 72703, 501–521–5731.	AR	03/29/95
ETA CONTROL NUMBER—6/226209 ACTION—ACCEPTED		
Mr. Jay Kapin, Camelot Care Center of Dade, Inc., 25268 S.W. 134 Avenue, Miami, FL 33032, 305–258–2222	FL	03/30/95
ETA CONTROL NUMBER—6/226259 ACTION—ACCEPTED		
Ms. Sharon Harris, Drew Village Rehab. & Nursing Ctr., 401 Fairwood Avenue, Clearwater, FL 34619, 813–797–6313.	FL	03/30/95
ETA CONTROL NUMBER—6/226364 ACTION—ACCEPTED		
Ms. Elaine Carvajal, John Knox Village of Florida, Inc., 661 S. W. 6th Street, Pompano Beach, FL 33060, 305–782–1300.	FL	03/30/95
ETA CONTROL NUMBER—6/226333 ACTION—ACCEPTED		
Joseph Thomas Bland, Monfort Jones Memorial Hospital, P.O. Box 677 Highway 12 West, Kosciusko, MS 39090, 601–289–4311.	MS	03/27/95
ETA CONTROL NUMBER—6/226201 ACTION—ACCEPTED		
Mr. Ted Carothers, Autumn Care of Drexel, Box 1278, Drexel, NC 28619, 704–433–6180	NC	03/30/95
ETA CONTROL NUMBER—6/226363 ACTION—ACCEPTED		
Julia Cooper-Goldenberg, Ivy Hill Health & Retirement Cntr., Route 3, Box 228, P.O. Box 1156, Brevard, NC 28712, 704–877–4020.	NC	03/27/95
ETA CONTROL NUMBER—6/226204 ACTION—ACCEPTED		
Sue Van Winkle, Salida del Sol, 419 Harding Street, Clayton, NM 88415, 505–374–2353	NM	03/27/95
ETA CONTROL NUMBER—6/226205 ACTION—ACCEPTED		
Ms. Louetta Slice, Hallmark Healthcare Center, 255 Midland Parkway, Summerville, SC 29485, 803–821–5005	SC	03/30/95
ETA CONTROL NUMBER—6/226291 ACTION—ACCEPTED		
Mr. G. Robert Owens, Watauga Mental Health Services Inc., 109 W. Watauga Ave., Johnson City, TN 37605, 615–928–0691.	TN	03/27/95
ETA CONTROL NUMBER—6/225998 ACTION—ACCEPTED		
Mr. Thomas Murphy, Advance Care Center at Amarillo E., 14405 Walters Road, Suite 150, Houston, TX 77014, 713–444–4880.	TX	03/29/95

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued

[Form ETA–9029]

CEO—Name/Facility name/Address	State	Action date
ETA CONTROL NUMBER—6/226215 ACTION—ACCEPTED		
Mr. Thomas Murphy, Advance Care Center at Amarillo W., 14405 Walters Road, Suite 150, Houston, TX 77014, 713–444–4880.	TX	03/29/95
ETA CONTROL NUMBER—6/226216 ACTION—ACCEPTED		
Mr. Thomas Murphy, Advance Care Center at Athens, 14405 Walters Road, Suite 150, Houston, TX 77014, 713–444–4880.	TX	03/29/95
ETA CONTROL NUMBER—6/226211 ACTION—ACCEPTED		
Mr. Thomas Murphy, Advance Care Center at Grand Salin, 14405 Walters Road, Suite 150, Houston, TX 77014, 713–444–4880.	TX	03/29/95
ETA CONTROL NUMBER—6/226213 ACTION—ACCEPTED		
Mr. Thomas Murphy, Advance Care Center at Kennedale, 14405 Walters Road, Suite 150, Houston, TX 77014, 713–444–4880.	TX	03/29/95
ETA CONTROL NUMBER—6/226212 ACTION—ACCEPTED		
Mr. Michael C. Waters, Hendrick Medical Center, 1242 North 9th, Abilene, TX 79601–2316, 915–670–2000	TX	03/30/95
ETA CONTROL NUMBER—6/226419 ACTION—ACCEPTED		
Dr. Rosario Carreon, Kidney Center of Vernon, Wilbarger Medical Plaza 1000, Garland F. Johnston Drive, Vernon, TX 76384, 817–553–4318.	TX	03/27/95
ETA CONTROL NUMBER—6/226087 ACTION—ACCEPTED		
Rafael M. Arceo, Medcore Therapy & Rehab Clinic, 6060 Richmond Avenue, Suite 240, Houston, TX 77057, 713–974–7556.	TX	03/27/95
ETA CONTROL NUMBER—6/226203 ACTION—ACCEPTED		
Fe dela Calzada, Quality Health Services, Inc., 9888 Bissonnet, Suite 475, Houston, TX 77036, 713–272–0077	TX	03/27/95
ETA CONTROL NUMBER—6/226202 ACTION—ACCEPTED		
Mr. Nelson R. Ayala, RN Staffing Resources, 13231 Champion Forest Drive, Suite 310, Houston, TX 77069, 713–580–7700.	TX	03/27/95
ETA CONTROL NUMBER—6/226207 ACTION—ACCEPTED		
Dr. Stephen Weiss, Texas Orthopedic & Trauma Associates, 7333 North Freeway, Houston, TX 77076, 713–691–0737.	TX	03/30/95
ETA CONTROL NUMBER—6/226332 ACTION—ACCEPTED		
Mildred Morrison, Vista Healthcare Inc., 4301 Vista, Pasadena, TX 77504, 713–947–0891	TX	03/27/95
ETA CONTROL NUMBER—6/226206 ACTION—ACCEPTED		

[FR Doc. 95–9817 Filed 4–19–95; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 95–029]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of agency report forms under OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made submission.

Copies of the proposed forms, the requests for clearance (OMB 83–1s), supporting statements, instructions, transmittal letters, and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Paperwork Reduction Project.

DATES: Comments are requested by May 19, 1995. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Paperwork Reduction Project and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Donald J. Andreotta, NASA Agency Clearance Officer, Code JT, NASA Headquarters, Washington, DC 20546; Office of Management and Budget, Paperwork Reduction Project (2700–0052), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Bessie Berry, NASA Reports Officer, (202) 358–1368.

Reports

Title: NASA FAR Supplement, Part 1827, Patents, Data and Copyrights.

OMB Number: 2700–0052.

Type of Request: Extension.

Frequency of Report: On occasion.

Type of Respondent: Business or other for-profit, Not-for-profit institutions, Federal Government, State, Local or Tribal Government.

Number of Respondents: 1,903.

Responses Per Respondent: 1.2.

Annual Responses: 2,284.

Hours Per Response: 8.

Annual Burden Hours: 18,272.

Number of Recordkeepers: 0.

Annual Hours Per Recordkeeping: 0.

Annual Recordkeeping Burden Hours: 0.

Total Annual Burden Hours: 18,272.

Abstract-Need/Uses: Patents, data, copyrights, inventions, utilization, disposition and contract records and reports regarding patents and data are required to comply with statutes and OMB and NASA impelmenting regulations.

Dated: April 11, 1995.

Donald J. Andreotta,

Deputy Director, IRM Divison.

[FR Doc. 95–9703 Filed 4–19–95; 8:45 am]

BILLING CODE 7510–01–M

[Notice 95–027]

Intent to Grant a Partially Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant a Patent License.

SUMMARY: NASA hereby gives notice of intent to grant the Science and Technology Corporation, Hampton,

Virginia 23666–1340, a partially exclusive license to practice the inventions protected by the following U.S. Patents: 4,829,035 entitled ''REACTIVATION OF A TIN OXIDE-CONTAINING CATALYST,'' which was granted May 9, 1989; 4,855,274 entitled ''PROCESS FOR MAKING A NOBLE METAL ON TIN OXIDE CATALYST,'' which was granted August 8, 1989; 4,912,082 entitled ''CATALYST FOR CARBON MONOXIDE OXIDATION,'' which was granted March 27, 1990; and 4,991,181 entitled ''CATALYST FOR CARBON MONOXIDE OXIDATION,'' which was granted February 5, 1991, by the United States of America as represented by the Administrator of the National Aeronautics and Space Administration.

The partially exclusive license will contain appropriate terms and conditions to be negotiated in accordance with NASA Patent Licensing Regulations (14 CFR Part 1245). NASA will negotiate the final terms and conditions and grant the license unless, within 60 days of the date of this notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentation. The Director of Patent Licensing will review all written responses to this notice and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the license.

DATES: Comments to this notice must be received by (insert 60 days from the date of publication in the **Federal Register**).

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff, NASA, Director of Patent Licensing at (202) 358–2041.

Dated: April 7, 1995.

Edward A. Frankle,

General Counsel.

[FR Doc. 95–9822 Filed 4–19–95; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Expansion Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Rural Arts Initiative Section) to the National Council on the Arts will be held on May 16, 1995 from 9:00 a.m. to 5:30 p.m. in Room 714, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public from 9:00 a.m. to 9:45 a.m. for opening remarks and a general program overview and from 3:30 p.m. to 5:30 p.m. for a policy discussion.

Remaining portion of this meeting from 9:45 a.m. to 3:30 p.m. is for the purpose of panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of February 8, 1994, this session will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the Panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TYY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Dated: April 17, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–9833 Filed 4–19–95; 8:45 am]

BILLING CODE 7537–01–M

Music Advisory Panel; Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Composers Fellowships Section) to the National Council on the Arts will be held on May 15–18, 1995 from 9 a.m. to 5:30 p.m. This meeting will be held in Room M–14, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on May 18 from 3:00 p.m. to 5:30 p.m. for a policy discussion and guidelines review.

The remaining portions of this meeting from 9 a.m. to 5:30 p.m. on May 15–17 and from 9 a.m. to 3 p.m. on May 18 are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of February 8, 1994, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TYY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Dated: April 17, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–9834 Filed 4–19–95; 8:45 am]

BILLING CODE 7537–01–M

Visual Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Painting Fellowships Section) to the National Council on the Arts will be held on May 15–19, 1995. The panel will meet from 9:00 a.m. to 8:00 p.m. on May 15–18 and from 9:30 a.m. to 5:00 p.m. on May 19 in Room 716, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public from 3:30 p.m. to 5:00 p.m. on May 19 for a policy and guidelines discussion.

The remaining portions of this meeting from 9:00 a.m. to 8:00 p.m. on May 15–18 and from 9:30 a.m. to 3:30 p.m. on May 19 are for the purpose of panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of February 8, 1994, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the Panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TYY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Dated: April 17, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–9832 Filed 4–19–95; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–416]

Entergy Operations, Inc.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations to Facility Operating License No. NPF–29, issued to Entergy Operations, Inc. (the licensee), for operation of the Grand Gulf Nuclear Station, Unit 1 (GGNS), located in Claiborne County, Mississippi.

Environmental Assessment

Identification of Proposed Action

The proposed action is in accordance with the licensee's application dated August 13, 1993, as supplemented by letters dated April 15, May 11, June 24, and July 20, 1994, pursuant to 10 CFR 50.12(a), which would exempt Entergy Operations Inc. from Sections III.D.1(a), III.D.2, III.D.2(b)(i), III.D.2.(b)(iii) and III.D.3 of 10 CFR Part 50, Appendix J, to permit the selection of containment leakage rate testing intervals for components on the basis of performance.

The Need for the Proposed Action

The proposed action is needed to permit the licensee to defer a portion of the Type B and C tests from the April 1995 and September 1996 refueling outages to the April 1998 refueling outage, thereby reducing the occupational radiation exposure received by the plant staff, saving the cost of performing the test, and eliminating the test period from the critical path time of the outage.

Without this exemption, the licensee would incur additional personnel radiation exposure during system reconfigurations, and instrumentation setup and restoration.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed exemption would not increase the probability or consequences of accidents previously analyzed and the proposed exemption would not affect facility radiation levels or facility radiological effluents. The licensee, as a condition of the proposed exemption, will perform the visual containment inspection although it is only required by Appendix J to be conducted in conjunction with Type A tests. The NRC staff considers that these inspections, though limited in scope, provide an important added level of confidence in the continued integrity of the containment boundary.

The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternative to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements related to operation of Grand Gulf Nuclear Station, Unit 1.

Agencies and Persons Consulted

In accordance with its stated policy, on March 30, 1995 the staff consulted with the Mississippi State official, Mr. Eddie Fuente of the Mississippi State Department of Health, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the request for exemption dated August 13, 1993, as supplemented by letters dated April 15, May 11, June 24, and July 20, 1994, which 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 room located at the Judge George W. Armstrong Library, 220 S. Commerce Street, Natchez, Mississippi 39120.

Dated at Rockville, Maryland this 6th day of April 1995.

For the Nuclear Regulatory Commission.

Paul W. O'Connor,

Senior Project Manager, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–9762 Filed 4–19–95; 8:45 am]

BILLING CODE 7590–01–M

Licensing Support System Advisory Review Panel

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public meeting.

SUMMARY: The Licensing Support System Advisory Review Panel (LSSARP) will hold its next meeting on May 12, 1995, at the Headquarters Building of the Nuclear Regulatory Commission, Room T–3 B45, 11545 Rockville Pike, Rockville, Maryland. The meeting will be open to the public pursuant to the Federal Advisory Committee Act (Pub. L. 94–463, 86 Stat. 770–776).

AGENDA: The meeting will be held from 1:00 p.m. to 2:30 p.m. on Friday, May 12, 1995. The agenda will consist of the following topics.

1. Consideration of a Report of the LSS Technical Working Group on Level One Requirements for the LSS Design
2. Current LSS Activity at NRC
3. Future Meeting Topics and Schedule

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission (NRC) established the LSSARP in 1989 to provide advice and recommendations to the NRC and to the Department of Energy (DOE) concerning the design, development and operation of an electronic information management system, known as the Licensing Support System (LSS), which will contain information relevant to the Commission's future licensing proceeding for a geologic repository for the disposal of high-level radioactive waste. Membership on the Panel consists of representatives of the State and Local Governments of Nevada, the National Congress of American Indians, the nuclear industry, DOE, NRC and other agencies of the Federal government which have experience with large electronic information management systems.

FOR FURTHER INFORMATION CONTACT: John C. Hoyle, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555: telephone 301–415–1969.

PUBLIC PARTICIPATION: Interested persons may make oral presentations to the Panel or file written statements. Requests for oral presentations should be made to the contact person listed above as far in advance as practicable so that appropriate arrangements can be made.

Dated: April 14, 1995.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 95–9761 Filed 4–19–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–275 and 50–323]

Pacific Gas and Electric Company; Notice of Partial Denial of Amendments to Facility Operating Licenses and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a portion of the request by Pacific Gas and Electric Company (the licensee) for amendments to Facility Operating License Nos. DPR–80 and DPR–82 issued to the licensee for operation of the Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, located in San Luis Obispo County, California. Notice of Consideration of Issuance of these amendments was published in the **Federal Register** on October 12, 1994 (59 FR 51621).

The purpose of this portion of the license amendment request was to eliminate the minimum refueling water storage tank solution temperature from Technical Specifications (TS) Sections 3/4.1.2.5 and 3/4.5.5.

The NRC staff has concluded that the licensee's request cannot be granted. The licensee was notified of the Commission's denial of the proposed change by a letter dated April 14, 1995.

By May 22, 1995, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated August 17, 1994, and (2) the Commission's letter to the licensee dated April 14, 1995.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Rockville, Maryland, this 14th day of April 1995.

For The Nuclear Regulatory Commission.

William H. Bateman,

Director, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–9765 Filed 4–19–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–275 and 50–323]

Pacific Gas and Electric Co., (Diablo Canyon Nuclear Power Plant, Units 1 and 2); Exemption

I

The Pacific Gas and Electric Company (PG&E or the licensee) holds Facility Operating License Nos. DPR–80 and DPR–82, which authorizes operation of the Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, respectively. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect. The facility consists of two pressurized water reactors located at the licensee's site in San Luis Obispo County, California.

II

Section 50.54(q) of 10 CFR Part 50 requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect emergency plans which meet the standards of 10 CFR 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F.3 of Appendix E requires that each licensee at each site exercise with offsite authorities such that the State and local government emergency plans for each operating reactor site are exercised biennially, with full or partial participation by State and local governments, within the plume exposure pathway emergency planning zone (EPZ).

The NRC may grant exemptions from the requirements of the regulations which, pursuant to 10 CFR 50.12(a), are (1) authorized by law, will not present

an undue risk to the public health and safety, and are consistent with the common defense and security; and (2) present special circumstances. Section 50.12(a)(2)(iv) of 10 CFR Part 50 describes the special circumstances for an exemption where the exemption would result in benefit to the public health and safety that compensates for any decrease in safety that may result from the granting of the exemption.

III

By letter dated October 17, 1994, the licensee requested a schedular exemption from the requirement of 10 CFR Part 50, Appendix E, Section IV.F.3 that requires biennial exercise of emergency plans for State and local governmental authorities within the plume exposure pathway EPZ. The licensee has requested to postpone until 1996 the biennial, full-scale emergency preparedness exercise currently scheduled in 1995.

This schedular exemption is requested by the licensee in support of the State of California's request to the Federal Emergency Management Agency (FEMA) to grant the State a one-year extension in the current Radiological Emergency Preparedness Program six-year exercise cycle for the Diablo Canyon Nuclear Power Plant (DCPP). The granting of this request would result in the licensee conducting its biennial, full-scale emergency preparedness exercise in even-numbered years.

By letter dated March 2, 1995, FEMA informed the NRC that FEMA concurred with a request by the State of California to reschedule the DCPP offsite biennial exercise for 1995 to 1996. FEMA stated that such a schedule change would have no implications adverse to public health and safety. The most recent DCPP offsite exercise was conducted in 1993, and there were no issues identified which required immediate corrective actions. FEMA has granted a one-time exemption to the requirements of 44 CFR 350.9(c) for DCPP as requested by the State of California.

Based on a review of the licensee's request for a schedular exemption to postpone until 1996 the biennial full-scale emergency preparedness exercise currently scheduled in 1995, the NRC staff finds that granting this request would be beneficial to the public health and safety. Approval of this exemption would allow the realignment of the State of California's exercise participation schedule to include an exercise every year, instead of two exercises every other year. San Onofre Nuclear Generating Station's exercise would be conducted in odd-numbered years and DCPP's would be conducted in even-numbered years starting in 1996. This should enhance the level of emergency preparedness by allowing more frequent participation in an exercise by State personnel. It would allow for more even distribution of financial and personnel resources for both State and Federal agencies. Also, the offsite agencies at San Onofre Nuclear Generating Station would be able to perform as controllers and evaluators for the DCPP exercise and vice versa more easily and both plants would obtain the benefits since the plant exercise dates would not conflict. There would be no decrease in the level of safety of licensee operations as a result of granting this schedular exemption. The licensee would still be required to conduct an annual exercise in 1995 in accordance with the requirements of 10 CFR 50, Appendix E, Section IV.F.2.

IV

Accordingly, the Commission has determined pursuant to 10 CFR 50.12, this exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. The Commission further determines that special circumstances described by 10 CFR 50.12(a)(2)(iv) exist in that a benefit to public health and safety that compensates for any decrease in safety may result from granting the exemption.

Therefore, the Commission hereby grants Pacific Gas and Electric Company an exemption from the requirements of 10 CFR 50, Appendix E, Section IV.F.3.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (60 FR 18429).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 12th day of April 1995.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Director, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–9763 Filed 4–19–95; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Applied Microbiology, Inc. Common Stock $.005 Par Value) File No. 1–12106

April 14, 1995.

Applied Microbiology, Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the Pacific Stock Exchange, Incorporated. (''PSE'').

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, it is listed on the Nasdaq/NMS, and in view of the limited trading in the Security, the Company believes that a single listing is adequate.

Any interested person may, on or before May 5, 1995, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–9726 Filed 4–19–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21009; 811–10930]

Columbia Ventures, Inc.

April 14, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Columbia Ventures, Inc.

RELEVANT ACT SECTION: Sections 3(c)(9) and 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on December 13, 1994, and amended on March 30, 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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 9, 1995 and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 809 North State Street, suite 215; Jackson, Mississippi 39202.

FOR FURTHER INFORMATION CONTACT: Sarah A. Buescher, Staff Attorney, at (202) 942–0573, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a New York corporation, registered under the Act on November 8, 1961. Applicant also was licensed as a small business investment company by the Small Business Administration (''SBA'').

2. In 1973, applicant acquired certain oil and gas mineral rights and real estate from a small business company in exchange for the securities of that company held by applicant. By December 31, 1974, those assets constituted approximately 52 percent of the fair value of applicant's assets. At the 1975 annual meeting, stockholders adopted amendments to applicant's fundamental policies to allow applicant to concentrate its investment in real estate and oil and gas mineral rights and leases.

3. In 1980, Applicant defaulted on a subordinated debenture payable to the SBA (''SBA Indebtedness'') which resulted in the acceleration of the entire SBA Indebtedness. Applicant and the SBA entered into an agreement (''SBA Agreement'') which extended the maturity of the SBA Indebtedness and replaced an earlier agreement with the SBA. On December 31, 1986, applicant defaulted on its principal and accrued interest payment obligations to the SBA. Applicant repaid the principal balance in cash in June 1988 and in September 1989, applicant transferred two tracts of property to the SBA for settlement of accrued interest. Applicant relinquished its license as a small business investment company to the SBA in September 1989.

4. At a 1993 special meeting, applicant's shareholders approved an amendment to applicant's fundamental policies to state that applicant's business shall consist of purchasing, selling, owning or holding oil, gas, or other mineral royalties or leases. Applicant does not anticipate any substantial income and/or loss in the future from investment in investment securities. Income is expected to be derived from the mineral interests held by applicant. Applicant now manages its mineral interests and real property holdings and proposes to continue in such business for the foreseeable future.

Applicant's Legal Analysis

1. Applicant believes that it is no longer an investment company by virtue of the exception in section 3(c)(9) of the Act. Section 3(c)(9) specifically excepts from the definition of investment company ''[a]ny person substantially all of whose business consists of owning or holding oil, gas, or other mineral royalties or leases, or fractional interests therein, or certificates of interest or participation in or investment contracts relative to such royalties, leases, or fractional interests.'' Section 8(f) of the Act provides, in pertinent part, that whenever the SEC, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

2. Applicant believes it is appropriate for the SEC to deregister the applicant because it engages in section 3(c)(9) activities. Applicant's fundamental policy is similar to section 3(c)(9) since it provides that ''The Company's business shall consist of purchasing, selling, owning or holding oil, gas, or other mineral royalties or leases, or fractional interests therein * * *.'' Applicant owns both the mineral rights and mineral royalties for certain properties and, for other properties, owns the mineral rights only. Its mineral rights are direct ownership interests in minerals in the ground, and it receives income from mineral leases when it leases the mineral rights and mineral royalty income when the minerals are extracted. Applicant believes that these activities are the type of business referred to in section 3(c)(9), *i.e.*, ''owning or holding oil, gas, or other mineral royalties or leases.''

3. As of December 31, 1993, 98.9 percent of the fair value of applicant's assets (exclusive of cash and land) consisted of mineral rights and leases. 10.5 percent of the fair value of applicant's assets consisted of land not incident to the mineral rights and leases. For the fiscal year ended December 31, 1993, other than interest income from cash in banks, 99 percent of applicant's income was derived from mineral lease royalties.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9725 Filed 4–19–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21010; File No. 812–9226]

Great-West Life & Annuity Insurance Company, et al.

April 14, 1995.

AGENCY: U.S. Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Great-West Life & Annuity Insurance Company (the ''Company''), The Great-West Life Assurance Company (''GWLAC''), and Retirement Plan Series Account (the ''Separate Account'').

RELEVANT ACT SECTIONS: Order requested under Section 6(c) for exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the Act.

SUMMARY OF APPLICATION: Applicants request exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the Act to the extent necessary to permit the Company to deduct from the Separate Account the mortality and expense risk charge imposed under (1) flexible premium deferred individual variable annuity contracts (''Contracts'') and (2) any other variable annuity contracts offered by the Company and made available through the Separate Account or through any other similar separate account(s) established by the Company, whether currently existing or hereafter created (''Other Separate Accounts''), which are substantially similar in all material

respects (''Future Contracts''). Applicants also request that the relief be extended to any other broker-dealer, whether currently existing or hereafter created, which may serve in the future as principal underwriter of Contracts or Future Contracts.

FILING DATE: The Application was filed on September 13, 1994 and amended on February 23, 1995 and March 21, 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 May 9, 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 notification by writing to the SEC's Secretary.

ADDRESSES: SEC, Secretary, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o Jorden Burt & Berenson, 1025 Thomas Jefferson Street, NW., suite 400 East, Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: Edward P. Macdonald, Staff Attorney, or Wendy Friedlander, Deputy Chief, at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

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. The Company is a stock life insurance company initially organized under the laws of the State of Kansas. In 1990, the Company redomesticated and is now organized under the laws of the State of Colorado. The Company, a wholly-owned subsidiary of the GWLAC, is qualified to do business in 49 states and the District of Columbia.

2. GWLAC, a life insurance company organized under the laws of Canada, will be the principal underwriter with respect to the Contracts. GWLAC is registered with the Commission under the Securities Exchange Act of 1934 as a broker-dealer and is a member of the National Association of Securities Dealers, Inc.

3. The Separate Account was established under the laws of the State of Colorado on January 25, 1994, as a funding vehicle for the Contracts and is registered under the Act as a unit investment trust. The Separate Account initially will have twelve investment divisions (''Divisions'') available for allocation of contributions by contractowners (''Owners''). Each Division invests solely in a corresponding portfolio of Maxim Series Fund, Inc., an open-end management investment company registered under the Act. The shares of each portfolio may also be offered to other Separate Accounts.

4. Interests under the Contracts are registered under the Securities Act of 1933. The Contracts will receive favorable tax treatment under Section 408(b) of the Internal Revenue Code (''Code'') as individual retirement annuities and will be available for an initial contribution of at least $3,500 rolled-over from retirement plans which qualify under Section 401(k) of the Code. Additional contributions may be made in amounts of at least $250. The Contracts provide that contributions can accumulate on a variable basis, a guaranteed basis, or on a combination of both. The Contracts also will offer several annuity options payable on a variable basis, a fixed basis, or on a combination of both.

5. The Company will not impose a sales charge or a Contract maintenance charge in connection with the Contracts.

6. A $50 charge will be imposed on any Contract surrendered in whole during the first 12 months after issue, excluding the ''free look'' period. A $25 charge will be imposed on any Contract surrendered in part during the first 12 months after issue. These charges reflect the actual expenses associated with such surrenders which the company expects to incur and would be assessed in reliance on Rule 269–1 under the Act.[1]

7. At any time prior to the annuity commencement date, Owners may make unlimited transfers between Divisions. The Company does not charge any fee for these transfers.

8. The Company may make a deduction for premium taxes imposed by states or other governmental entities, either (i) when a surrender or cancellation occurs, or (ii) at the annuity commencement date. Currently, these taxes range up to 2.5%.

9. The Company will impose a mortality and expense risk charge of up to .75% as compensation for bearing certain mortality and expense risks assumed under the Contracts. Contracts having a balance of: (1) $0 to $9,999.99 will be subject to a mortality and expense risk charge equal to .75%; (2) $10,000 to $24,999.99 will be subject to a mortality and expense risk charge equal to .50%; and (3) $25,000 to $49,999.99 will be subject to a mortality and expense risk charge equal to .25%. No mortality and expense risk charge will be imposed for an account balance of $50,000 or greater. The levels of these charges are guaranteed and will not be increased. Of the amounts charged for mortality and expense risk, where the total charge is: (1) .75%: 0.60% is a mortality risk charge and 0.15% is an expense risk charge; (2) .50%: 0.40% is a mortality risk charge and 0.10% is an expense risk charge; and (3) .25%: 0.20% is a mortality risk charge and 0.05% is an expense risk charge.

10. These annual charges will be assessed daily and will be based on the assets of the Separate Account. The level of the mortality and expense risk charge applicable to the Contract during the first calendar year will be based upon the initial account balance of the Contract. The initial account balance used to determine the appropriate mortality and expense risk charge level will include both fixed and variable money; however, the charge will only apply to the variable portion.

11. The level of mortality and expense risk charge applicable in subsequent calendar years will be based upon the account balance of the Contract as of December 31 of the previous calendar year.

12. The mortality risk to be borne by the Company under the Contracts arises from its obligations to make annuity payments, in the case where the life annuity is selected, regardless of how long an annuitant may live. The mortality risk under the Contracts, where a life annuity with a life contingency is selected, is the risk that annuitants will live longer than the Company's actuarial projections indicate resulting in higher than expected annuity payments.

13. The expense risk to be borne by the Company under the Contracts is the risk that the actual administrative expenses incurred in connection with the Contracts may exceed the anticipated administrative expenses.

Applicants' Legal Analysis

1. Section 6(c) of the Act authorizes the Commission to grant an exemption from any provision, rule or regulation of the Act to the extent that it 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

[1] The Applicants represent that they will amend the application during the notice period to include this representation.

the Act. Sections 26(a)(2)(C) and 27(c)(2) of the Act, in relevant part, prohibit a registered unit investment trust, its depositor or principal underwriter, from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, are deposited with a qualified bank and held under arrangements which prohibit any payment to the depositor or principal underwriter except a reasonable fee, as the Commission may prescribe, for performing bookkeeping and other administrative duties normally performed by the bank itself.

2. Applicants request exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the Act to the extent necessary to permit the deduction of a charge up to .75% from (i) the assets of the Separate Account with respect to the Contracts and Future Contracts and (ii) from the assets of Other Separate Accounts in connection with Future Contracts, to compensate the Company for the assumption of mortality and expense risks. In addition, Applicants also request that the exemptive relief requested extend to any other broker-dealer, whether currently existing or hereinafter created, which may serve in the future as principal underwriter of Contracts or Future Contracts. Applicants assert that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. With respect to the level of the mortality and expense risk charge, Applicants hereby represent that they have reviewed publicly available information regarding the aggregate level of mortality and expense risk charges under variable annuity contracts comparable to the Contracts currently being offered in the insurance industry, taking into consideration such factors as current charge levels, the manner in which charges are imposed, the presence of charge level or annuity rate guarantees and the markets in which the Contracts will be offered. Based upon the foregoing, Applicants further represent that the mortality and expense risk charge contemplated under the Contracts are within the range of industry practice for comparable contracts. Applicants will maintain at their principal office and will make available to the Commission upon request a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, the comparative survey.

4. Similarly, prior to issuing any Future Contracts, Applicants will represent that the mortality and expense charges under any Future Contracts will be within the range of industry practice for comparable contracts. Applicants will maintain at their principal office and will make available to the Commission upon request a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, the comparative survey.

5. Applicants acknowledge that, if a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be available for any lawful purpose including shortfalls in the costs of distributing the Contracts. The Company represents that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Separate Account and Owners. The Company represents that the basis for that conclusion is set forth in a memorandum which will be maintained at its home office and will be available to the Commission upon request.

6. Applicants further represent that the Separate Account, and any Other Separate Accounts, will only invest in underlying funds which have undertaken to have a board of directors/trustees, a majority of whom are not interested persons of any such fund, formulate and approve any plan under Rule 12b–1 under the Act to finance distribution expenses.

7. Applicants assert that extending relief to Future Contracts, Other Separate Accounts, and any other broker-dealer, whether currently existing or hereinafter created, which may serve in the future as principal underwriter of Contracts or Future Contracts is appropriate in the public interest because it would promote competitiveness in the variable annuity market by eliminating the need for the Company to file redundant exemptive applications, thereby reducing administrative expenses and maximizing the efficient use of its resources. The delay and expense involved in having to repeatedly seek exemptive relief would impair the Company's ability to effectively take advantage of business opportunities as they arise. If the Company were repeatedly required to seek exemptive relief with respect to the same issues addressed in the Application, investors would not receive any additional benefit or protection. Therefore, Applicants believe that the requested exemptions are 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.

Conclusion

For the reasons set forth above, Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9842 Filed 4–19–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21011; File No. 812–9272]

Montgomery Asset Management, L.P. et al.

April 14, 1995.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''1940 Act'' or ''Act'').

APPLICANTS: Montgomery Asset Management, L.P. (''Montgomery'') and The Montgomery Funds III (the ''Fund'').

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) for exemptions from Sections 9(a), 13(a), 15(a), and 15(b) and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order of exemption to the extent necessary to permit shares of the Fund and shares of certain other investment companies for which Montgomery or an affiliate of Montgomery serves as investment adviser, administrator, manager, principal underwriter or sponsor (collectively with the Fund, the ''Funds'') to be sold to and held by variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies and qualified pension and retirement plans.

FILING DATE: The application was filed on October 12, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the SEC by 5:30 p.m. on May 9, 1995, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a

certificate of service. Hearing requests should state the nature of writer's interest, the reason for the request, and the issues contested. Persons may request notification of the date of the hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 600 Montgomery Street, San Francisco, California 94111.

FOR FURTHER INFORMATION CONTACT: Joyce Merrick Pickholz, Senior Counsel, on (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the SEC.

Applicants' Representations

1. The Fund, a Delaware trust, is a registered open-end management investment company with two separately managed series. Additional series may be added in the future. The Fund's registration statement on Form N–1A (File No. 33–84450) was filed on September 27, 1994 and is incorporated by reference into the application.

2. Montgomery, a California limited partnership, is an investment adviser registered under the Investment Advisers Act of 1940. Montgomery serves as the investment advisor and manager of the Fund.

3. Shares of each series of the Fund(s) may be offered to insurance company separate accounts that fund variable annuity or variable life insurance contracts (''Contracts''), regardless of whether such insurance companies are affiliated with each other (''Participating Insurance Companies''). Each Participating Insurance Company will have the legal obligation of satisfying all applicable requirements under state and federal law. Applicants anticipate that, in connection with their scheduled premium and flexible premium variable life insurance contracts, Participating Insurance Companies will rely on Rule 6e–2 or Rule 6e–3(T) under the 1940 Act, although some may rely on individual exemptive orders as well. The role of the Funds, so far as the federal securities laws are applicable, will be limited to that of offering their shares to separate accounts of various insurance companies, and Qualified Plans, and fulfilling any conditions that the Commission may impose upon granting the order requested in the application.

4. Shares of the Funds may also be offered to qualified pension and retirement plans outside of the separate account context (''Qualified Plans'' or ''Plan''). Qualified Plans may choose any of the Funds as the sole investment under the Plan or as one of several investments. Plan participants may or may not be given an investment choice depending on the Plan itself. Shares of any of the Funds sold to Qualified Plans would be held by the trustee(s) of said Plans as mandated by Section 403(a) of the Employee Retirement Income Security Act (''ERISA''). Montgomery will not act as investment adviser to any of the Qualified Plans that will purchase shares of any of the Funds. There will be no pass-through voting to the participants in Qualified Plans.

Applicants' Legal Analysis

1. In connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust (''UIT''), Rule 6e–2(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the Act. The relief provided by Rule 6e–2(b)(15) is available to a separate account's investment advisor, principal underwriter and sponsor or depositor. The exemptions granted by Rule 6e–2(b)(15) are available only where the management investment company underlying the UIT offers its shares ''exclusively to variable life insurance separate accounts of the life insurer, or of any affiliated life insurance company.'' The use of a common management investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts of a single insurance company (or of two or more affiliated insurance companies) is commonly referred to as ''mixed funding.'' The use of a common management investment company as the underlying investment medium for variable annuity and variable life insurance separate accounts of unaffiliated insurance companies is commonly referred to as ''shared funding.'' ''Mixed and shared funding'' denotes the use of a common management investment company to fund the variable annuity and variable life insurance separate accounts of affiliated and unaffiliated insurance companies. Rule 6e–2(b)(15) precludes mixed as well as shared funding.

2. In connection with flexible premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a UIT, Rule 6e–3(T)(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the Act. The exemptions granted to a separate account by Rule 6e–3(T)(b)(15) are available only where all of the assets of the separate account consist of the shares of one or more registered management investment companies which offer their shares ''exclusively to separate accounts of the life insurer, or of any affiliated life insurance company, offering either scheduled of flexible contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company.'' Thus, Rule 6e–3(T)(b)(15) permits mixed funding but precludes shared funding.

3. According to the Applicants, the relief granted by Rule 6e–2(b)(15) and Rule 6e–3(T)(b)(15) is in no way affected by the purchase of shares of the Funds by Qualified Plans. However, because the relief under these Rules is available only where shares are offered exclusively to separate accounts of insurance companies, additional exemptive relief is necessary if shares of the Funds are also to be sold to Qualified Plans. Section 9(a) of the 1940 Act provides that it is unlawful for any company to serve as investment adviser or principal underwriter of any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in Section 9(a)(1) or (2). However, Rules 6e–2(b)(15)(i) and (ii) and 6e–3(T)(b)(15)(i) and (ii) provide partial exemptions from Section 9(a) under certain circumstances, subject to the limitations on mixed and shared funding. These exemptions limit the disqualification to affiliated individuals or companies that directly participate in the management or administration of the underlying investment company.

4. Applicants argue that the exemptions contained in Rules 6e–2(b)(15) and 6e–3(T)(b)(15) recognize that is it unnecessary to apply Section 9(a) to the thousands of individuals who may be involved in a large insurance company but would have no connection with the investment company funding the separate accounts. Applicants believe that it is unnecessary to limit the applicability of the rules merely because shares of the Funds may be sold in connection with mixed and shared funding. Applicants submit that the Participating Insurance Companies are not expected to play any role in the management or administration of the Funds and, therefore, applying the restrictions of Section 9(a) serves no regulatory purpose. Applicants state that applying such restrictions would increase the monitoring costs incurred by the Participating Insurance

Companies and, therefore, would reduce the net rates of return realized by Contract owners. Applicants also state that the requested relief will in no way be affected by the proposed sale of shares of the Funds to Qualified Plans. The insulation of the Fund from those individuals who are disqualified under the Act remains in place. Since the Qualified Plans are not investment companies and will not be deemed to be affiliated solely by virtue of their shareholdings, no additional relief is necessary.

5. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) assume that Contract owners are entitled to pass-through voting privileges with respect to investment company shares held by a related separate account. Both Rules 6e–2(b)(15)(iii)(A) and 6e–3(T)(b)(15)(iii)(A) provide that an insurance company may disregard the voting instructions of its Contract owners with respect to the investments of an underlying investment company or any contract between an investment company and its investment adviser, when an insurance regulatory authority requires. Rules 6e–2(b)(15)(iii)(B) and 6e–3(T)(b)(15)(iii)(B) provide that the insurance company may disregard contract owners' voting instructions with regard to changes initiated by the contract holders in the investment company's investment policies, principal underwriter or investment adviser. Under the rules, voting instructions with respect to a change in investment policies may be disregarded only if the insurance company makes a good faith determination that such change would: (1) violate state law; (2) result in investments that were not consistent with the investment objectives of the separate account; or (3) result in investments that would vary from the general quality and nature of investments and investment techniques used by other separate accounts of the company or of an affiliated life insurance company with similar investment objectives. Voting instructions with respect to a change in an investment adviser may be disregarded only if the insurance company makes a good faith determination that: (1) the adviser's fee would exceed the maximum rate that may be charged against the separate account's assets; (2) the proposed adviser may be expected to employ investment techniques that vary from the general techniques used by the current adviser; or (3) the proposed adviser may be expected to manage the investment company's investments in a manner that would be inconsistent with its investment objectives or in a manner that would result in investments that vary from certain standards.

6. Rule 6e–2 recognizes that variable life insurance contracts have important elements unique to insurance contracts and are subject to extensive state regulation of insurance. Thus, Applicants assert that in adopting Rule 6e–2, the Commission expressly recognized that exemptions from pass-through voting requirements were necessary to assure the solvency of the life insurer and the performance of its contractual obligations by enabling an insurance regulatory authority or the life insurer to act when certain proposals reasonably could be expected to increase the risks undertaken by the life insurer. Applicants argue that flexible premium variable life insurance contracts and variable annuity contracts are subject to substantially the same state insurance regulatory authority, and therefore, the corresponding provisions of Rule 6e–3(T) presumably were adopted in recognition of the same considerations as the Commission applied in adopting Rule 6e–2.

According to the Applicants, these considerations are no less important or necessary when an insurance company funds its separate accounts in connection with shared and mixed funding. Such funding does not compromise the goals of the insurance regulatory authorities or of the Commission. While the Commission may have wished to reserve wide latitude with respect to the once unfamiliar variable annuity product, that product is now familiar and there appears to be no reason for the maintenance of prohibitions against mixed and shared funding arrangements. Indeed, permitting such arrangements, eliminates needless duplication of start-up and administrative expenses and potentially increases an investment company's assets, thereby making effective portfolio management strategies easier to implement and promoting other economies of scale.

7. Applicants submit that the Funds' sale of shares to Qualified Plans will not have any impact on the relief requested. Shares of the Funds sold to such Plans would be held by the trustees of said Plans as mandated by Section 403(a) of ERISA. Section 403(a) also provides that the trustee(s) must have exclusive authority and discretion to manage and control the plan with two exceptions: (1) when the plan expressly provides that the trustee(s) are subject to the direction of a named fiduciary who is not a trustee, in which case the trustees are subject to proper directions made in accordance with the terms of the plan and not contrary to ERISA, and (2) when the authority to manage, acquire or dispose of assets of the plan is delegated to one or more investment managers pursuant to Section 402(c)(3) of ERISA. Unless one of the two exceptions stated in Section 403(a) applies, plan trustees have the exclusive authority and responsibility for voting proxies. Where a named fiduciary appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or the named fiduciary. In any event, there is no pass-through voting to the participants in such plans. Accordingly, unlike the case with insurance company separate accounts, the issue of the resolution of material irreconcilable conflicts with respect to voting is not present with Qualified Plans.

8. Applicants assert that no increased conflicts of interest would be present if the Commission grants the requested exemptive relief. Shared funding does not present any issues that do not already exist where a single insurance company is licensed to do business in several states. For example, when different Participating Insurance Companies are domiciled in different states, it is possible that the state insurance regulatory body in a state in which one Participating Insurance Company is domiciled could require action that is inconsistent with the requirements of insurance regulators in one or more other states in which other Participating Insurance Companies are domiciled. That possibility, however, is no different and no greater than exists when a single insurer and its affiliates offer their insurance products in several states, as currently is permitted.

9. Applicants argue that affiliations do not reduce the potential, if any exists, for differences in state regulatory requirements. In any event, the conditions discussed below (which are adapted from the conditions included in Rule 6e–3(T)(b)(15)) are designed to safeguard against any adverse effects that differences among state regulatory requirements may produce. If a particular state insurance regulator's decision conflicts with the majority of other state regulators, the affected insurer may be required to withdraw its separate account's investment in the relevant Funds. Similarly, affiliation does not eliminate the potential, if any exists, for divergent judgments as to when a Participating Insurance Company could disregard Contract owner voting instructions. The potential for disagreement is limited by the requirement that disregarding voting

instructions be reasonable and based on specified good faith determinations. However, if a Participating Insurance Company's decision to disregard Contract owner voting instructions represents a minority position or would preclude a majority vote approving a particular change, such Participating Insurance Company may be required, at the election of the relevant Fund, to withdraw its separate account's investment in that fund and no charge or penalty will be imposed as a result of such withdrawal.

10. Applicants assert that there is no reason why the investment policies of a Fund with mixed funding would or should be materially different from what they would or should be if such investment company or series thereof funded only variable annuity or only variable life insurance contracts. Hence, there is no reason to believe that conflicts of interest would result from mixed funding. Moreover, the Funds will not be managed to favor or disfavor any particular insurer or type of Contract.

11. According to the Applicants, on March 2, 1989, the Treasury Department issued Regulations (Treas. Reg. 1.817–5), which established diversification requirements for the investment portfolios underlying variable annuity and variable life contracts (''Regulations''). The Regulations provide that, in order to meet the diversification requirements, all of the beneficial interests in the investment company must be held by the segregated asset accounts of one or more insurance companies. However, the Regulations also contain certain exceptions to this requirement, one of which allows shares in an investment company to be held by the trustee of a qualified pension or retirement plan without adversely affecting the ability of shares in the same investment company to also be held by the separate accounts of insurance companies in connection with their variable annuity and variable life contracts (Treas. Reg. 1.817–5(f)(3)(iii)). The Applicants state that the promulgation of Rules 6e–2(b)(15) and 6e–3(T)(b)(15) preceded the issuance of the Treasury Regulations. Thus, the sale of shares of the same investment company to separate accounts and Qualified Plans could not have been envisioned at the time of the adoption of Rules 6e–2(b)(15) and 6e–3(T)(b)(15), given the then-current tax law.

12. According to the Applicants, Section 817(h) of the Internal Revenue Code of 1986 (''Code'') is the only section in the Code where separate accounts are discussed. Section 817(h) imposes certain diversification standards on the underlying assets of variable annuity contracts and variable life contracts held in the portfolios of management investment companies. Treasury Regulation 1.817–5(f)(3)(iii), which established diversification requirements for such portfolios, specifically permits, among other things, ''qualified pension or retirement plans'' and separate accounts to share the same underlying management investment company. Therefore, neither the Code, the Treasury Regulations nor Revenue Rulings thereunder present any inherent conflicts of interest if Qualified Plans, variable annuity separate accounts and variable life separate accounts all invest in the same management investment company.

13. Applicants submit that while there are differences in the manner in which distributions are taxed for variable annuity contracts, variable life insurance contracts and Qualified Plans, the tax consequences do not raise any conflicts of interest. When distributions are to be made, and the separate account or the Qualified Plan cannot net purchase payments to make the distributions, the separate account or the Plan will redeem shares of the Fund at their net asset value. The Qualified Plan will then make distributions in accordance with the terms of the Plan. The life insurance company will surrender values from the separate account into the general account to make distributions in accordance with the terms of the variable contract.

14. Applicants state that the ability of the Funds to sell their respective shares directly to Qualified Plans does not create a ''senior security,'' as such term is defined under Section 18(g) of the 1940 Act, with respect to any Contract owner as opposed to a participant under a Qualified Plan. Regardless of the rights and benefits of participants under the Qualified Plans, or Contract owners under Contracts, the Qualified Plans and the separate accounts have rights only with respect to their respective shares of the Fund. They can only redeem such shares at their net asset value. No shareholder of any of the Funds has any preference over any other shareholder with respect to distribution of assets or payment of dividends.

15. Applicants submit that there are no conflicts between the Contract owners of the separate accounts and the participants under the Qualified Plans with respect to the state insurance commissioners' veto powers (direct with respect to variable life and indirect with respect to variable annuities) over investment objectives. The basic premise of shareholder voting is that not all shareholders may agree that there are any inherent conflicts of interest between shareholders. The state insurance commissioners have been given the veto power in recognition of the fact that insurance companies cannot simply redeem their separate accounts out of one fund and invest in another. Time-consuming, complex transactions must be undertaken to accomplish such redemptions and transfers. On the other hand, trustees of Qualified Plans can make the decision quickly and implement the redemption of their shares from a Fund and reinvest in another funding vehicle without the same regulatory impediments or, as is the case with most Plans, even hold cash pending suitable investment. Based on the foregoing, Applicants assert that even if there should arise issues where the interests of Contract owners and the interest of Qualified Plans are in conflict, the issues can be almost immediately resolved because the trustees of the Qualified Plans can, on their own, redeem the shares out of the Fund.

16. According to the Applicants, various factors have kept more insurance companies from offering variable annuity and variable life insurance contracts than currently do so. These factors include the costs of organizing and operating a funding medium, the lack of expertise with respect to investment management (principally with respect to stock and money market investments) and the lack of public name recognition as investment experts. In particular, some smaller life insurance companies may not find it economically feasible, or within their investment or administrative expertise, to enter the Contract business on their own. The Applicants submit that use of the Funds as common investment media for Contracts would ameliorate these concerns.

17. Applicants assert the Participating Insurance Companies would benefit not only from the investment advisory and administrative expertise of Montgomery, but also from the cost efficiencies and investment flexibility afforded by a large pool of funds. Therefore, making the Funds available for mixed and shared funding will encourage more insurance companies to offer Contracts. This should result in increased competition with respect to both Contract design and pricing, which can be expected to result in more product variation and lower charges. Applicants also assert that Contract owners would benefit because mixed and shared funding eliminates a significant portion of the costs of establishing and administering separate funds. Moreover, sale of the shares of

Funds to Qualified Plans should result in an increased amount of assets available for investment by such Funds. This, in turn, should inure to the benefit of Contract owners by promoting economies of scale, by permitting greater safety through greater diversification, and by making the addition of new portfolios to the Fund more feasible.

Applicants' Conditions

Applicants have consented to the following conditions if the requested order is granted.

1. A majority of the Trustees or Board of Directors (each, a ''Board'') of each Fund will consist of persons who are not ''interested persons'' thereof, as defined by Section 2(a)(19) of the Act and the Rules thereunder and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification, or bona fide resignation of any trustee or director, then the operation of this condition shall be suspended (a) for a period of 45 days if the vacancy or vacancies may be filled by the Board; (b) for a period of 60 days if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

2. Each Board will monitor its respective Fund for the existence of any material irreconcilable conflict between the interests of the Contract owners of all separate accounts investing in the Fund. An irreconcilable material conflict may arise for a variety of reasons, including: (a) an action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no action or interpretive letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of the Fund are being managed; (e) a difference in voting instructions given by variable annuity Contract owners and variable life insurance Contract owners; or (f) a decision by a Participating Insurance Company to disregard the voting instructions of Contract owners.

3. Participating Insurance Companies and Montgomery and its affiliated advisers will report any potential or existing conflicts to the Board of any relevant Fund. Participating Insurance Companies will be responsible for assisting the appropriate Board in carrying out its responsibilities under these conditions by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This includes, but is not limited to, an obligation by a Participating Insurance Company to inform the Board whenever it has determined to disregard Contract owner voting instructions. The responsibility to report such information and conflicts and to assist the Boards will be contractual obligations of all Participating Insurance Companies under their agreements governing participation in the Funds, and these responsibilities will be carried out with a view only to the interests of Contract owners.

4. If it is determined by a majority of the Board of a Fund, or by a majority of its disinterested trustees or directors, that a material irreconcilable conflict exists, the relevant Participating Insurance Companies will, at their expense and to the extent reasonably practicable (as determined by a majority of the disinterested trustees or directors), take whatever steps are necessary to remedy or eliminate the irreconcilable material conflict, which steps could include: (a) withdrawing the assets allocable to some or all of the accounts from the Fund or any series and reinvesting such assets in a different investment medium, which may include another series of a Fund or another Fund, or submitting the question of whether such segregation should be implemented to a vote of all affected Contract owners and, as appropriate, segregating the assets of any appropriate group (i.e., variable annuity Contract owners or variable life insurance Contract owners of one or more Participating Insurance Companies) that votes in favor of such segregation, or offering to the affected Contract owners the option of making such a change; and (b) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a Participating Insurance Company's decision is to disregard Contract owner voting instructions and that decision represents a minority position or would preclude a majority vote, the Participating Insurance Company may be required, at the election of the Fund, to withdraw its account's investment in such Fund, and no charge or penalty will be imposed as a result of such withdrawal. The responsibility of taking remedial action in the event of a Board determination of an irreconcilable material conflict and bearing the cost of such remedial action will be a contractual obligation of all Participating Insurance Companies under their agreements governing participating in the Funds and these responsibilities will be carried out with a view only to the interests of Contract owners.

For purposes of this condition 4, a majority of the disinterested members of the applicable Board will determine whether or not any proposed action adequately remedies any irreconcilable material conflict, but in no event will the Fund be required to establish a new funding medium for any Contract. No Participating Insurance Company shall be required by this condition 4 to establish a new funding medium for any Contract if an offer to do so has been declined by vote of a majority of Contract owners materially and adversely affected by the irreconcilable material conflict.

5. Any Board's determination of the existence of an irreconcilable material conflict and its implications will be made known promptly and in writing to all Participating Insurance Companies.

6. Participating Insurance Companies will provide pass-through voting privileges to all Contract owners so long as the Commission interprets the 1940 Act to require pass-through voting privileges for variable contract owners. Accordingly, the Participating Insurance Companies will vote shares of the Funds held in their accounts in a manner consistent with voting instructions timely received from Contract owners. Participating Insurance Companies will be responsible for assuring that each of their accounts participating in a Fund calculates voting privileges in a manner consistent with other Participating Insurance Companies. The obligation to calculate voting privileges in a manner consistent with all other accounts investing in the Fund will be a contractual obligation of all Participating Insurance Companies under the agreements governing participation in the Fund. Each Participating Insurance Company will vote shares for which it has not received voting instructions as well as shares attributable to it in the same proportion as it votes shares for which it has received instructions.

7. All reports of potential or existing conflicts received by a Board, and all Board action with regard to determining the existence of a conflict, notifying Participating Insurance Companies of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the appropriate Board or other appropriate records, and such minutes or other records shall be made

available to the Commission upon request.

8. Each Fund will notify all Participating Insurance Companies that separate account prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. Each Fund will disclose in its prospectus that: (a) Shares of the Fund are offered to insurance company separate accounts to fund both variable annuity and variable life insurance contracts and to Qualified Plans, (b) due to differences of tax treatment and other considerations, the interests of various Contract owners participating in the Funds and the interests of Qualified Plans investing in the funds may conflict, and (c) the Board of such fund will monitor for the existence of any material conflicts and determine what action, if any, should be taken.

9. Each Fund will comply with all provisions of the 1940 Act requiring voting by shareholders (which for these purposes, shall be the persons having voting interests in the shares of the Funds), and, in particular, each Fund will either provide for annual meetings (except to the extent that the Commission may interpret Section 16 of the 1940 Act not to require such meetings) or comply with Section 16(c) of the 1940 Act, as well as Section 16(a), and if applicable, Section 16(b) of the 1940 Act. Further each Fund will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of directors and with whatever rules the Commission may promulgate with respect thereto.

10. If and to the extent that Rules 6e–2 and 6e–3(T) are amended (or if Rule 6e–3 under the 1940 Act is adopted) to provide exemptive relief from any provisions of the 1940 Act or the rules thereunder with respect to mixed and shared funding on terms and conditions materially different from any exemptions granted in the order requested by the Applicants, then the Funds and the Participating Insurance Companies, as appropriate, shall take such steps as may be necessary to comply with Rules 6e–2 and 6e–3(T) as amended, and Rule 6e–3, as adopted, to the extent applicable.

11. No less than annually, the Participating Insurance Companies, and/or Montgomery and/or its affiliated advisors shall submit to each Board such reports, materials or data as such Board may reasonably request so that the Board may carry out fully the obligations imposed upon it by the conditions contained in the application. Such reports, materials and data shall be submitted more frequently if deemed appropriate by the applicable Board. The obligations of Participating Insurance Companies to provide these reports, materials and data shall be a contractual obligation of all Participating Insurance Companies under the agreements governing their participation in the Funds.

12. In the event that a Qualified Plan should ever become an owner of 10% or more of the assets of a Fund, such Qualified Plan will execute a fund participation agreement with such Fund. A Qualified Plan shareholder will execute an application containing an acknowledgment of this condition at the time of its initial purchase of shares of the Fund.

Conclusion

For the reasons and upon the facts stated above, Applicants believe that the requested exemptions are 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.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9841 Filed 4–19–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–21008; 812–9404]

Nike Securities L.P., et al.; Notice of Application

April 14, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Nike Securities L.P. (the ''Sponsor'') and The First Trust of Insured Municipal Bonds, The First Trust GNMA, The First Trust of Insured Municipal Bonds—Multi-State, The First Trust Advantage Fund, The First Trust Special Situations Trust, The First Trust Combined Series (the ''Trusts''), and their respective series.

RELEVANT ACT SECTIONS: Order requested pursuant to section 6(c) for exemptions from sections 2(a)(32), 2(a)(35), 22(d), and 26(a)(2) of the Act and rule 22c–1 thereunder, and pursuant to section 11(a) for an exemption from section 11(c).

SUMMARY OF APPLICATION: Applicants seek to impose sales charges on a deferred basis, waive the deferred sales charge in certain cases, and exchange Trust units having front-end and deferred sales charges.

FILING DATE: The application was filed on December 30, 1994, and was amended on March 29, 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 May 9, 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 request, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, c/o Nike Securities L.P., 1001 Warrenville Road, suite 3000, Lisle, Illinois 60532.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Each of the Trusts is a unit investment trust sponsored by the Sponsor. Each of the Trusts consists of one or more separate series (''Series''). Applicants request that the relief sought herein apply to any future Trusts sponsored by the Sponsor, and any future Series of the Trusts.

2. Each Series is created by a trust indenture among the Sponsor, a banking institution or trust company as trustee, and an evaluator. The Sponsor acquires a portfolio of securities which it deposits with the trustee in exchange for certificates representing units of fractional undivided interest in the deposited portfolio (''Units''). The Units are then offered to the public through the Sponsor, underwriters, and dealers at a public offering price which, during the initial offering period, is based upon the aggregate offering side evaluation of the underlying securities plus a front-end sales charge. The sales charge currently ranges from 1.85% to 5.50% of the public offering price, generally depending on the terms of the underlying securities. The Sponsor may reduce the sales charge under certain circumstances, which will be disclosed in the prospectus. Any such reduction

will be made in accordance with rule 22d–1.

3. Applicants seeks an order under section 6(c) exempting them from sections 2(a)(32), 2(a)(35), 22(d), 26(a)(2) of the Act and rule 22c–1 thereunder, to the extent necessary to permit them to impose a deferred sales charge (''DSC'') on Units, and reduce or waive the DSC under certain circumstances. Under applicants' proposal, the Sponsor will determine the maximum amount of the sales charge per Unit. The Sponsor will have the discretion to defer the collection of all or part of such sales charge over a period (the ''Collection Period'') subsequent to the settlement date for the purchase of Units. The Sponsor will in no event add to the deferred amount of the sales charge any additional amount for interest or any similar or related charge to reflect or adjust for such deferral.

4. The Sponsor anticipates collecting a portion of the total sales charge immediately upon purchase of Trust Units. The balance of the sales charge will be collected in installments over the Collection Period for the particular Trust Series. To the extent that distribution income is sufficient to pay a DSC installment, such deductions will be collected from distributions on a holder's Units (''Distribution Deductions''). If distribution income is insufficient to pay a DSC installment, the trustee, pursuant to the powers granted in the trust indenture, will have the ability to sell portfolio securities in an amount necessary to provide the requisite payments. If a Unitholder redeems or sells to the Sponsor his or her Units before the total sales charge has been collected from installment payments, the balance of the sales charge may be collected as a DSC at the time of redemption or sale. The Sponsor does not presently intend to deduct the remainder of any DSC from sale or redemption proceeds.

5. For purposes of calculating the amount of the DSC due upon redemption or sale of Units, it will be assumed that Units on which the sales charge has been paid in full are liquidated first. Any Units liquidated over and above such amounts will be subject to the DSC, which will be applied on the assumption that Units held for the longest time are redeemed first.

6. The Sponsor may adopt a procedure of waiving the DSC in connection with redemptions or sales of Units under certain circumstances. Any such waiver will be disclosed in the prospectus for each Series subject to the waiver, and will be implemented in accordance with rule 22d–1.

7. The Sponsor believes that the operation and implementation of the DSC program will be adequately disclosed and explained to potential investors as well as Unitholders. The prospectus for each Trust will describe the operation of the DSC, including the amount and date of each Distribution Deduction and the duration of the Collection Period. The prospectus will also contain disclosure pertaining to the Trustee's ability to sell Trust securities in the event that income generated by the Trust portfolio is partially or wholly insufficient to pay for DSC expenses. The securities confirmation statement for each Unitholder's purchase transaction will state both the front-end sales charge imposed, if any, and the amount of the DSC to be deducted in regular installments. In addition, each annual report will provide Unitholders with information as to the amount of annual DSC payments made by the Trust during the previous fiscal year on both a Series and per Unit basis.

8. Applicants also seeks an order under section 11(a) exempting them from section 11(c) to the extent necessary to permit an exchange option (''Exchange Option''). The Exchange Option will extend to all exchanges of Units, regardless of whether such Units are subject to a front-end sales charge or a DSC. An investor who purchases Units under the Exchange Option will pay a lower aggregate sales charge than that which would be paid by a new investor. While Units of an applicable Series are normally sold on the secondary market with maximum sales charges ranging from 1.85% to 5.80% of the public offering price, the sales charge on Units acquired pursuant to the Exchange Option will generally be reduced to a flat fee of $20 per Unit ($20 per 100 Units in the case of a Series whose Units initially cost approximately $10 per Unit, or $20 per 1,000 Units in the case of a Series whose Units initially cost approximately $1.00 per Unit). An adjustment will be made if Units of any Series are exchanged within five months of their acquisition for Units of a Series with a higher sales charge, or if Units that impose Distribution Deductions are exchanged for Units of a Series that imposes a front-end sales charge at any time before the Distribution Deductions have at least equaled the per Unit sales charge then applicable. In such cases, the exchange fee will be the greater of $20 per Unit (or its equivalent, depending on the cost of Units in a particular Series) or an amount which, together with the sales charge already paid on the Units being exchanged, equals the normal sales charge on the acquired Units.

9. Under the Exchange Option, if DSC Units are exchanged for DSC Units of another Series, the reduced sales charge will be collected in connection with such an exchange. The Distribution Deductions will continue to be taken from the investment income generated by the newly acquired Units, or proceeds from the sale of Trust portfolio securities, as the case may be, until the original balance of the sales charge owed on the initial investment has been collected. The DSC will not be collected at the time of exchange, except in the case of any exchange to a Series not having a DSC.

Applicants' Legal Analysis

1. Under section 6(c), the SEC may exempt any person or transaction from any provision of the Act or any rule thereunder to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. Section 2(a)(32) defines a ''redeemable security'' as a security that, upon its presentation to the issuer, entitles the holder to receive approximately his or her proportionate share of the issuer's current net assets, or the cash equivalent of those assets. Because the imposition of a DSC may cause a redeeming Unitholder to receive an amount less than the net asset value of the redeemed Units, applicants seek an exemption from section 2(a)(32) so that Units subject to a DSC are considered redeemable securities for purposes of the Act.[1]

3. Section 2(a)(35) defines the term ''sales load'' to be the difference between the sales price and the proceeds to the issuer, less any expenses not properly chargeable to sales or promotional expenses. Because a DSC is not charged at the time of purchase, an exemption from section 2(a)(35) is necessary.

4. Rule 22c–1, promulgated pursuant to the Commission's authority under section 22(c), requires that the price of a redeemable security issued by an investment company for purposes of sale, redemption, and repurchase be based on the security's current net asset value. Because the imposition of a DSC may cause a redeeming Unitholder to receive an amount less than the net

[1] Without an exemption, a Trust selling Units subject to a deferred sales charge could not meet the definition of a unit investment trust under section 4(2) of the Act. Section 4(2) defines a unit investment trust as an investment company that issues only ''redeemable securities.''

asset value of the redeemed Units, applicants seek an exemption from this rule.

5. Section 22(d) requires an investment company and its principal underwriter and dealer to sell securities only at a current public offering price described in the investment company's prospectus. Because sales charges traditionally have been a component of the public offering price, section 22(d) historically required that all investors be charged the same load. Rule 22d–1 was adopted to permit the sale of redeemable securities at prices which reflect scheduled variations in, or elimination of, the sales load. Because rule 22d–1 does not extend to scheduled variations in DSCs, applicants seek relief from section 22(d) to permit them to waive or reduce their DSC in certain instances.

6. Section 26(a)(2), in relevant part, prohibits a trustee or custodian of a unit investment trust from collecting from the Trust as an expense any payment to a depositor or principal underwriter thereof. Because of this prohibition, applicants need an exemption to permit the trustee to collect the DSC installments from Distribution Deductions or Trust assets.

7. Applicants believe that implementation of the DSC program in the manner described above would be fair and in the best interests of the Unitholders of the Trusts. Thus, granting the requested order would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

8. Section 11(c) prohibits any offers of exchange of the securities of a registered unit investment trust for the securities of any other investment company, unless the terms of the offer have been approved by the SEC. Applicants' assert that the reduced sales charge imposed at the time of exchange is a reasonable and justifiable expense to be allocated for the professional assistance and operational expenses incurred in connection with the Exchange Option.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Whenever the Exchange Option is to be terminated or its terms are to be amended materially, any holder of a security subject to that privilege will be given important notice of the impending termination or amendment at least 60 days prior to the date of termination or the effective date of the amendment, provided that: (a) No such notice need be given if the only material effect of an amendment is to reduce or eliminate the sales charge payable at the time of an exchange, to add one or more new Series eligible for the Exchange Option, or to delete a Series which has terminated; and (b) no notice need be given if, under extraordinary circumstances, either (i) there is a suspension of the redemption of Units of the Trust under section 22(e) of the Act and the rules and regulations promulgated thereunder, or (ii) a Trust temporarily delays or ceases the sale of its Units because it is unable to invest amounts effectively in accordance with applicable investment objectives, policies, and restrictions.

2. An investor who purchases Units under the Exchange Option will pay a lower aggregate sales charge than that which would be paid for the Units by a new investor.

3. The prospectus of each Trust offering exchanges and any sales literature or advertising that mentions the existence of the Exchange Option will disclose that the Exchange Option is subject to modification, termination, or suspension, without notice except in certain limited cases.

4. Each Series offering Units subject to a DSC will include in its prospectus the table required by item 2 of Form N–1A (modified as appropriate to reflect the differences between unit investment trusts and open-end management investment companies) and a schedule setting forth the number and date of each installment payment.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9724 Filed 4–19–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 95–031]

Application for Recertification of Cook Inlet Regional Citizens' Advisory Council

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability; request for comments.

SUMMARY: The Coast Guard announces the availability of the application for recertification submitted by the Cook Inlet Regional Citizens' Advisory Council (CIRCAC) for June 1, 1995 through May 31, 1996. The application may be reviewed at the Cook Inlet Regional Citizens' Advisory Council's Office, 910 Highland Avenue, Kenai, Alaska 99611–8033, between the hours of 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (907) 283–7222. The Coast Guard seeks comments on the application from interested groups. The Coast Guard will publish a later notice in the **Federal Register** to notify the public of its decision regarding the recertification request.

DATES: Comments must be received on or before June 5, 1995.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 95–031), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477. Comments will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between the hours of 8 a.m. to 3 p.m., Monday through Friday, except Federal holidays. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

FOR FURTHER INFORMATION CONTACT: Mrs. Janice Jackson, Marine Environmental Protection Division, (202) 267–0500.

SUPPLEMENTARY INFORMATION: Under the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990 (33 U.S.C. 2732) (the Act), the Coast Guard may certify, on an annual basis, an alternative voluntary advisory group (advisory group) in lieu of Regional Citizens' Advisory Councils for Cook Inlet and Prince William Sound Alaska. The Coast Guard published guidelines on December 31, 1992, to assist groups seeking recertification under the Act (57 FR 62600). The Coast Guard issued a policy statement on July 7, 1993 (58 FR 36505), to clarify the factors that the Coast Guard would be considering in making its determination as to whether advisory groups should be certified in accordance with the Act; and the procedures which the Coast Guard would follow in meeting its certification responsibilities under the Act.

The Coast Guard has received an application for recertification of CIRCAC, the currently certified advisory group for the Cook Inlet region. In

accordance with the review and certification process contained in the policy statement, the Coast Guard announces the availability of that application. It solicits comments from interested groups including oil terminal facility owners and operators, owners and operators of crude oil tankers calling at the terminal facilities, and fishing, aquacultural, recreational and environmental citizens groups, concerning the recertification application of CIRCAC. At the conclusion of the comment period, the Coast Guard will review all application materials and comments received and will take one of the following actions:

(a) Recertify the advisory group under 33 U.S.C. 2732(o).

(b) Issue a conditional recertification for a period of 90 days, with a statement of any discrepancies which must be corrected to qualify for recertification for the remainder of the year.

(c) Deny recertification of the advisory group if the Coast Guard finds that the group is not broadly representative of the interests and communities in the area or is not adequately fostering the goals and purposes of the Act.

The Coast Guard will notify CIRCAC by letter of the action taken on its application. A notice will be published in the **Federal Register** to advise the public of the Coast Guard's determination.

Dated: April 13, 1995.

G.N. Naccara,

Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 95–9711 Filed 4–19–95; 8:45 am]

BILLING CODE 4910–14–P

[CGD 95–032]

National Preparedness for Response Exercise Program (PREP)

AGENCY: Coast Guard, DOT.

ACTION: Notice of PREP area exercise schedule for 1996, 1997 and 1998, annual workshop, and availability of the PREP guidelines and training elements.

SUMMARY: The Coast Guard, the Environmental Protection Agency (EPA), the Research and Special Programs Administration (RSPA) and the Minerals Management Service (MMS), in concert with the States, the oil industry and concerned citizens, developed the Preparedness for Response Exercise Program (PREP). This notice announces the proposed schedule of the Area Exercises for 1996, 1997 and 1998 and solicits industry members to lead Area Exercises for 1996. It also announces the annual public workshop to discuss the PREP guidelines and the overall PREP program which will be held on June 14, 1995, in Alexandria, VA, and the availability of the PREP Guidelines and Training Elements.

DATES: Industry members interested in leading an Industry-led Area Exercise or participating in a Government-led Area Exercise should submit their requests directly to the Coast Guard or EPA On-Scene Coordinator (OSC) as soon as possible, but no later than May 15, 1995. Industry representatives should indicate the date and location of the exercise in which they are interested in participating or leading. Once the OSC has chosen an industry plan holder for an Industry-led Area Exercise or as participant for the Government-led Exercise, the OSC will contact the National Scheduling Coordinating Committee (NSCC) at the address listed below.

The annual PREP Scheduling Workshop is scheduled for June 14, 1995, from 9:00 am to 5:00 pm at the Best Western Old Colony Inn, in Alexandria, VA. Comments regarding the schedule or scheduling process should be submitted to the NSCC no later than May 15, 1995 at **ADDRESSES** below.

ADDRESSES: Written comments should be mailed to Commandant (G–MEP–4), Room 2100, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC, 20593–0001. ATTN: Ms. Karen Sahatjian.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Sahatjian, Office of Marine Safety, Security and Environmental Protection, Marine Environmental Protection Division, (G–MEP–4), (202) 267–0746. PREP Guidelines and Training Elements, previously available through Coast Guard Headquarters, are now available from the Government Printing Office, (202) 512–1800. Stock numbers and cost for each manual are: PREP GUIDELINES—050–012–00365–3 COST: $3.75; TRAINING REFERENCE—050–012–00364–5 COST: $8.50. PREP information is now available via the Coast Guard Navigation Information Service (NIS) Electronic Bulletin Board System (BBS). Most major modem communications software, including those packaged with operating systems can access the BBS. If using the communications software, call (703) 313–5910. First time users will need to answer some preliminary questions to establish an account. There is no charge for the use of the BBS. Once an account has been established, the user will be allowed to log on. Once logged on, the user should select option (1) to access the PREP specific menu.

SUPPLEMENTARY INFORMATION:

Background Information

The Coast Guard, EPA, RSPA and MMS developed the National Preparedness for Response Exercise Program (PREP) to provide guidelines for compliance with the Oil Pollution Act of 1990 pollution response exercise requirements (33 U.S.C. 1321(j)). One section of the PREP focuses on Area Exercises, which are designed to evaluate the entire response mechanism in a given area to ensure adequate pollution response preparedness. The goal of the PREP is to conduct approximately 20 Area Exercises per year, with the intent of exercising most areas of the country over a three year period. This notice sets forth the proposed exercise schedule for calendar years 1996, 1997 and 1998.

Scheduling Workshop

The annual PREP scheduling workshop will be conducted by the NSCC, which is comprised of representatives of the Coast Guard, EPA, RSPA and MMS. The workshop will focus primarily on the upcoming year's Area Exercise schedule, but will also address issues related to the following two years of the triennial schedule. Industry representation is strongly encouraged at these workshops, because this is an opportunity for industry plan holders to comment on the schedule and on the PREP program in general and address issues which may affect them and their operations. Additionally, it provides an opportunity for past industry participants to discuss their Area Exercises during the last year and an open discussion of changes that need to be made to the PREP guidelines.

This workshop is also an opportunity for the plan holders to comment on priorities for each exercise, particularly in instances where more than one plan holder expresses an interest in leading or participating in the same exercise. At the workshop, the NSCC would like to explore the idea of encouraging and incorporating ''industry mentorship,'' where a large company and a smaller company would participate in a PREP exercise as partners. Although such partnerships need not be limited to the Area Exercises, the NSCC is particularly interested in involving more than one company in an Area Exercise. In considering the idea of joint participation in Area Exercises, the following questions and issues will be considered: What are the benefits and drawbacks to participation by more than

one company? What suggestions and concerns do industry members have regarding the ''industry mentorship'' idea? What should be done to ensure successful implementation of such a plan? Has industry engaged in joint participation among companies in their own exercises?

Finally, the NSCC invites industry representatives to express concerns, or comment, on the PREP internal exercises (Qualified Individual Notification, Equipment Deployment and Spill Management Table Top Exercises).

During the workshop, the NSCC will highlight the changes in the final PREP Guidelines which was printed in August 1994 and discuss the accomplishments of the program since the last workshop.

The workshop will be the forum for discussion and final selection of the plan holders to lead the Area Exercises in calendar year 1996. Input from the workshop will be used for finalizing the upcoming year's schedule and proposing the schedule for the following two years.

Proposed Schedule

The following is the proposed PREP Schedule for calendar years 1996, 1997 and 1998. All of the comments received will be considered by the NSCC and the appropriate OSC. Where no industry plan holders have come forward to either participate or lead an exercise, the OSCs will solicit and recommend plan holders. Companies that wish to participate should contact the USCG or EPA OSC, who will then forward the name to the NSCC at the address listed under **ADDRESSES**. The Coast Guard will continue to publish a final schedule in the **Federal Register** annually in the fall.

PREP SCHEDULE—GOVERNMENT LED AREA EXERCISES, 1996

Area	Agency	Date/qtr*	Participant
Charleton, SC Area (MSO Charleston OSC)	CG	2/15–16	
Puget Sound Area (MSO Puget Sound OSC)	CG	4/18–19	
Buffalo, NY Area (MSO Buffalo OSC)	CG	6/13–14	
EPA Region VIII Area (EPA OSC)	EPA	8/8–9	
Philadelphia Coastal Area (MSO Philadelphia OSC)	CG	9/26–27	Christiana.
South Florida Area (MSO Miami OSC)	CG	12/12–13	
	1997		
Providence, RI Area (MSO Providence OSC)	CG	1	
Jacksonsville Area (MSO Jacksonville OSC)	CG	1	
Southeast Alaska Area (MSO Juneau OSC)	CG	2	
Detroit Area (MSO Detroit OSC)	CG w/RSPA	3	
EPA Oceania Region (EPA OSC)	EPA	3	
New Orleans Area (MSO New Orleans OSC)	CG w/MMS	4	
	1998		
Guam Area (MSO Guam OSC)	CG	1	
San Diego, CA Area (MSO San Diego OSC)	CG	2	
Savannah Area (MSO Savannah OSC)	CG	2	
EPA Region VII Area (EPA OSC)	EPA	3	
Long Island Sound, NY Area (COTP Long Island Sound OSC)	CG	3	
Morgan City Area (MSO Morgan City)	CG	4	

PREP SCHEDULE—INDUSTRY LED AREA EXERCISES 1996

Area	Ind**	Date/qtr*	Lead
Prince William Sound Area (MSO Valdez OSC)	f (mtr)	1	
Virginia Coastal Area (MSO Hampton Roads OSC)	v	1	
Portland, OR Area (MSO Portland OSC)	f (mtr)	2	
Western Lake Erie Area (MSO Toledo OSC)	f (mtr)	2	
EPA Region VI Area (EPA OSC)	p	2	
Central Coast Area (MSO San Francisco OSC)	v	2	
Western Alaska Area (MSO Anchorage OSC)	p	3	
Boston Area (MSO Boston OSC)	f	3	
EPA Region IX Area (EPA OSC)	f (nonmtr)	3	
Maine & New Hampshire Area (MSO Portland OSC)	v	3	
Santa Barbara/Ventura Area (MSO Los Angeles/Long Beach OSC)	v	4	
EPA Region II Area (EPA Caribbean OSC)	f (nonmtr)	4	
	1997		
North Coast Area (MSO San Francisco OSC)	v	1	
Northeast North Carolina Coastal Area (MSO Hampton Roads OSC)	v	1	
Commonwealth of N. Marianas Islands Area (MSO Guam OSC)	v	1	Mobil Corp.
Caribbean Area (MSO San Juan OSC)	f (mtr)	2	
Florida Panhandle Area (MSO Mobile OSC)	v	2	Kirby Corp.
Eastern Wisconsin Area (MSO Milwaukee OSC)	f (mtr)	2	
Chicago Area (MSO Chicago OSC)	f (mtr)	2	
EPA Alaska Region (EPA OSC)	p	3	
Houston/Galveston Area (MSO Houston OSC)	v	3	Aramco Services Co.
New York, NY Area (COTP New York OSC)	v	3	OMI Corp.
Hawaii/American Samoa Area (MSO Honolulu OSC)	v	4	
EPA Region IV Area (EPA OSC)	p	4	
Duluth-Superior Area (MSO Duluth OSC).	v	3	

PREP SCHEDULE—INDUSTRY LED AREA EXERCISES 1996—Continued

Area	Ind**	Date/qtr*	Lead
	1998		
Southern Coastal NC Area (MSO Wilmington)	v	1	
San Francisco Bay & Delta Region Area (MSO San Francisco OSC)	f (mtr)	1	
Cleveland, OH Area (MSO Cleveland OSC)	v	1	
EPA Region V Area (EPA OSC)	f (nonmtr)	1	
EPA Region III Area (EPA OSC)	p	2	
Saulte Ste. Marie, MI Area (COTP Saulte Ste. Marie OSC)	f (mtr)	2	
South Texas Coastal Zone Area (MSO Corpus Christie OSC)	v	2	
Maryland Coastal Area (MSO Baltimore OSC)	v	3	
SW Louisana/SE Texas Area (MSO Port Arthur OSC)	v	3	
EPA Region X Area (EPA OSC)	f (nonmtr)	3	
Tampa, FL Area (MSO Tampa OSC)	v	3	
EPA Region I Area (EPA OSC)	p	4	
Los Angeles/Long Beach Area (MSO LA/LB OSC)	v	4	
EPA Region II (EPA OSC)	f (nonmtr)	4	

*Quarters: 1 (January–March); 2 (April–June); 3 (July–September); 4 (October–December).
**Industry: v-vessel; f(mtr)-marine transportation-related facility; f(nonmtr)-nonmarine transportation-related facility; p-pipeline.

Dated: April 14, 1995.

G.N. Naccara,

Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 95–9712 Filed 4–19–95; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

[Airspace Docket No. 95–AWP–7NR]

Proposed Military Operations Area (MOA) for Naval Surface Warfare Center, Port Hueneme, CA; Public Meeting

AGENCY: Federal Aviation Administration [FAA], DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces an informal airspace meeting to solicit information from airspace users and others concerning a proposal by the Department of the Navy to establish Special Use Airspace (SUA) MOA in the vicinity of Port Hueneme, CA, to provide a safe environment for the required flight scenarios conducted by this facility. The purpose of this meeting is to provide the opportunity to gather additional facts relevant to the aeronautical effects of the proposal, and provide interested persons an opportunity to discuss the proposal. All comments received from this meeting will be considered.

TIME AND DATE: The public meeting will be held from 7 p.m. to 10 p.m., on Thursday, June 1, 1995, in Port Hueneme, CA. Comments must be received on or before July 17, 1995.

PLACE: City of Port Hueneme City Hall (Council Chambers), 250 N. Ventura Road, Port Hueneme, CA.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, System Management Branch, AWP–530, Docket No. 95–AWP–7NR, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

FOR FURTHER INFORMATION CONTACT: Scott Speer, System Management Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 297–0010.

SUPPLEMENTARY INFORMATION:

Meeting Procedures

(a) This meeting will be informal in nature and will be conducted by representatives of the FAA Western-Pacific Region. Representatives from the NAVY will present a formal briefing on the proposed Port Hueneme MOA design. All other participants will be given an opportunity to make a presentation, although a time limit may be imposed.

(b) This meeting will be open to all persons on a space-available basis. There will be no admission fee or other charge to attend and participate.

(c) Any persons wishing to make a presentation to the FAA team will be asked to sign in and estimate the amount of time needed for such a presentation. This will permit the team to allocate an appropriate amount of time to each presenter. The team may allocate the time available for each presentation in order to accommodate all speakers. The meeting will not be adjourned until everyone on the list has had an opportunity to address the team. The meeting may be adjourned prior to 10 p.m., if no additional comments are presented.

(d) Any person who wishes to present a position paper to the team pertinent to the topic of the Port Hueneme MOA for consideration may do so.

(e) Persons wishing to hand out pertinent positions papers to the attendees should present three copies to the presiding officer. There should be additional copies of each handout available for other attendees.

(f) The meeting will not be formally recorded, however, informal tape recordings of presentations may be made to ensure that each respondent's comments are noted accurately. A summary of the comments at the meeting will be made available to all interested parties.

Materials relating to the proposed Port Hueneme MOA will be accepted at the meeting. Every reasonable effort will be made to hear requests for presentation consistent with a reasonable closing time for the meeting. Written materials may also be submitted to the Team until July 17, 1995.

Agenda for Meeting

—Opening Remarks and Discussion of Meeting Procedures

—Briefing on Background for Proposed Port Hueneme MOA

—Public Presentations

—Closing Comments.

Issued in Los Angeles, CA, on April 6, 1995.

Dennis T. Koehler,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 95–9644 Filed 4–19–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

April 14, 1995.

The Department of The Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0044.

Form Number: IRS Form 973.

Type of Review: Extension.

Title: Corporation Claim for Deduction for Consent Dividends.

Description: Corporations file Form 973 to claim a deduction for dividends paid. If shareholders consent and IRS approves, the corporation may claim a deduction for dividends paid, which reduces the corporation's tax liability. IRS uses Form 973 to determine if shareholders have included the dividend in gross income.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 500.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—4 hr., 4 min.

Learning about the law or the form—24 min.

Preparing and sending the form to the IRS—29 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 2,475 hours

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–9779 Filed 4–19–95; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

April 12, 1995.

The Department of The Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue NW., Washington, DC 20220.

Special Request

In order to conduct the customer satisfaction survey described below in the early-May timeframe, the Department of Treasury is requesting Office of Management and Budget (OMB) review and approval of this information collection by April 25, 1995. To obtain a copy of this survey, please write to the IRS Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545–1349.

Form Number: None.

Type of Review: Revision.

Title: 1995 TAXLINK Customer Satisfaction Survey.

Description: The Small Business Affairs Office and the Submission Processing Division of the Internal Revenue Service are interested in collecting customer satisfaction data from taxpayers currently enrolled in TAXLINK or the electronic federal deposit system. Additionally, the North American Free Trade Agreement (NAFTA) included a requirement that the U.S. government collect a certain percentage of depository taxes electronically. Regulations mandating usage of Electronic Funds Transfer (EFT) were issued on July 1, 1994. This survey is scheduled for early May to allow for a full quarter of federal tax deposits to be made electronically.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 4,000.

Estimated Burden Hours Per Respondent:

Survey Notification Letter—2 minutes.

Interviews—10 minutes.

Survey—10 minutes.

Frequency of Response: Other.

Estimated Total Reporting Burden: 634 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–9778 Filed 4–19–95; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

April 12, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0026.

Form Number: IRS Form 926.

Type of Review: Extension.

Title: Return by a U.S. Transfer of Property to a Foreign Corporation, Foreign Estate, or Trust or Foreign Partnership.

Description: U.S. persons file Form 926 to report the transfer of property to a foreign entity and to report information required by section 6038B. The IRS uses Form 926 to determine if the excise tax is properly computed and if any of the exceptions from the excise tax apply.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 1,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—7 hr., 25 min.

Learning about the law or the form—2 hr., 59 min.

Preparing and sending the form to the IRS—3 hr., 14 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 13,620 hours.

OMB Number: 1545–0159.

Form Number: IRS Form 3520.

Type of Review: Extension.

Title: Creation of or Transfers to Certain Foreign Trusts.

Description: Form 3520 is filed by U.S. persons who create a foreign trust or transfer property to a foreign trust. IRS uses Form 3520 to establish the identity of the U.S. person and to determine if the transfer is subject to the excise tax.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 500.

Estimated Burden Hours Per Respondent/Recordkeepers:

Recordkeeping—5 hr., 44 min.

Learning about the law or the form—35 min.

Preparing and sending the form to the IRS—43 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Reporting Burden: 3,525 hours.

OMB Number: 1545–0196.

Form Number: IRS Form 5227.

Type of Review: Revision.

Title: Split-Interest Trust Information Return.

Description: The data reported is used to verify that the beneficiaries of a charitable remainder trust include the correct amounts in their tax returns, and that the split-interest trust is not subject to private foundation tax.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 53,303.

Estimated Burden Hours Per Respondent/Recordkeepers:

Recordkeeping—46 hr., 38 min.

Learning about the law or the form—3 hr., 30 min.

Preparing the form—10 hr., 0 min.

Copying, assembling, and sending the form to the IRS—1 hr., 37 min.

Frequency of Response: Annually.

Estimated Total Reporting/Reporting Burden: 3,290,927 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–9777 Filed 4–19–95; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Summary of Precedent Opinions of the General Counsel

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of legal interpretations issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. These interpretations are considered precedential by VA and will be followed by VA officials and employees in future claim matters. These summaries are published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue.

FOR FURTHER INFORMATION CONTACT: Jane L. Lehman, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–6558.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulations or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above. As of January 1, 1995, General Counsel precedent opinions are cited as *VAPOGCPREC XX–XX* (Number and Year), *e.g., VAOPGCPREC 1–95.*

O.G.C. Precedent 23–94

Question Presented

You have indicated you wish to instruct VA Regional Offices to adjudicate those pending 1151 claims which can be allowed on the basis of the U.S. Supreme Court's precedential decision in *Brown* v. *Gardner,* No. 93–1128 (S. Ct., Dec. 12, 1994), and seek advice as to the proper criteria for so doing.

Held

Pending an opinion from the U.S. Attorney General on the meaning of a footnote in the U.S. Supreme Court's opinion in *Brown* v. *Gardner,* U.S. Sup. Ct. No. 93–1128 (Dec. 12, 1994), VA may, based on the Supreme Court's opinion, allow claims for benefits under 38 U.S.C. 1151 if: (1) an injury resulting from VA treatment caused additional disability or death and the injury is not a risk of which the veteran was informed before consent to undergo the treatment, or (2) indicated fault on the part of VA care-providers or the occurrence of an accident resulted in additional disability or death. No claim for benefits under 38 U.S.C. 1151 should be denied because no fault on the part of VA care-providers or the occurrence of an accident was shown.

Effective date: December 27, 1994.

VAOPGCPREC 1–95

Question Presented

a. Is the Department of Veterans Affairs Adjudication Procedure Manual M21–1, part IV, ¶ 20.46b., inconsistent with applicable law and regulation insofar as the manual directs that a surviving spouse's improved-pension award shall reflect the dependency of a child who is not in the surviving spouse's custody, but who receives a protected apportionment of the surviving spouse's pension under section 306 of Public Law No. 95–588?

b. If the manual provision is consistent with the law and regulations, must it be applied uniformly regardless of whether it is to the surviving spouse's advantage?

Held

a. The provision in VA Adjudication Procedure Manual M21–1, part IV, ¶ 20.46b., requiring payment of increased improved-pension to a surviving spouse when a veteran's child not in the spouse's custody receives a protected apportionment, is inconsistent with the provision of 38 U.S.C. 1541 (b) and (c) which authorize payment of the increased rate only when the veteran's child is in the surviving spouse's custody.

b. In view of the holding in paragraph a., above, the second question presented is moot.

Effective date: January 4, 1995.

VAOPGCPREC 2–95

Question Presented

Do the provisions of 38 U.S.C. § 5503(b)(1)(A) requiring withholding of compensation and pension payments to certain incompetent veterans apply in the case of a veteran who is being provided hospital care in a non-government facility outside the United States, with the cost of such care being paid by the Department of Veterans Affairs (VA)?

Held

The provisions of 38 U.S.C. 5503(b)(1)(A), which require withholding of compensation and pension payments to certain institutionalized, incompetent veterans whose estates equal or exceed $1,500, are applicable to veterans hospitalized in any hospital, including a private facility outside the United States, when care is provided at the expense of the United States.

Effective date: January 25, 1995.

VAOPGCPREC 3–95

Question Presented

What is the effect on entitlement to Department of Veterans Affairs (VA) dependency and indemnity compensation (DIC) during a period of remarriage, where a remarried spouse obtains an annulment which, under state law, renders the remarriage void ab initio?

Held

For purposes of entitlement to dependency and indemnity compensation, a voidable marriage may be considered to have been valid until the date on which it was declared void by judicial action, even though under state law the annulment renders the marriage void ab initio. Thus, although entitlement to dependency and indemnity compensation may be restored upon annulment of the remarriage of the surviving spouse of a veteran, the annulment does not give rise to entitlement for the period of the remarriage.

Effective date: February 1, 1995.

VAOPGCPREC 4–95

Question Presented

Has a veteran, who has been notified that he or she has met the basic eligibility requirements for a specially adapted housing grant because he or she has a permanent and total service-connected disability due to one of the conditions enumerated in 38 U.S.C. 2101 and that it is medically feasible for the veteran to reside in the proposed housing unit, been ''granted assistance'' for purposes of Veterans' Mortgage Life Insurance under 38 U.S.C. 2106(a)?

Held

A determination of whether a veteran, who has been notified that he or she has met the basic eligibility requirements for a specially adapted housing grant because he or she has a permanent and total service-connected disability based upon one of the conditions enumerated in 38 U.S.C. 2101 and that it is medically feasible for the veteran to reside in the proposed housing unit, has been ''granted assistance'' for purposes of Veterans' Mortgage Life Insurance (VMLI) under 38 U.S.C. 2106(a) depends upon whether a specially adapted housing grant for the veteran was approved by the Department of Veterans Affairs, which is a factual matter requiring adjudication by the Veterans Benefits Administration based upon applicable statutory provisions and regulations and the evidence of record.

Effective date: February 6, 1995.

VAOPGCPREC 5–95

Question Presented

Do the provisions of 38 U.S.C. 110 and 38 C.F.R. 3.951, as interpreted by the Court of Veterans Appeals (CVA) in *Salgado* v. *Brown,* 4 Vet. App. 316 (1993), protect a disability rating established over twenty years ago, where compensation was discontinued upon the veteran's reentry into active service shortly after the rating was established and was not reinstated upon the veteran's discharge from service?

Held

Under 38 U.S.C. 110, a disability which has been continuously rated at or above a particular evaluation for twenty or more years for compensation purposes cannot thereafter be rated at less than that evaluation, in the absence of fraud. The protection provided by this statute, however, is dependent upon the disability being ''continuously rated'' at or above the level in question. Where compensation is discontinued following reentry into active service in accordance with the statutory prohibition on payment of compensation for a period in which an individual receives active-service pay, the continuity of the rating is interrupted for purposes of the rating-protection provisions of 38 U.S.C. 110 and the disability cannot be considered to have been continuously rated during the period in which compensation is discontinued.

Effective date: February 6, 1995.

VAOPGCPREC 6–95

Question Presented

Whether service consisting solely of attendance at the United States Military Academy Preparatory School or United States Naval Academy Preparatory School may be considered ''active duty'' for purposes of title 38, United States Code.

Held

The analysis of O.G.C. Prec. 18–94 regarding characterization of service while attending the United States Air force Academy Preparatory School applies equally to service consisting of attendance at the United States Military Academy Preparatory School or the United States Naval Academy Preparatory School. Accordingly, persons transferred to these schools from active duty remain on active duty status while in attendance at the schools. For members entering the USMAPS and the USNAPS from reserve components and the Army National Guard, attendance at the schools may generally be characterized as active duty for training. However, in adjudication of individual claims of persons who enrolled in the USNAPS from the Naval Reserve or Marine Corps Reserve, it may be necessary to confirm from service records that such persons attended the USNAPS in the status of reserves called to active duty for training purposes. In addition, it may be necessary in individual cases of persons entering the USMAPS and USNAPS from civilian life to examine the pertinent service records to confirm that such persons entered the service in reserve status in order to attend the preparatory school.

Effective date: February 10, 1995.

VAOPGCPREC 7–95

Questions Presented

1. In light of 38 U.S.C. 5106, may the National Archives and Records Administration (NARA) charge a fee for providing the Department of Veterans Affairs (VA) with copies of documents for its records?

2. Does VA's statutory duty to assist claimants under 38 U.S.C. 5107(a) require that VA pay fees charged by Federal, state, or local agencies or private sources to obtain copies of records maintained by those sources?

Held

1. The National Archives and Records Administration may charge a fee for providing the Department of Veterans Affairs with copies of records requested in connection with a benefit claim, notwithstanding 38 U.S.C. 5106, which requires that the head of any Federal

agency provide information to VA upon request for the purpose of determining benefit eligibility.

2. Under 38 U.S.C. 5107(a), which establishes the Secretary of Veterans Affairs' duty to assist claimants in developing the facts pertinent to their claims, the Secretary may require claimants to assume responsibility for payment of any fees associated with obtaining copies of records maintained by Federal, state, or local agencies or private sources.

Effective date: March 6, 1995.

VAOPGCPREC 8–95

Questions Presented

1. Must a veteran affirmatively seek a change of program of education?

2. If the answer to that question is yes, does affirmatively seeking a change of program of education require that the veteran submit an application for the change in the form prescribed by the Secretary?

3. If the answer to the first question is yes, must VA withhold payments pending receipt of a request for a change of program?

4. If the answer to the first question is yes, does the Secretary have statutory authority to eliminate this requirement by regulation?

Held

1. An individual must affirmatively seek a determination of his or her eligibility to make any change of his or her approved program of education.

2. The request for a determination of eligibility for a change of program must be made by the individual and, under the applicable regulations, may be in any form prescribed by VA. The form of the communication to VA may include the individual's telephonic confirmation of third-party information and even a third-party document bearing the individual's signature from which a reasonable inference of his or her intent to change programs may be discerned.

3. VA may not pay benefits to an individual for pursuit of a program other than the one currently approved until a request from the individual for a determination of his or her entitlement to pursue a particular new program has been received and approved by VA.

4. The Department may not legally implement, by regulation, procedures to administer determinations of eligibility to pursue a change of program that do not require the individual seeking approval of such a change to communicate to VA his or her intent to do so.

Effective date: March 24, 1995.

By Direction of the Secretary.

Mary Lou Keener,

General Counsel.

[FR Doc. 95–9734 Filed 4–19–95; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register

Vol. 60, No. 76

Thursday, April 20, 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).

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NUMBER: 95–9295.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, April 20, 1995, at 10:00 a.m., meeting open to the public.

The following item has been postponed to the meeting of Thursday, April 27, 1995:

Final Audit Report on Bennett for Senate.

DATE AND TIME: Tuesday, April 25, 1995 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, April 27, 1995 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Advisory Opinions:

AOR 1995–10

Margaret Person Currin on behalf of the Helms for Senate Committee.

AOR 1995–11

Thomas J. Cooper on behalf of the Hawthorn Group.

Audit: Final Audit Report on Bennett for Senate.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 95–9952 Filed 4–18–95; 2:50 pm]

BILLING CODE 6715–01–M

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 3:30 p.m., Wednesday, April 5, 1995.

PLACE: Board Conference Room, Eleventh Floor, 1099 Fourteenth St., N.W., Washington, D.C. 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices); (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy) and (9)(B) (disclosure would significantly frustrate implementation of a proposed Agency Action).

MATTERS TO BE CONSIDERED: Personnel Matters.

CONTACT PERSON FOR MORE INFORMATION: Joseph E. Moore, Acting Executive Secretary, Washington, D.C. 20570, Telephone: (202) 273–1940.

Dated, Washington, D.C., April 17, 1995.

By direction of the Board:

Joseph E. Moore,

Acting Executive Secretary.

[FR Doc. 95–9910 Filed 4–18–95; 12:54 pm]

BILLING CODE 7540–01–M

federal register

Thursday
April 20, 1995

Part II

Department of Education

Bilingual Education: Program Grants; Notices

DEPARTMENT OF EDUCATION

Bilingual Education: Comprehensive School Grants; Bilingual Education: Systemwide Improvement Grants; and Bilingual Education: Program Enhancement Grants

AGENCY: Department of Education.

ACTION: Notice of final priorities for fiscal year (FY) 1995.

SUMMARY: The Secretary announces priorities for FY 1995 under the following programs authorized by title VII of the Elementary and Secondary Education Act, as amended (the Act): (1) Bilingual Education: Comprehensive School Grants, (2) Bilingual Education: Systemwide Improvement Grants, and (3) Bilingual Education: Program Enhancement Grants. The Secretary takes this action to focus Federal financial assistance on an identified national need. These priorities provide for a competitive preference to be given to projects providing program services in an Empowerment Zone or Enterprise Community designated under section 1391 of the Internal Revenue Code, as amended by title XIII of the Omnibus Budget Reconciliation Act of 1993.

EFFECTIVE DATE: These priorities take effect on May 22, 1995.

FOR FURTHER INFORMATION CONTACT: Harry Logel, U.S. Department of Education, 600 Independence Avenue, SW., Room 5090, Switzer Building, Washington, D.C. 20202. Telephone: (202) 205-5530. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: This notice contains priorities under the following programs:

Bilingual Education: Comprehensive School Grants.
Bilingual Education: Systemwide Improvement Grants.
Bilingual Education: Program Enhancement Grants.

The purpose of each program is stated separately under the title of that program in a later section of this notice.

Funding of particular projects depends on the availability of funds and the quality of the applications received.

Note: This notice of final priorities does not solicit applications. Notices inviting applications under these competitions are published separately in this issue of the **Federal Register**.

Background

The Empowerment Zone and Enterprise Community program is a critical element of the Administration's community revitalization strategy. The program is a first step in rebuilding communities in America's poverty-stricken inner cities and rural heartlands. It is designed to empower people and communities by inspiring Americans to work together to create jobs and opportunity.

Under this program, the Federal Government has designated certain areas as Empowerment Zones and as Enterprise Communities in accordance with Internal Revenue Code (IRC) section 1391, as amended by title XIII of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103-66). Each of these areas was nominated by one or more local governments and the State or States in which it is located or by a State-Chartered Economic Development Corporation. The selected areas are characterized by pervasive poverty, unemployment, and general distress, and have a poverty rate of not less than the level specified in section 1392 of the IRC.

Interested individuals may contact the Department of Housing and Urban Development (HUD) at 1-800-998-9999 for additional information on the Empowerment Zone and Enterprise Community program. A listing of areas that have been selected as Empowerment Zones and Enterprise Communities is included as an appendix to this notice.

In the Empowerment Zone and Enterprise Community program, communities submitted strategic plans that comprehensively address how the community would link economic development with education and training as well as how community development, public safety, human services, and environmental initiatives together would support sustainable communities. Empowerment Zones and Enterprise Communities were designated by the Department of Agriculture and HUD based on the quality of their strategic plans. Designated areas will receive Federal grant funds and substantial tax benefits and will have access to other Federal programs.

The Department of Education is supporting the Empowerment Zone and Enterprise Community initiative in a variety of ways. It is encouraging Empowerment Zones and Enterprise Communities to use funds they already receive from Department of Education programs (including Title I of the Elementary and Secondary Education Act of 1965 as amended, the Drug-Free Schools and Community Act, the Adult Education Act, and the Carl D. Perkins Vocational and Applied Technology Education Act) to support the comprehensive vision of their strategic plans. In addition, the Department of Education intends to give preferences to Empowerment Zones and Enterprise Communities in a number of discretionary grant programs that are well-suited for inclusion in a comprehensive approach to economic and community development. In addition to the Bilingual Education: Comprehensive School Grants program, the Bilingual Education: Systemwide Improvement Grants program, and the Bilingual Education: Program Enhancement Grants program, the Department intends to give preferences to Empowerment Zones and Enterprise Communities in the Urban Community Service program, the Parent Training program and Early Childhood Education program under the Individuals With Disabilities Education Act, and a variety of discretionary programs under the Elementary and Secondary Education Act of 1965, as amended.

Relationship of the Program Enhancement Grants Program, the Comprehensive School Grants Program, and the Systemwide Improvement Grants Program to the Empowerment Zone or Enterprise Community Program

These Bilingual Education programs provide grants to assist local educational agencies (LEAs), LEAs in collaboration with other entities, institutions of higher education (IHEs), and community-based organizations (CBOs) to develop and enhance their capacity to provide high-quality instruction through bilingual education or special alternative instruction programs to limited English proficient (LEP) children and youth. These programs are intended to help LEP children and youth to develop proficiency in English and, to the extent possible, their native language and to meet the same challenging academic State standards set for all children and youth.

These Bilingual Education programs are ideally suited to play a key role in the Empowerment Zone and Enterprise Community program because of the high concentration of LEP children and youth in low-income areas. By improving the quality of education provided to LEP children and youth, these programs enhance their economic opportunities and contribute to the improvement of our communities.

Communities designated as Empowerment Zones or Enterprise Communities already have demonstrated a capacity for the type of cooperative planning that is critical to

developing and maintaining successful educational systems. Projects funded under these programs will provide models for educational systems in other distressed areas.

In addition, these Bilingual Education programs provide a vehicle for achieving the National Education Goal that by the year 2000 every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship. These programs help further this goal by encouraging programs that help LEP children and youth become proficient in English and meet the same high academic State standards set for all children and youth.

Accordingly, the Secretary has determined that it would serve the purposes of the three programs in this notice to award a competitive preference to applications that propose projects that serve these Empowerment Zones and Enterprise Communities.

Bilingual Education: Program Enhancement Grants

Purpose of Program

Under section 7113 of the Act, the purpose of the program is to assist (1) LEAs, (2) LEAs in collaboration with IHEs, CBOs, other LEAs, or an SEA, or (3) CBOs and IHEs that have had their applications approved by LEAs to carry out highly focused, innovative, locally designed projects to expand or enhance existing bilingual education or special alternative instructional programs for LEP students.

Program Authority: 20 U.S.C. 7423

Bilingual Education: Comprehensive School Grants

Purpose of Program

Under section 7114 of the Act, the purpose of the program is to assist LEAs or LEAs in collaboration with IHEs, CBOs, other LEAs, or an SEA to implement schoolwide bilingual education programs or special alternative instructional programs for reforming, restructuring, and upgrading all relevant programs and operations, within an individual school, that serve virtually all LEP children and youth in schools with significant concentrations of these children and youth.

Program Authority: 20 U.S.C. 7424.

Bilingual Education: Systemwide Improvement Grants

Purpose of Program

Under section 7115 of the Act, the purpose of the program is to assist LEAs or LEAs in collaboration with IHEs, CBOs, other LEAs, or an SEA to implement districtwide bilingual education programs or special alternative instructional programs to improve, reform, and upgrade relevant programs and operations, within an entire LEA, that serve a significant number of LEP children and youth in one or more LEAs with significant concentrations of these children and youth.

Program Authority: 20 U.S.C. 7425

Priority

Under 34 CFR 75.105(c)(2)(i), the Secretary gives preference to applications that meet the following competitive priority. The Secretary awards 5 points to an application that meets this competitive priority. These points would be in addition to any points an application earns under the selection criteria for the programs to which this priority applies. The priority applies to the following programs:

Bilingual Education: Comprehensive School Grants.
Bilingual Education: Systemwide Improvement Grants.
Bilingual Education: Program Enhancement Grants.

Under each of these programs, competitive preference will be given to applications that—

(1) Propose to provide services to schools and LEP students eligible to be served under the program located in one or more Empowerment Zones or Enterprise Communities; and

(2) Propose projects that contribute to the strategic plan of the Empowerment Zone or Enterprise Community and that are made an integral component of the Empowerment Zone or Enterprise Community activities.

Waiver of Proposed Priority

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Department of Education to offer interested parties the opportunity to comment on proposed priorities. However, in order to make timely grant awards in FY 1995, the Director, in accordance with section 437(d)(1) of the General Education Provisions Act, has decided to issue this final priority, which will apply only to the FY 1995 grant competition.

Intergovernmental Review

These programs are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for these programs.

(Catalog of Federal Domestic Assistance Numbers: 84.289 Bilingual Education: Program Enhancement Grants; 84.290 Bilingual Education: Comprehensive School Grants; and 84.291 Bilingual Education: Systemwide Improvement Grants.)

Dated: April 11, 1995.

Eugene E. Garcia,

Director, Office of Bilingual Education and Minority Languages Affairs.

Appendix—Areas Designated as Empowerment Zones and Enterprise Communities

Urban Empowerment Zones

Atlanta, Georgia
Baltimore, Maryland
Chicago, Illinois
Detroit, Michigan
New York, New York
Philadelphia, Pennsylvania & Camden, New Jersey

Urban Supplemental Zones

Los Angeles, California
Cleveland, Ohio

Rural Empowerment Zones

Kentucky Highlands (Clinton, Jackson, Wayne Counties, Kentucky)
Mid-Delta Mississippi (Bolivar, Holmes, Humphreys, Leflore Counties, Mississippi)
Rio Grande Valley Texas (Cameron, Hidalgo, Starr, Willacy Counties, Texas)

Urban Enhanced Enterprise Communities

Boston, Massachusetts
Houston, Texas
Kansas City, Kansas & Kansas City, Missouri
Oakland, California

Urban and Rural Enterprise Communities

(Listed Alphabetically by State)

Alabama

Birmingham
Chambers County
Green & Sumter Counties

Arizona

Arizona Border Region: Cochise, Santa Cruz & Yuma Counties
Phoenix

Arkansas

Eastern Arkansas: Cross, Lee, Monrow & St. Francis Counties
Mississippi County
Pulaski County

California

Imperial County
Los Angeles (South Central/Huntington Park)
San Diego

San Francisco (Hunters Point)
City of Watsonville: Santa Cruz County

Colorado

Denver

Connecticut

Bridgeport
New Haven

Delaware

Wilmington

District of Columbia

Washington

Florida

Dade County/Miami
Jackson County
Tampa

Georgia

Albany
Crisp & Dooly Counties
Central Savannah River Area: Burke, Hancock, Jefferson, McDuffie, Tallaferro & Warren Counties

Illinois

East St. Louis
Springfield

Indiana

Indianapolis

Iowa

Des Moines

Kentucky

Louisville
McCreary County

Louisiana

Macon Ridge: Catahouis, Concordia, Franklin, Morehouse & Tensas Parishes
New Orleans
Northeast Louisiana Delta: Madison Parish
Ouachita Parish

Massachusetts

Lowell
Springfield

Michigan

Flint
Lake County
Muskegon

Minnesota

Minneapolis
St. Paul

Mississippi

Jackson
North Delta: Panola, Quitman & Tallahatchie Counties

Missouri

City of East Prairie: Mississippi County
St. Louis

Nebraska

Omaha

Nevada

Clark County/Las Vegas

New Hampshire

Manchester

New Jersey

Newark

New Mexico

Albuquerque
Mora, Taos, & Rio Ariba Counties

New York

Albany
Buffalo
Newburgh-Kingston
Rochester

North Carolina

Charlotte
Halifax, Edgecombe & Wilson Counties
Robeson County

Ohio

Akron
Columbus
Greater Portsmouth: Scioto County

Oklahoma

Oklahoma City
Southeast Oklahoma: Choctaw & McCurtain Counties

Oregon

Josephine County
Portland

Pennsylvania

Harrisburg
City of Lock Haven: Clinton County
Pittsburgh

Rhode Island

Providence

South Carolina

Charleston
Williamsburg County & Lake City: Florence & Williamsburg Counties

South Dakota

Boadie & Spink Counties

Tennessee

Fayette & Haywood Counties
Memphis
Nashville
Scott County

Texas

Dallas
El Paso
San Antonio
Waco

Utah

Ogden

Vermont

Burlington

Virginia

Accomack & Northampton Counties
Norfolk

Washington

Lower Yakima County
Seattle
Tacoma

West Virginia

Central Appalachia: Braxton, Clay, Fayette, Nicholas & Roane Counties
Huntington
McDowell County

Wisconsin

Milwaukee

[FR Doc. 95–9716 Filed 4–19–95; 8:45 am]

BILLING CODE 4000–01–P

[CFDA No. 84.290U]

Bilingual Education: Comprehensive School Grants; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Purpose of Program: The purpose of this program is to provide grants to implement schoolwide bilingual education programs or special alternative instruction programs for reforming, restructuring, and upgrading all relevant programs and operations, within an individual school, that serve all or virtually all limited English proficient (LEP) children and youth in one or more schools with significant concentrations of these children and youth.

Eligible Applicants: One or more local educational agencies (LEAs), or one or more LEAs in collaboration with an institution of higher education, community-based organizations, other LEAs, or a State educational agency.

Deadline for Transmittal of Applications: May 30, 1995.

Deadline for Intergovernmental Review: July 31, 1995.

Applications Available: April 21, 1995.

Available Funds: $49,772,000.

Estimated Range of Awards: $150,000–$400,000.

Estimated Average Size of Awards: $310,000.

Estimated Number of Awards: 160.

Note: The Department is not bound by any estimates in this notice.

Project Period: 60 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Priorities

Absolute Priority

The following absolute priority, as published in the **Federal Register** on March 2, 1995 (60 FR 11868) in a notice of final priority for this program, applies to this competition:

Projects that serve only schools in which the number of LEP students, in each school served, equals at least 25 percent of the total student enrollment.

Competitive Priority

The competitive priority in the notice of final priorities for this program, as published elsewhere in this issue of the **Federal Register**, applies to this competition. The notice announces a competitive preference to be given to projects providing program services in a designated Empowerment Zone or Enterprise Community.

Selection Criteria

In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 75.210.

The regulations in 34 CFR 75.210 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition, the Secretary distributes the 15 points as follows:

Plan of operation (34 CFR 75.210(b)(3)). Eight points are added to this criterion for a possible total of 23 points.

Evaluation plan (34 CFR 75.210(b)(6)). Seven points are added to this criterion for a possible total of 12 points.

For Applications or Information Contact: Rebecca Richey or Alex Stein, U.S. Department of Education, 600 Independence Avenue, SW., room 5090, Switzer Building, Washington, D.C. 20202–6510. Telephone: Rebecca Richey (202) 205–9717 or Alex Stein (202) 205–5717. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 7424.

Dated: April 11, 1995.

Eugene E. Garcia,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 95–9717 Filed 4–19–95; 8:45 am]

BILLING CODE 4000–01–P

[CFDA No. 84.291R]

Bilingual Education: Systemwide Improvement Grants; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Purpose of Program: The purpose of this program is to provide grants to implement districtwide bilingual education programs or special alternative instructional programs to improve, reform, and upgrade relevant programs and operations, within an entire local educational agency (LEA), that serve a significant number of limited English proficient (LEP) children and youth in one or more LEAs with significant concentrations of these children and youth.

Eligible Applicants: (1) One or more LEAs; or (2) one or more LEAs in collaboration with an institution of higher education, community-based organizations, other LEAs, or a State educational agency.

Deadline for Transmittal of Applications: May 30, 1995.

Deadline for Intergovernmental Review: July 31, 1995.

Applications Available: April 21, 1995.

Available Funds: $17.4 million.

Estimated Range of Awards: $200,000 - $1,000,000.

Estimated Average Size of Awards: $700,000.

Estimated Number of Awards: 25.

Note: The Department is not bound by any estimates in this notice.

Project Period: 60 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Priorities

Absolute Priority: The following absolute priority, as published in the **Federal Register** on March 2, 1995 (60 FR 11864) in a notice of final priority for this program, applies to this competition:

Projects that serve only LEAs in which the number of LEP students, in each LEA served, is at least 1,000 or at least 25 percent of the total student enrollment.

Competitive Priority: The competitive priority in the notice of final priorities for this program, as published elsewhere in this issue of the **Federal Register**, applies to this competition. The notice announces a competitive preference to be given to projects providing program services in a designated Empowerment Zone or Enterprise Community.

Selection Criteria

In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 75.210.

The regulations in 34 CFR 75.210 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition, the Secretary distributes the 15 points as follows:

Plan of operation (34 CFR 75.210(b)(3)). Eight points are added to this criterion for a possible total of 23 points.

Evaluation plan (34 CFR 75.210(b)(6)). Seven points are added to this criterion for a possible total of 12 points.

For Applications or Information Contact: Harry Logel or James Lockhart, U.S. Department of Education, 600 Independence Avenue, SW., Room 5090, Switzer Building, Washington, D.C. 20202–6510. Telephone: Harry Logel (202) 205–5530 or James Lockhart (202) 205–5426. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 7425.

Dated: April 11, 1995.

Eugene E. Garcia,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 95–9718 Filed 4–19–95; 8:45 am]

BILLING CODE 4000–01–P

[CFDA No. 84.289P]

Bilingual Education: Program Enhancement Grants; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Purpose of Program: The purpose of this program is to provide grants to carry out highly-focused, innovative, locally-designed projects to expand or enhance existing bilingual education or special alternative instructional programs for limited English proficient students.

Eligible Applicants: (a) One or more local educational agencies (LEAs); (b) one or more LEAs in collaboration with an institution of higher education (IHE), community-based organization (CBO), other LEAs, or a State educational agency; or (c) a CBO or an IHE that has an application approved by the LEA to enhance early childhood education or family education programs or to conduct an instructional program that supplements the educational services provided by an LEA.

Deadline for Transmittal of Applications: May 30, 1995.

Deadline for Intergovernmental Review: July 31, 1995.

Applications Available: April 21, 1995.

Available Funds: $22.4 million.

Estimated Range of Awards: $100,000–$150,000.

Estimated Average Size of Awards: $125,000.

Estimated Number of Awards: 180.

Note: The Department is not bound by any estimates in this notice.

Project Period: 24 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Priority

The priority in the notice of final priorities for this program, as published elsewhere in this issue of the **Federal Register**, applies to this competition. The notice announces a competitive preference to be given to projects providing program services in a designated Empowerment Zone or Enterprise Community.

Selection Criteria

In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 75.210.

The regulations in 34 CFR 75.210 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition, the Secretary distributes the 15 points as follows:

Extent of need for the project (34 CFR 75.210(b)(2)). Eight points are added to this criterion for a possible total of 28 points.

Plan of operation (34 CFR 75.210(b)(3)). Seven points are added to this criterion for a possible total of 22 points.

For Applications or Information Contact: Diane DeMaio, U.S. Department of Education, 600 Independence Avenue, SW., Room 5090, Switzer Building, Washington, D.C. 20202–6510. Telephone: (202) 205–5716. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 7423.

Dated: April 11, 1995.

Eugene E. Garcia,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 95–9719 Filed 4–19–95; 8:45 am]

BILLING CODE 4000–01–P

[CFDA No. 84.195B]

Bilingual Education: National Professional Development Institutes; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Purpose of Program: The purpose of this program is to assist schools or departments of education in institutions of higher education (IHEs) to improve the quality of professional development programs for personnel serving, preparing to serve, or who may serve, limited English proficient (LEP) children and youth.

Eligible Applicants: IHEs which have entered into consortia arrangements with local educational agencies (LEAs) or State educational agencies (SEAs).

Deadline for Transmittal of Applications: May 30, 1995.

Deadline for Intergovernmental Review: July 31, 1995.

Applications Available: April 21, 1995.

Available Funds: $500,000.

Estimated Size of Awards: $500,000.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Priority

Under 34 CFR 75.105(c)(2)(i) and 20 U.S.C. 7473(b) the Secretary gives a competitive preference to applications that meet the following priority:

IHEs, in consortia with SEAs or LEAs, that offer degree programs which prepare new bilingual education teachers in order to increase the availability of educators to provide high-quality education to LEP students.

The Secretary awards an additional 10 points to applications that meet the priority.

Selection Criteria

In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 75.210.

The regulations in 34 CFR 75.210 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition, the Secretary distributes the 15 points as follows:

Plan of operation (34 CFR 75.210(b)(3)). Eight points are added to this criterion for a possible total of 23 points.

Evaluation plan (34 CFR 75.210(b)(6)). Seven points are added to this criterion for a possible total of 12 points.

For Applications or Information Contact: Cindy Ryan, U.S. Department of Education, 600 Independence Avenue, SW., Room 5090, Switzer Building, Washington, D.C. 20202–6510. Telephone: (202) 205–8842. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 7473.

Dated: April 11, 1995.

Eugene E. Garcia,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 95–9720 Filed 4–19–95; 8:45 am]

BILLING CODE 4000–01–P

[CFDA No. 84.194Q]

Bilingual Education: State Grant Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Purpose of Program: The purpose of this program is to assist State educational agencies (SEAs) to (1) collect data on the State's limited English proficient (LEP) population and the educational programs and services available to that population; (2) assist local educational agencies (LEAs) in the State with program design, capacity building, assessment of student performance, and program evaluation; and (3) train SEA personnel in educational issues affecting LEP children and youth.

Eligible Applicants: SEAs

Deadline for Transmittal of Applications: May 30, 1995.

Deadline for Intergovernmental Review: July 31, 1995.

Applications Available: April 21, 1995.

Available Funds: $5,150,000.

Estimated Range of Awards: $100,000–$709,862. (The amount paid to an SEA shall not exceed five percent of the total amount awarded to LEAs within the State under part A of Title VII of the Elementary and Secondary Education Act, P.L. 100–297 for fiscal year 1994, except that in no case shall the amount paid to any SEA be less than $100,000).

Estimated Number of Awards: 47.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, and 86.

Selection Criteria

In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 75.210.

The regulations in 34 CFR 75.210 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition, the Secretary distributes the 15 points as follows:

Plan of operation (34 CFR 75.210(B)(3)). Eight points are added to this criterion for a possible total of 23 points.

Evaluation (34 CFR 75.210(b)(6)). Seven points are added to this criterion for a possible total of 12 points.

For Applications or Information Contact: Luis A. Catarineau, U.S. Department of Education, 600 Independence Avenue, SW., Room 5090, Switzer Building, Washington, D.C. 20202–6510. Telephone: (202) 205–9907. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 7454.

Dated: April 11, 1995.

Eugene E. Garcia,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 95–9721 Filed 4–19–95; 8:45 am]

BILLING CODE 4000–01–P

[CFDA No. 84.195A]

Bilingual Education: Teachers and Personnel Grants; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Purpose of Program: The purpose of this program is to provide grants for preservice and inservice professional development for bilingual education teachers, administrators, pupil services personnel, and other educational personnel who are either involved in, or preparing to be involved in, the provision of educational services for children and youth of limited English proficiency (LEP).

Eligible Applicants: (a) Institutions of higher education (IHEs) that have entered into consortia arrangements with local educational agencies (LEAs) or State educational agencies (SEAs). (b) SEAs proposing inservice professional development programs. (c) LEAs proposing inservice professional development programs.

Deadline for Transmittal of Applications: May 30, 1995.

Deadline for Intergovernmental Review: July 31, 1995.

Applications Available: April 21, 1995.

Available Funds: $5,630,000.

Estimated Range of Awards: $140,000–$200,000.

Estimated Average Size of Awards: $170,000.

Estimated Number of Awards: 33.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Priorities

Invitational Priority: The Secretary is particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

IHEs with experience in providing bilingual education teacher training programs that propose to assist other IHEs to develop new training programs for bilingual education teachers.

Competitive Priority: Under 34 CFR 75.105(c)(2)(i) and 20 U.S.C. 7473(b), the Secretary gives a competitive preference to applications that meet the following priority:

IHEs, in consortia with SEAs or LEAs, which offer degree programs that prepare new bilingual education teachers, in order to increase the availability of educators to provide high-quality education to LEP students.

The Secretary awards an additional 10 points to applications that meet the priority.

Selection Criteria

In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 75.210.

The regulations in 34 CFR 75.210 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition, the Secretary distributes the 15 points as follows:

Plan of operation (34 CFR 75.210(b)(3)). Eight points are added to this criterion for a possible total of 23 points.

Evaluation plan (34 CFR 75.210(b)(6)). Seven points are added to this criterion for a possible total of 12 points.

For Applications or Information Contact: Cindy Ryan, U.S. Department of Education, 600 Independence Avenue, SW., Room 5090, Switzer Building, Washington, D.C. 20202–6510. Telephone: (202) 205–8842. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 7473.

Dated: April 11, 1995.

Eugene E. Garcia,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 95–9722 Filed 4–19–95; 8:45 am]

BILLING CODE 4000–01–P

[CFDA No. 84.292B]

Bilingual Education: Field-Initiated Research Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Purpose of Program: The purpose of this program is to provide grants for field-initiated research conducted by current or recent recipients of grants under subpart 1 or 2 of Part A of Title VII of the Elementary and Secondary Education Act (ESEA) (or Part A or B of Title VII of ESEA, as in effect prior to its amendment on October 20, 1994) who have received these grants within the previous five years. The Department assists research activities related to the improvement of bilingual education and special alternative instructional programs for limited English proficient children and youth.

Eligible Applicants: Institutions of higher education, nonprofit organizations, State educational agencies and local educational agencies that are current or recent recipients of grants under subpart 1 or 2 of Part A of Title VII of the Elementary and Secondary Education Act (or Part A or B of Title VII of P.L. 100–297, the predecessor to Title VII of the ESEA). In order to be eligible for a grant under this program, an applicant must have received a grant under subpart 1 or 2 of Part A of Title VII, or Part A or B of Title VII of Pub. L. 100–297, within the previous five years.

Deadline for Transmittal of Applications: May 30, 1995.

Deadline for Intergovernmental Review: July 31, 1995.

Applications Available: April 21, 1995.

Available Funds: $1,000,000.

Estimated Range of Awards: $50,000–$150,000.

Estimated Average Size of Awards: $100,000.

Estimated Number of Awards: 10.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Selection Criteria

In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 75.210.

The regulations in 34 CFR 75.210 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition, the Secretary distributes the 15 points as follows:

Meeting the purposes of the authorizing statute (34 CFR 75.210(b)(1)). Seven points are added to this criterion for a possible total of 37 points.

Plan of operation (34 CFR 75.210(b)(3)). Eight points are added to this criterion for a possible total of 23 points.

For Applications or Information Contact: Cecile Kreins, U.S. Department of Education, 600 Independence Avenue, SW., Room 5090, Switzer Building, Washington, D.C. 20202–6510. Telephone: Cecile Kreins (202) 205–5568. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 7452.

Dated: April 7, 1995.

Eugene E. Garcia,

Director, Office of Bilingual Education and Minority Languages Affairs.

Sharon Robinson,

Assistant Secretary, Office for Educational Research and Improvement.

[FR Doc. 95–9723 Filed 4–19–95; 8:45 am]

BILLING CODE 4000–01–P

federal register

Thursday
April 20, 1995

Part III

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Approved Amendment to Tribal/State Compact; Notices

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Amendment to Tribal/State Compact.

SUMMARY: Pursuant to 25 U.S.C. § 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal/State Compacts for the purpose of engaging in Class III (casino) gaming on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Amendment to the Tribal/State Gaming Compact Between the Confederated Tribes of the Chehalis Reservation and the State of Washington executed on January 26, 1995.

DATES: This action is effective April 20, 1995.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4068.

Dated: April 4, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–9818 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–02–P

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Amendment to Tribal/State Compact.

SUMMARY: Pursuant to 25 U.S.C. § 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal/State Compacts for the purpose of engaging in Class III (casino) gaming on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Amendment to the Tribal/State Gaming Compact Between the Squaxin Island Tribe and the State of Washington executed on January 26, 1995.

DATES: This action is effective April 20, 1995.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240. (202) 219–4068.

Dated: April 4, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–9819 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–02–P

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Amendment to Tribal/State Compact.

SUMMARY: Pursuant to 25 U.S.C. § 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal/State Compacts for the purpose of engaging in Class III (casino) gaming on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Amendment to the Tribal/State Gaming Compact Between the Indian Tribe and the State of Washington executed on January 26, 1995.

DATES: This action is effective April 20, 1995.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4068.

Dated: April 4, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–9820 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–02–P

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Tribal-State Compact between the Miami Tribe of Oklahoma and the State of Oklahoma, which was executed on June 10, 1994.

DATES: This action is effective April 20, 1995.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4068.

Dated: April 7, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–9821 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–02–P

federal register

Thursday
April 20, 1995

Part IV

The President

Executive Order 12958—Classified National Security Information

Federal Register
Vol. 60, No. 76
Thursday, April 20, 1995

Presidential Documents

Title 3—

The President

Executive Order 12958 of April 17, 1995

Classified National Security Information

This order prescribes a uniform system for classifying, safeguarding, and declassifying national security information. Our democratic principles require that the American people be informed of the activities of their Government. Also, our Nation's progress depends on the free flow of information. Nevertheless, throughout our history, the national interest has required that certain information be maintained in confidence in order to protect our citizens, our democratic institutions, and our participation within the community of nations. Protecting information critical to our Nation's security remains a priority. In recent years, however, dramatic changes have altered, although not eliminated, the national security threats that we confront. These changes provide a greater opportunity to emphasize our commitment to open Government.

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

PART 1—ORIGINAL CLASSIFICATION

Section 1.1. *Definitions.* For purposes of this order:

(a) ''National security''means the national defense or foreign relations of the United States.

(b) ''Information'' means any knowledge that can be communicated or documentary material, regardless of its physical form or characteristics, that is owned by, produced by or for, or is under the control of the United States Government. ''Control'' means the authority of the agency that originates information, or its successor in function, to regulate access to the information.

(c) ''Classified national security information'' (hereafter ''classified information'') means information that has been determined pursuant to this order or any predecessor order to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form.

(d) ''Foreign Government Information'' means:

(1) information provided to the United States Government by a foreign government or governments, an international organization of governments, or any element thereof, with the expectation that the information, the source of the information, or both, are to be held in confidence;

(2) information produced by the United States pursuant to or as a result of a joint arrangement with a foreign government or governments, or an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence; or

(3) information received and treated as ''Foreign Government Information'' under the terms of a predecessor order.

(e) ''Classification'' means the act or process by which information is determined to be classified information.

(f) ''Original classification'' means an initial determination that information requires, in the interest of national security, protection against unauthorized disclosure.

(g) ''Original classification authority'' means an individual authorized in writing, either by the President, or by agency heads or other officials designated by the President, to classify information in the first instance.

(h) ''Unauthorized disclosure'' means a communication or physical transfer of classified information to an unauthorized recipient.

(i) ''Agency'' means any ''Executive agency,'' as defined in 5 U.S.C. 105, and any other entity within the executive branch that comes into the possession of classified information.

(j) ''Senior agency official'' means the official designated by the agency head under section 5.6(c) of this order to direct and administer the agency's program under which information is classified, safeguarded, and declassified.

(k) ''Confidential source'' means any individual or organization that has provided, or that may reasonably be expected to provide, information to the United States on matters pertaining to the national security with the expectation that the information or relationship, or both, are to be held in confidence.

(l) ''Damage to the national security'' means harm to the national defense or foreign relations of the United States from the unauthorized disclosure of information, to include the sensitivity, value, and utility of that information.

Sec. 1.2. *Classification Standards.* (a) Information may be originally classified under the terms of this order only if all of the following conditions are met:

(1) an original classification authority is classifying the information;
(2) the information is owned by, produced by or for, or is under the control of the United States Government;
(3) the information falls within one or more of the categories of information listed in section 1.5 of this order; and
(4) the original classification authority determines that the unauthorized disclosure of the information reasonably could be expected to result in damage to the national security and the original classification authority is able to identify or describe the damage.

(b) If there is significant doubt about the need to classify information, it shall not be classified. This provision does not:

(1) amplify or modify the substantive criteria or procedures for classification; or
(2) create any substantive or procedural rights subject to judicial review.

(c) Classified information shall not be declassified automatically as a result of any unauthorized disclosure of identical or similar information.

Sec. 1.3. *Classification Levels.* (a) Information may be classified at one of the following three levels:

(1) ''Top Secret'' shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security that the original classification authority is able to identify or describe.
(2) ''Secret'' shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security that the original classification authority is able to identify or describe.
(3) ''Confidential'' shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause damage to the national security that the original classification authority is able to identify or describe.

(b) Except as otherwise provided by statute, no other terms shall be used to identify United States classified information.

(c) If there is significant doubt about the appropriate level of classification, it shall be classified at the lower level.

Sec. 1.4. *Classification Authority*. (a) The authority to classify information originally may be exercised only by:

(1) the President;

(2) agency heads and officials designated by the President in the **Federal Register**; or

(3) United States Government officials delegated this authority pursuant to paragraph (c), below.

(b) Officials authorized to classify information at a specified level are also authorized to classify information at a lower level.

(c) Delegation of original classification authority.

(1) Delegations of original classification authority shall be limited to the minimum required to administer this order. Agency heads are responsible for ensuring that designated subordinate officials have a demonstrable and continuing need to exercise this authority.

(2) ''Top Secret'' original classification authority may be delegated only by the President or by an agency head or official designated pursuant to paragraph (a)(2), above.

(3) ''Secret'' or ''Confidential'' original classification authority may be delegated only by the President; an agency head or official designated pursuant to paragraph (a)(2), above; or the senior agency official, provided that official has been delegated ''Top Secret'' original classification authority by the agency head.

(4) Each delegation of original classification authority shall be in writing and the authority shall not be redelegated except as provided in this order. Each delegation shall identify the official by name or position title.

(d) Original classification authorities must receive training in original classification as provided in this order and its implementing directives.

(e) Exceptional cases. When an employee, contractor, licensee, certificate holder, or grantee of an agency that does not have original classification authority originates information believed by that person to require classification, the information shall be protected in a manner consistent with this order and its implementing directives. The information shall be transmitted promptly as provided under this order or its implementing directives to the agency that has appropriate subject matter interest and classification authority with respect to this information. That agency shall decide within 30 days whether to classify this information. If it is not clear which agency has classification responsibility for this information, it shall be sent to the Director of the Information Security Oversight Office. The Director shall determine the agency having primary subject matter interest and forward the information, with appropriate recommendations, to that agency for a classification determination.

Sec. 1.5. *Classification Categories.*

Information may not be considered for classification unless it concerns:

(a) military plans, weapons systems, or operations;

(b) foreign government information;

(c) intelligence activities (including special activities), intelligence sources or methods, or cryptology;

(d) foreign relations or foreign activities of the United States, including confidential sources;

(e) scientific, technological, or economic matters relating to the national security;

(f) United States Government programs for safeguarding nuclear materials or facilities; or

(g) vulnerabilities or capabilities of systems, installations, projects or plans relating to the national security.

Sec. 1.6. *Duration of Classification*. (a) At the time of original classification, the original classification authority shall attempt to establish a specific date

or event for declassification based upon the duration of the national security sensitivity of the information. The date or event shall not exceed the time frame in paragraph (b), below.

(b) If the original classification authority cannot determine an earlier specific date or event for declassification, information shall be marked for declassification 10 years from the date of the original decision, except as provided in paragraph (d), below.

(c) An original classification authority may extend the duration of classification or reclassify specific information for successive periods not to exceed 10 years at a time if such action is consistent with the standards and procedures established under this order. This provision does not apply to information contained in records that are more than 25 years old and have been determined to have permanent historical value under title 44, United States Code.

(d) At the time of original classification, the original classification authority may exempt from declassification within 10 years specific information, the unauthorized disclosure of which could reasonably be expected to cause damage to the national security for a period greater than that provided in paragraph (b), above, and the release of which could reasonably be expected to:

(1) reveal an intelligence source, method, or activity, or a cryptologic system or activity;
(2) reveal information that would assist in the development or use of weapons of mass destruction;
(3) reveal information that would impair the development or use of technology within a United States weapons system;
(4) reveal United States military plans, or national security emergency preparedness plans;
(5) reveal foreign government information;
(6) damage relations between the United States and a foreign government, reveal a confidential source, or seriously undermine diplomatic activities that are reasonably expected to be ongoing for a period greater than that provided in paragraph (b), above;
(7) impair the ability of responsible United States Government officials to protect the President, the Vice President, and other individuals for whom protection services, in the interest of national security, are authorized; or
(8) violate a statute, treaty, or international agreement.

(e) Information marked for an indefinite duration of classification under predecessor orders, for example, ''Originating Agency's Determination Required,'' or information classified under predecessor orders that contains no declassification instructions shall be declassified in accordance with part 3 of this order.

Sec. 1.7. *Identification and Markings.* (a) At the time of original classification, the following shall appear on the face of each classified document, or shall be applied to other classified media in an appropriate manner:

(1) one of the three classification levels defined in section 1.3 of this order;
(2) the identity, by name or personal identifier and position, of the original classification authority;
(3) the agency and office of origin, if not otherwise evident;
(4) declassification instructions, which shall indicate one of the following:
(A) the date or event for declassification, as prescribed in section 1.6(a) or section 1.6(c); or
(B) the date that is 10 years from the date of original classification, as prescribed in section 1.6(b); or
(C) the exemption category from declassification, as prescribed in section 1.6(d); and
(5) a concise reason for classification which, at a minimum, cites the applicable classification categories in section 1.5 of this order.

(b) Specific information contained in paragraph (a), above, may be excluded if it would reveal additional classified information.

(c) Each classified document shall, by marking or other means, indicate which portions are classified, with the applicable classification level, which portions are exempt from declassification under section 1.6(d) of this order, and which portions are unclassified. In accordance with standards prescribed in directives issued under this order, the Director of the Information Security Oversight Office may grant waivers of this requirement for specified classes of documents or information. The Director shall revoke any waiver upon a finding of abuse.

(d) Markings implementing the provisions of this order, including abbreviations and requirements to safeguard classified working papers, shall conform to the standards prescribed in implementing directives issued pursuant to this order.

(e) Foreign government information shall retain its original classification markings or shall be assigned a U.S. classification that provides a degree of protection at least equivalent to that required by the entity that furnished the information.

(f) Information assigned a level of classification under this or predecessor orders shall be considered as classified at that level of classification despite the omission of other required markings. Whenever such information is used in the derivative classification process or is reviewed for possible declassification, holders of such information shall coordinate with an appropriate classification authority for the application of omitted markings.

(g) The classification authority shall, whenever practicable, use a classified addendum whenever classified information constitutes a small portion of an otherwise unclassified document.

Sec. 1.8. *Classification Prohibitions and Limitations.* (a) In no case shall information be classified in order to:

(1) conceal violations of law, inefficiency, or administrative error;
(2) prevent embarrassment to a person, organization, or agency;
(3) restrain competition; or
(4) prevent or delay the release of information that does not require protection in the interest of national security.

(b) Basic scientific research information not clearly related to the national security may not be classified.

(c) Information may not be reclassified after it has been declassified and released to the public under proper authority.

(d) Information that has not previously been disclosed to the public under proper authority may be classified or reclassified after an agency has received a request for it under the Freedom of Information Act (5 U.S.C. 552) or the Privacy Act of 1974 (5 U.S.C. 552a), or the mandatory review provisions of section 3.6 of this order only if such classification meets the requirements of this order and is accomplished on a document-by-document basis with the personal participation or under the direction of the agency head, the deputy agency head, or the senior agency official designated under section 5.6 of this order. This provision does not apply to classified information contained in records that are more than 25 years old and have been determined to have permanent historical value under title 44, United States Code.

(e) Compilations of items of information which are individually unclassified may be classified if the compiled information reveals an additional association or relationship that:

(1) meets the standards for classification under this order; and
(2) is not otherwise revealed in the individual items of information.

As used in this order, ''compilation'' means an aggregation of pre-existing unclassified items of information.

Sec. 1.9. *Classification Challenges.* (a) Authorized holders of information who, in good faith, believe that its classification status is improper are encouraged and expected to challenge the classification status of the information in accordance with agency procedures established under paragraph (b), below.

(b) In accordance with implementing directives issued pursuant to this order, an agency head or senior agency official shall establish procedures under which authorized holders of information are encouraged and expected to challenge the classification of information that they believe is improperly classified or unclassified. These procedures shall assure that:

(1) individuals are not subject to retribution for bringing such actions;

(2) an opportunity is provided for review by an impartial official or panel; and

(3) individuals are advised of their right to appeal agency decisions to the Interagency Security Classification Appeals Panel established by section 5.4 of this order.

PART 2—DERIVATIVE CLASSIFICATION

Sec. 2.1. *Definitions.* For purposes of this order:

(a) ''Derivative classification'' means the incorporating, paraphrasing, restating or generating in new form information that is already classified, and marking the newly developed material consistent with the classification markings that apply to the source information. Derivative classification includes the classification of information based on classification guidance. The duplication or reproduction of existing classified information is not derivative classification.

(b) ''Classification guidance'' means any instruction or source that prescribes the classification of specific information.

(c) ''Classification guide'' means a documentary form of classification guidance issued by an original classification authority that identifies the elements of information regarding a specific subject that must be classified and establishes the level and duration of classification for each such element.

(d) ''Source document'' means an existing document that contains classified information that is incorporated, paraphrased, restated, or generated in new form into a new document.

(e) ''Multiple sources'' means two or more source documents, classification guides, or a combination of both.

Sec. 2.2. *Use of Derivative Classification.* (a) Persons who only reproduce, extract, or summarize classified information, or who only apply classification markings derived from source material or as directed by a classification guide, need not possess original classification authority.

(b) Persons who apply derivative classification markings shall:

(1) observe and respect original classification decisions; and

(2) carry forward to any newly created documents the pertinent classification markings. For information derivatively classified based on multiple sources, the derivative classifier shall carry forward:

(A) the date or event for declassification that corresponds to the longest period of classification among the sources; and

(B) a listing of these sources on or attached to the official file or record copy.

Sec. 2.3. *Classification Guides.* (a) Agencies with original classification authority shall prepare classification guides to facilitate the proper and uniform derivative classification of information. These guides shall conform to standards contained in directives issued under this order.

(b) Each guide shall be approved personally and in writing by an official who:

(1) has program or supervisory responsibility over the information or is the senior agency official; and

(2) is authorized to classify information originally at the highest level of classification prescribed in the guide.

(c) Agencies shall establish procedures to assure that classification guides are reviewed and updated as provided in directives issued under this order.

PART 3—DECLASSIFICATION AND DOWNGRADING

Sec. 3.1. *Definitions.* For purposes of this order:

(a) ''Declassification'' means the authorized change in the status of information from classified information to unclassified information.

(b) ''Automatic declassification'' means the declassification of information based solely upon:

(1) the occurrence of a specific date or event as determined by the original classification authority; or

(2) the expiration of a maximum time frame for duration of classification established under this order.

(c) ''Declassification authority'' means:

(1) the official who authorized the original classification, if that official is still serving in the same position;

(2) the originator's current successor in function;

(3) a supervisory official of either; or

(4) officials delegated declassification authority in writing by the agency head or the senior agency official.

(d) ''Mandatory declassification review'' means the review for declassification of classified information in response to a request for declassification that meets the requirements under section 3.6 of this order.

(e) ''Systematic declassification review'' means the review for declassification of classified information contained in records that have been determined by the Archivist of the United States (''Archivist'') to have permanent historical value in accordance with chapter 33 of title 44, United States Code.

(f) ''Declassification guide'' means written instructions issued by a declassification authority that describes the elements of information regarding a specific subject that may be declassified and the elements that must remain classified.

(g) ''Downgrading'' means a determination by a declassification authority that information classified and safeguarded at a specified level shall be classified and safeguarded at a lower level.

(h) ''File series'' means documentary material, regardless of its physical form or characteristics, that is arranged in accordance with a filing system or maintained as a unit because it pertains to the same function or activity.

Sec. 3.2. *Authority for Declassification.* (a) Information shall be declassified as soon as it no longer meets the standards for classification under this order.

(b) It is presumed that information that continues to meet the classification requirements under this order requires continued protection. In some exceptional cases, however, the need to protect such information may be outweighed by the public interest in disclosure of the information, and in these cases the information should be declassified. When such questions arise, they shall be referred to the agency head or the senior agency official. That official will determine, as an exercise of discretion, whether the public interest in disclosure outweighs the damage to national security that might reasonably be expected from disclosure. This provision does not:

(1) amplify or modify the substantive criteria or procedures for classification; or

(2) create any substantive or procedural rights subject to judicial review.

(c) If the Director of the Information Security Oversight Office determines that information is classified in violation of this order, the Director may require the information to be declassified by the agency that originated

the classification. Any such decision by the Director may be appealed to the President through the Assistant to the President for National Security Affairs. The information shall remain classified pending a prompt decision on the appeal.

(d) The provisions of this section shall also apply to agencies that, under the terms of this order, do not have original classification authority, but had such authority under predecessor orders.

Sec. 3.3. *Transferred Information*. (a) In the case of classified information transferred in conjunction with a transfer of functions, and not merely for storage purposes, the receiving agency shall be deemed to be the originating agency for purposes of this order.

(b) In the case of classified information that is not officially transferred as described in paragraph (a), above, but that originated in an agency that has ceased to exist and for which there is no successor agency, each agency in possession of such information shall be deemed to be the originating agency for purposes of this order. Such information may be declassified or downgraded by the agency in possession after consultation with any other agency that has an interest in the subject matter of the information.

(c) Classified information accessioned into the National Archives and Records Administration (''National Archives'') as of the effective date of this order shall be declassified or downgraded by the Archivist in accordance with this order, the directives issued pursuant to this order, agency declassification guides, and any existing procedural agreement between the Archivist and the relevant agency head.

(d) The originating agency shall take all reasonable steps to declassify classified information contained in records determined to have permanent historical value before they are accessioned into the National Archives. However, the Archivist may require that records containing classified information be accessioned into the National Archives when necessary to comply with the provisions of the Federal Records Act. This provision does not apply to information being transferred to the Archivist pursuant to section 2203 of title 44, United States Code, or information for which the National Archives and Records Administration serves as the custodian of the records of an agency or organization that goes out of existence.

(e) To the extent practicable, agencies shall adopt a system of records management that will facilitate the public release of documents at the time such documents are declassified pursuant to the provisions for automatic declassification in sections 1.6 and 3.4 of this order.

Sec. 3.4. *Automatic Declassification*. (a) Subject to paragraph (b), below, within 5 years from the date of this order, all classified information contained in records that (1) are more than 25 years old, and (2) have been determined to have permanent historical value under title 44, United States Code, shall be automatically declassified whether or not the records have been reviewed. Subsequently, all classified information in such records shall be automatically declassified no longer than 25 years from the date of its original classification, except as provided in paragraph (b), below.

(b) An agency head may exempt from automatic declassification under paragraph (a), above, specific information, the release of which should be expected to:

(1) reveal the identity of a confidential human source, or reveal information about the application of an intelligence source or method, or reveal the identity of a human intelligence source when the unauthorized disclosure of that source would clearly and demonstrably damage the national security interests of the United States;

(2) reveal information that would assist in the development or use of weapons of mass destruction;

(3) reveal information that would impair U.S. cryptologic systems or activities;

(4) reveal information that would impair the application of state of the art technology within a U.S. weapon system;

(5) reveal actual U.S. military war plans that remain in effect;

(6) reveal information that would seriously and demonstrably impair relations between the United States and a foreign government, or seriously and demonstrably undermine ongoing diplomatic activities of the United States;

(7) reveal information that would clearly and demonstrably impair the current ability of United States Government officials to protect the President, Vice President, and other officials for whom protection services, in the interest of national security, are authorized;

(8) reveal information that would seriously and demonstrably impair current national security emergency preparedness plans; or

(9) violate a statute, treaty, or international agreement.

(c) No later than the effective date of this order, an agency head shall notify the President through the Assistant to the President for National Security Affairs of any specific file series of records for which a review or assessment has determined that the information within those file series almost invariably falls within one or more of the exemption categories listed in paragraph (b), above, and which the agency proposes to exempt from automatic declassification. The notification shall include:

(1) a description of the file series;

(2) an explanation of why the information within the file series is almost invariably exempt from automatic declassification and why the information must remain classified for a longer period of time; and

(3) except for the identity of a confidential human source or a human intelligence source, as provided in paragraph (b), above, a specific date or event for declassification of the information.

The President may direct the agency head not to exempt the file series or to declassify the information within that series at an earlier date than recommended.

(d) At least 180 days before information is automatically declassified under this section, an agency head or senior agency official shall notify the Director of the Information Security Oversight Office, serving as Executive Secretary of the Interagency Security Classification Appeals Panel, of any specific information beyond that included in a notification to the President under paragraph (c), above, that the agency proposes to exempt from automatic declassification. The notification shall include:

(1) a description of the information;

(2) an explanation of why the information is exempt from automatic declassification and must remain classified for a longer period of time; and

(3) except for the identity of a confidential human source or a human intelligence source, as provided in paragraph (b), above, a specific date or event for declassification of the information. The Panel may direct the agency not to exempt the information or to declassify it at an earlier date than recommended. The agency head may appeal such a decision to the President through the Assistant to the President for National Security Affairs. The information will remain classified while such an appeal is pending.

(e) No later than the effective date of this order, the agency head or senior agency official shall provide the Director of the Information Security Oversight Office with a plan for compliance with the requirements of this section, including the establishment of interim target dates. Each such plan shall include the requirement that the agency declassify at least 15 percent of the records affected by this section no later than 1 year from the effective date of this order, and similar commitments for subsequent years until the effective date for automatic declassification.

(f) Information exempted from automatic declassification under this section shall remain subject to the mandatory and systematic declassification review provisions of this order.

(g) The Secretary of State shall determine when the United States should commence negotiations with the appropriate officials of a foreign government or international organization of governments to modify any treaty or international agreement that requires the classification of information contained in records affected by this section for a period longer than 25 years from the date of its creation, unless the treaty or international agreement pertains to information that may otherwise remain classified beyond 25 years under this section.

Sec. 3.5. *Systematic Declassification Review*. (a) Each agency that has originated classified information under this order or its predecessors shall establish and conduct a program for systematic declassification review. This program shall apply to historically valuable records exempted from automatic declassification under section 3.4 of this order. Agencies shall prioritize the systematic review of records based upon:

(1) recommendations of the Information Security Policy Advisory Council, established in section 5.5 of this order, on specific subject areas for systematic review concentration; or

(2) the degree of researcher interest and the likelihood of declassification upon review.

(b) The Archivist shall conduct a systematic declassification review program for classified information: (1) accessioned into the National Archives as of the effective date of this order; (2) information transferred to the Archivist pursuant to section 2203 of title 44, United States Code; and (3) information for which the National Archives and Records Administration serves as the custodian of the records of an agency or organization that has gone out of existence. This program shall apply to pertinent records no later than 25 years from the date of their creation. The Archivist shall establish priorities for the systematic review of these records based upon the recommendations of the Information Security Policy Advisory Council; or the degree of researcher interest and the likelihood of declassification upon review. These records shall be reviewed in accordance with the standards of this order, its implementing directives, and declassification guides provided to the Archivist by each agency that originated the records. The Director of the Information Security Oversight Office shall assure that agencies provide the Archivist with adequate and current declassification guides.

(c) After consultation with affected agencies, the Secretary of Defense may establish special procedures for systematic review for declassification of classified cryptologic information, and the Director of Central Intelligence may establish special procedures for systematic review for declassification of classified information pertaining to intelligence activities (including special activities), or intelligence sources or methods.

Sec. 3.6. *Mandatory Declassification Review*. (a) Except as provided in paragraph (b), below, all information classified under this order or predecessor orders shall be subject to a review for declassification by the originating agency if:

(1) the request for a review describes the document or material containing the information with sufficient specificity to enable the agency to locate it with a reasonable amount of effort;

(2) the information is not exempted from search and review under the Central Intelligence Agency Information Act; and

(3) the information has not been reviewed for declassification within the past 2 years. If the agency has reviewed the information within the past 2 years, or the information is the subject of pending litigation, the agency shall inform the requester of this fact and of the requester's appeal rights.

(b) Information originated by:

(1) the incumbent President;

(2) the incumbent President's White House Staff;

(3) committees, commissions, or boards appointed by the incumbent President; or

(4) other entities within the Executive Office of the President that solely advise and assist the incumbent President is exempted from the provisions of paragraph (a), above. However, the Archivist shall have the authority to review, downgrade, and declassify information of former Presidents under the control of the Archivist pursuant to sections 2107, 2111, 2111 note, or 2203 of title 44, United States Code. Review procedures developed by the Archivist shall provide for consultation with agencies having primary subject matter interest and shall be consistent with the provisions of applicable laws or lawful agreements that pertain to the respective Presidential papers or records. Agencies with primary subject matter interest shall be notified promptly of the Archivist's decision. Any final decision by the Archivist may be appealed by the requester or an agency to the Interagency Security Classification Appeals Panel. The information shall remain classified pending a prompt decision on the appeal.

(c) Agencies conducting a mandatory review for declassification shall declassify information that no longer meets the standards for classification under this order. They shall release this information unless withholding is otherwise authorized and warranted under applicable law.

(d) In accordance with directives issued pursuant to this order, agency heads shall develop procedures to process requests for the mandatory review of classified information. These procedures shall apply to information classified under this or predecessor orders. They also shall provide a means for administratively appealing a denial of a mandatory review request, and for notifying the requester of the right to appeal a final agency decision to the Interagency Security Classification Appeals Panel.

(e) After consultation with affected agencies, the Secretary of Defense shall develop special procedures for the review of cryptologic information, the Director of Central Intelligence shall develop special procedures for the review of information pertaining to intelligence activities (including special activities), or intelligence sources or methods, and the Archivist shall develop special procedures for the review of information accessioned into the National Archives.

Sec. 3.7. *Processing Requests and Reviews.* In response to a request for information under the Freedom of Information Act, the Privacy Act of 1974, or the mandatory review provisions of this order, or pursuant to the automatic declassification or systematic review provisions of this order:

(a) An agency may refuse to confirm or deny the existence or nonexistence of requested information whenever the fact of its existence or nonexistence is itself classified under this order.

(b) When an agency receives any request for documents in its custody that contain information that was originally classified by another agency, or comes across such documents inthe process of the automatic declassification or systematic review provisions of this order, it shall refer copies of any request and the pertinent documents to the originating agency for processing, and may, after consultation with the originating agency, inform any requester of the referral unless such association is itself classified under this order. In cases in which the originating agency determines in writing that a response under paragraph (a), above, is required, the referring agency shall respond to the requester in accordance with that paragraph.

Sec. 3.8. *Declassification Database.* (a) The Archivist in conjunction with the Director of the Information Security Oversight Office and those agencies that originate classified information, shall establish a Governmentwide database of information that has been declassified. The Archivist shall also explore other possible uses of technology to facilitate the declassification process.

(b) Agency heads shall fully cooperate with the Archivist in these efforts.

(c) Except as otherwise authorized and warranted by law, all declassified information contained within the database established under paragraph (a), above, shall be available to the public.

PART 4—SAFEGUARDING

Sec. 4.1. *Definitions.* For purposes of this order: (a) ''Safeguarding'' means measures and controls that are prescribed to protect classified information.

(b) ''Access'' means the ability or opportunity to gain knowledge of classified information.

(c) ''Need-to-know'' means a determination made by an authorized holder of classified information that a prospective recipient requires access to specific classified information in order to perform or assist in a lawful and authorized governmental function.

(d) ''Automated information system'' means an assembly of computer hardware, software, or firmware configured to collect, create, communicate, compute, disseminate, process, store, or control data or information.

(e) ''Integrity'' means the state that exists when information is unchanged from its source and has not been accidentally or intentionally modified, altered, or destroyed.

(f) ''Network'' means a system of two or more computers that can exchange data or information.

(g) ''Telecommunications'' means the preparation, transmission, or communication of information by electronic means.

(h) ''Special access program'' means a program established for a specific class of classified information that imposes safeguarding and access requirements that exceed those normally required for information at the same classification level.

Sec. 4.2. *General Restrictions on Access.* (a) A person may have access to classified information provided that:

(1) a favorable determination of eligibility for access has been made by an agency head or the agency head's designee;

(2) the person has signed an approved nondisclosure agreement; and

(3) the person has a need-to-know the information.

(b) Classified information shall remain under the control of the originating agency or its successor in function. An agency shall not disclose information originally classified by another agency without its authorization. An official or employee leaving agency service may not remove classified information from the agency's control.

(c) Classified information may not be removed from official premises without proper authorization.

(d) Persons authorized to disseminate classified information outside the executive branch shall assure the protection of the information in a manner equivalent to that provided within the executive branch.

(e) Consistent with law, directives, and regulation, an agency head or senior agency official shall establish uniform procedures to ensure that automated information systems, including networks and telecommunications systems, that collect, create, communicate, compute, disseminate, process, or store classified information have controls that:

(1) prevent access by unauthorized persons; and

(2) ensure the integrity of the information.

(f) Consistent with law, directives, and regulation, each agency head or senior agency official shall establish controls to ensure that classified information is used, processed, stored, reproduced, transmitted, and destroyed under conditions that provide adequate protection and prevent access by unauthorized persons.

(g) Consistent with directives issued pursuant to this order, an agency shall safeguard foreign government information under standards that provide a degree of protection at least equivalent to that required by the government or international organization of governments that furnished the information. When adequate to achieve equivalency, these standards may be less restrictive than the safeguarding standards that ordinarily apply to United States ''Confidential'' information, including allowing access to individuals with a need-to-know who have not otherwise been cleared for access to classified information or executed an approved nondisclosure agreement.

(h) Except as provided by statute or directives issued pursuant to this order, classified information originating in one agency may not be disseminated outside any other agency to which it has been made available without the consent of the originating agency. An agency head or senior agency official may waive this requirement for specific information originated within that agency. For purposes of this section, the Department of Defense shall be considered one agency.

Sec. 4.3. *Distribution Controls.* (a) Each agency shall establish controls over the distribution of classified information to assure that it is distributed only to organizations or individuals eligible for access who also have a need-to-know the information.

(b) Each agency shall update, at least annually, the automatic, routine, or recurring distribution of classified information that they distribute. Recipients shall cooperate fully with distributors who are updating distribution lists and shall notify distributors whenever a relevant change in status occurs.

Sec. 4.4. *Special Access Programs.* (a) Establishment of special access programs. Unless otherwise authorized by the President, only the Secretaries of State, Defense and Energy, and the Director of Central Intelligence, or the principal deputy of each, may create a special access program. For special access programs pertaining to intelligence activities (including special activities, but not including military operational, strategic and tactical programs), or intelligence sources or methods, this function will be exercised by the Director of Central Intelligence. These officials shall keep the number of these programs at an absolute minimum, and shall establish them only upon a specific finding that:

(1) the vulnerability of, or threat to, specific information is exceptional; and

(2) the normal criteria for determining eligibility for access applicable to information classified at the same level are not deemed sufficient to protect the information from unauthorized disclosure; or

(3) the program is required by statute.

(b) *Requirements and Limitations.* (1) Special access programs shall be limited to programs in which the number of persons who will have access ordinarily will be reasonably small and commensurate with the objective of providing enhanced protection for the information involved.

(2) Each agency head shall establish and maintain a system of accounting for special access programs consistent with directives issued pursuant to this order.

(3) Special access programs shall be subject to the oversight program established under section 5.6(c) of this order. In addition, the Director of the Information Security Oversight Office shall be afforded access to these programs, in accordance with the security requirements of each program, in order to perform the functions assigned to the Information Security Oversight Office under this order. An agency head may limit access to a special access program to the Director and no more than one other employee of the Information Security Oversight Office; or, for special access programs that are extraordinarily sensitive and vulnerable, to the Director only.

(4) The agency head or principal deputy shall review annually each special access program to determine whether it continues to meet the requirements of this order.

(5) Upon request, an agency shall brief the Assistant to the President for National Security Affairs, or his or her designee, on any or all of the agency's special access programs.

(c) Within 180 days after the effective date of this order, each agency head or principal deputy shall review all existing special access programs under the agency's jurisdiction. These officials shall terminate any special access programs that do not clearly meet the provisions of this order. Each existing special access program that an agency head or principal deputy validates shall be treated as if it were established on the effective date of this order.

(d) Nothing in this order shall supersede any requirement made by or under 10 U.S.C. 119.

Sec. 4.5. *Access by Historical Researchers and Former Presidential Appointees.* (a) The requirement in section 4.2(a)(3) of this order that access to classified information may be granted only to individuals who have a need-to-know the information may be waived for persons who:

(1) are engaged in historical research projects; or

(2) previously have occupied policy-making positions to which they were appointed by the President.

(b) Waivers under this section may be granted only if the agency head or senior agency official of the originating agency:

(1) determines in writing that access is consistent with the interest of national security;

(2) takes appropriate steps to protect classified information from unauthorized disclosure or compromise, and ensures that the information is safeguarded in a manner consistent with this order; and

(3) limits the access granted to former Presidential appointees to items that the person originated, reviewed, signed, or received while serving as a Presidential appointee.

PART 5—IMPLEMENTATION AND REVIEW

Sec. 5.1. *Definitions.* For purposes of this order: (a) ''Self-inspection'' means the internal review and evaluation of individual agency activities and the agency as a whole with respect to the implementation of the program established under this order and its implementing directives.

(b) ''Violation'' means:

(1) any knowing, willful, or negligent action that could reasonably be expected to result in an unauthorized disclosure of classified information;

(2) any knowing, willful, or negligent action to classify or continue the classification of information contrary to the requirements of this order or its implementing directives; or

(3) any knowing, willful, or negligent action to create or continue a special access program contrary to the requirements of this order.

(c) ''Infraction'' means any knowing, willful, or negligent action contrary to the requirements of this order or its implementing directives that does not comprise a ''violation,'' as defined above.

Sec. 5.2. *Program Direction.* (a) The Director of the Office of Management and Budget, in consultation with the Assistant to the President for National Security Affairs and the co-chairs of the Security Policy Board, shall issue such directives as are necessary to implement this order. These directives shall be binding upon the agencies. Directives issued by the Director of the Office of Management and Budget shall establish standards for:

(1) classification and marking principles;

(2) agency security education and training programs;

(3) agency self-inspection programs; and

(4) classification and declassification guides.

(b) The Director of the Office of Management and Budget shall delegate the implementation and monitorship functions of this program to the Director of the Information Security Oversight Office.

(c) The Security Policy Board, established by a Presidential Decision Directive, shall make a recommendation to the President through the Assistant to the President for National Security Affairs with respect to the issuance of a Presidential directive on safeguarding classified information. The Presidential directive shall pertain to the handling, storage, distribution, transmittal, and destruction of and accounting for classified information.

Sec. 5.3. *Information Security Oversight Office.* (a) There is established within the Office of Management and Budget an Information Security Oversight Office. The Director of the Office of Management and Budget shall appoint the Director of the Information Security Oversight Office, subject to the approval of the President.

(b) Under the direction of the Director of the Office of Management and Budget acting in consultation with the Assistant to the President for National Security Affairs, the Director of the Information Security Oversight Office shall:

(1) develop directives for the implementation of this order;

(2) oversee agency actions to ensure compliance with this order and its implementing directives;

(3) review and approve agency implementing regulations and agency guides for systematic declassification review prior to their issuance by the agency;

(4) have the authority to conduct on-site reviews of each agency's program established under this order, and to require of each agency those reports, information, and other cooperation that may be necessary to fulfill its responsibilities. If granting access to specific categories of classified information would pose an exceptional national security risk, the affected agency head or the senior agency official shall submit a written justification recommending the denial of access to the Director of the Office of Management and Budget within 60 days of the request for access. Access shall be denied pending a prompt decision by the Director of the Office of Management and Budget, who shall consult on this decision with the Assistant to the President for National Security Affairs;

(5) review requests for original classification authority from agencies or officials not granted original classification authority and, if deemed appropriate, recommend Presidential approval through the Director of the Office of Management and Budget;

(6) consider and take action on complaints and suggestions from persons within or outside the Government with respect to the administration of the program established under this order;

(7) have the authority to prescribe, after consultation with affected agencies, standardization of forms or procedures that will promote the implementation of the program established under this order;

(8) report at least annually to the President on the implementation of this order; and

(9) convene and chair interagency meetings to discuss matters pertaining to the program established by this order.

Sec. 5.4. *Interagency Security Classification Appeals Panel.*

(a) Establishment and Administration.

(1) There is established an Interagency Security Classification Appeals Panel (''Panel''). The Secretaries of State and Defense, the Attorney General, the Director of Central Intelligence, the Archivist of the United States, and the Assistant to the President for National Security Affairs shall each appoint a senior level representative to serve as a member of the Panel. The President shall select the Chair of the Panel from among the Panel members.

(2) A vacancy on the Panel shall be filled as quickly as possible as provided in paragraph (1), above.

(3) The Director of the Information Security Oversight Office shall serve as the Executive Secretary. The staff of the Information Security Oversight Office shall provide program and administrative support for the Panel.

(4) The members and staff of the Panel shall be required to meet eligibility for access standards in order to fulfill the Panel's functions.

(5) The Panel shall meet at the call of the Chair. The Chair shall schedule meetings as may be necessary for the Panel to fulfill its functions in a timely manner.

(6) The Information Security Oversight Office shall include in its reports to the President a summary of the Panel's activities.

(b) *Functions.* The Panel shall:

(1) decide on appeals by persons who have filed classification challenges under section 1.9 of this order;

(2) approve, deny, or amend agency exemptions from automatic declassification as provided in section 3.4 of this order; and

(3) decide on appeals by persons or entities who have filed requests for mandatory declassification review under section 3.6 of this order.

(c) *Rules and Procedures.* The Panel shall issue bylaws, which shall be published in the **Federal Register** no later than 120 days from the effective date of this order. The bylaws shall establish the rules and procedures that the Panel will follow in accepting, considering, and issuing decisions on appeals. The rules and procedures of the Panel shall provide that the Panel will consider appeals only on actions in which: (1) the appellant has exhausted his or her administrative remedies within the responsible agency; (2) there is no current action pending on the issue within the federal courts; and (3) the information has not been the subject of review by the federal courts or the Panel within the past 2 years.

(d) Agency heads will cooperate fully with the Panel so that it can fulfill its functions in a timely and fully informed manner. An agency head may appeal a decision of the Panel to the President through the Assistant to the President for National Security Affairs. The Panel will report to the President through the Assistant to the President for National Security Affairs any instance in which it believes that an agency head is not cooperating fully with the Panel.

(e) The Appeals Panel is established for the sole purpose of advising and assisting the President in the discharge of his constitutional and discretionary authority to protect the national security of the United States. Panel decisions are committed to the discretion of the Panel, unless reversed by the President.

Sec. 5.5. *Information Security Policy Advisory Council.*

(a) *Establishment.* There is established an Information Security Policy Advisory Council (''Council''). The Council shall be composed of seven members appointed by the President for staggered terms not to exceed 4 years, from among persons whohave demonstrated interest and expertise in an area related to the subject matter of this order and are not otherwise employees of the Federal Government. The President shall appoint the Council Chair from among the members. The Council shall comply with the Federal Advisory Committee Act, as amended, 5 U.S.C. App. 2.

(b) *Functions.* The Council shall:

(1) advise the President, the Assistant to the President for National Security Affairs, the Director of the Office of Management and Budget, or such other executive branch officials as it deems appropriate, on policies established under this order or its implementing directives, including recommended changes to those policies;

(2) provide recommendations to agency heads for specific subject areas for systematic declassification review; and

(3) serve as a forum to discuss policy issues in dispute.

(c) *Meetings.* The Council shall meet at least twice each calendar year, and as determined by the Assistant to the President for National Security Affairs or the Director of the Office of Management and Budget.

(d) *Administration.*

(1) Each Council member may be compensated at a rate of pay not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the general schedule under section 5376 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Council.

(2) While away from their homes or regular place of business in the actual performance of the duties of the Council, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5703(b)).

(3) To the extent permitted by law and subject to the availability of funds, the Information Security Oversight Office shall provide the Council with administrative services, facilities, staff, and other support services necessary for the performance of its functions.

(4) Notwithstanding any other Executive order, the functions of the President under the Federal Advisory Committee Act, as amended, that are applicable to the Council, except that of reporting to the Congress, shall be performed by the Director of the Information Security Oversight Office in accordance with the guidelines and procedures established by the General Services Administration.

Sec. 5.6. *General Responsibilities.* Heads of agencies that originate or handle classified information shall:

(a) demonstrate personal commitment and commit senior management to the successful implementation of the program established under this order;

(b) commit necessary resources to the effective implementation of the program established under this order; and

(c) designate a senior agency official to direct and administer the program, whose responsibilities shall include:

(1) overseeing the agency's program established under this order, provided, an agency head may designate a separate official to oversee special access programs authorized under this order. This official shall provide a full accounting of the agency's special access programs at least annually;

(2) promulgating implementing regulations, which shall be published in the **Federal Register** to the extent that they affect members of the public;

(3) establishing and maintaining security education and training programs;

(4) establishing and maintaining an ongoing self-inspection program, which shall include the periodic review and assessment of the agency's classified product;

(5) establishing procedures to prevent unnecessary access to classified information, including procedures that: (i) require that a need for access to classified information is established before initiating administrative clearance procedures; and (ii) ensure that the number of persons granted access to classified information is limited to the minimum consistent with operational and security requirements and needs;

(6) developing special contingency plans for the safeguarding of classified information used in or near hostile or potentially hostile areas;

(7) assuring that the performance contract or other system used to rate civilian or military personnel performance includes the management of classified information as a critical element or item to be evaluated in the rating of: (i) original classification authorities; (ii) security managers or security specialists; and (iii) all other personnel whose duties significantly involve the creation or handling of classified information;

(8) accounting for the costs associated with the implementation of this order, which shall be reported to the Director of the Information Security Oversight Office for publication; and

(9) assigning in a prompt manner agency personnel to respond to any request, appeal, challenge, complaint, or suggestion arising out of this order that pertains to classified information that originated in a component of the agency that no longer exists and for which there is no clear successor in function.

Sec. 5.7. *Sanctions.* (a) If the Director of the Information Security Oversight Office finds that a violation of this order or its implementing directives may have occurred, the Director shall make a report to the head of the agency or to the senior agency official so that corrective steps, if appropriate, may be taken.

(b) Officers and employees of the United States Government, and its contractors, licensees, certificate holders, and grantees shall be subject to appropriate sanctions if they knowingly, willfully, or negligently:

(1) disclose to unauthorized persons information properly classified under this order or predecessor orders;

(2) classify or continue the classification of information in violation of this order or any implementing directive;

(3) create or continue a special access program contrary to the requirements of this order; or

(4) contravene any other provision of this order or its implementing directives.

(c) Sanctions may include reprimand, suspension without pay, removal, termination of classification authority, loss or denial of access to classified information, or other sanctions in accordance with applicable law and agency regulation.

(d) The agency head, senior agency official, or other supervisory official shall, at a minimum, promptly remove the classification authority of any individual who demonstrates reckless disregard or a pattern of error in applying the classification standards of this order.

(e) The agency head or senior agency official shall:

(1) take appropriate and prompt corrective action when a violation or infraction under paragraph (b), above, occurs; and

(2) notify the Director of the Information Security Oversight Office when a violation under paragraph (b)(1), (2) or (3), above, occurs.

PART 6—GENERAL PROVISIONS

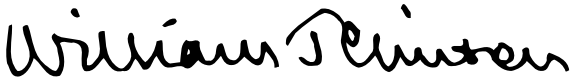
Sec. 6.1. *General Provisions.* (a) Nothing in this order shall supersede any requirement made by or under the Atomic Energy Act of 1954, as amended, or the National Security Act of 1947, as amended. ''Restricted Data'' and ''Formerly Restricted Data'' shall be handled, protected, classified, downgraded, and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and regulations issued under that Act.

(b) The Attorney General, upon request by the head of an agency or the Director of the Information Security Oversight Office, shall render an interpretation of this order with respect to any question arising in the course of its administration.

(c) Nothing in this order limits the protection afforded any information by other provisions of law, including the exemptions to the Freedom of Information Act, the Privacy Act, and the National Security Act of 1947, as amended. This order is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, itsofficers, or its employees. The foregoing is in addition to the specific provisos set forth in sections 1.2(b), 3.2(b) and 5.4(e) of this order.

(d) Executive Order No. 12356 of April 6, 1982, is revoked as of the effective date of this order.

Sec. 6.2. *Effective Date*. This order shall become effective 180 days from the date of this order.



THE WHITE HOUSE,
April 17, 1995.

[FR Doc. 95–9941
Filed 4–18–95; 2:04 pm]
Billing code 3195–01–P

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