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Tuesday
February 6, 1996

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

WASHINGTON, DC

[Two Sessions]

WHEN: February 6, 1996 at 9:00 am and February 21, 1996 at 9:00 am

WHERE: Office of the Federal Register Conference Room, 800 North Capitol Street, NW., Washington, DC (3 blocks north of Union Station Metro)

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New Feature in the Reader Aids!

Beginning with the issue of December 4, 1995, a new listing will appear each day in the Reader Aids section of the Federal Register called ''Reminders''. The Reminders will have two sections: ''Rules Going Into Effect Today'' and ''Comments Due Next Week''. Rules Going Into Effect Today will remind readers about Rules documents published in the past which go into effect ''today''. Comments Due Next Week will remind readers about impending closing dates for comments on Proposed Rules documents published in past issues. Only those documents published in the Rules and Proposed Rules sections of the Federal Register will be eligible for inclusion in the Reminders.

The Reminders feature is intended as a reader aid only. Neither inclusion nor exclusion in the listing has any legal significance.

The Office of the Federal Register has been compiling data for the Reminders since the issue of November 1, 1995. No documents published prior to November 1, 1995 will be listed in Reminders.

Electronic Bulletin Board

Free Electronic Bulletin Board service for Public Law numbers, Federal Register finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

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

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Presidential Documents

Title 3—

The President

Presidential Determination No. 96–9 of January 22, 1996

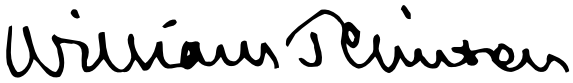
Presidential Determination on Food Security Wheat Reserve Release

Memorandum for the Secretary of Agriculture

By virtue of the authority vested in me as President by the Constitution and laws of the United States, including the Food Security Wheat Reserve Act of 1980 (the ''Act'') (7 U.S.C. 1736f–1) and section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of Agriculture the authority to release up to 1,500,000 metric tons of wheat from the reserve established under the Act (the ''reserve''). Wheat released from the reserve will be used to provide, on a sale or donation basis, emergency food assistance to developing countries during fiscal year 1996 under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691, 1701 *et seq.*) to the extent that the Secretary of Agriculture determines that the domestic supply of wheat is so limited that quantities of wheat could not otherwise be made available for disposition consistent with the criteria set forth in the Agricultural Trade Development and Assistance Act of 1954, except for urgent humanitarian purposes.

Nothing in the delegation should be interpreted as affecting the coordination requirements of Executive Order 12752.

You are authorized and directed to publish this determination in the Federal Register.



THE WHITE HOUSE,
Washington, January 22, 1996.

[FR Doc. 96–2499
Filed 2–2–96; 8:45 am]
Billing code 3410–10–M

Rules and Regulations

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

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

DEPARTMENT OF AGRICULTURE

7 CFR Part 2903

Office of Energy; Availability of Information

AGENCY: Office of Energy, USDA.

ACTION: Final rule.

SUMMARY: This document removes the regulations of the Office of Energy (OE) regarding the availability of information to the public in accordance with the Freedom of Information Act (FOIA) to reflect an internal reorganization of the Department of Agriculture (USDA).

EFFECTIVE DATE: February 5, 1996.

FOR FURTHER INFORMATION CONTACT: Stasia A.M. Hutchison, FOIA Coordinator, Information Staff, Agricultural Research Service, USDA, 6303 Ivy Lane, Room 456, Greenbelt, MD 20770, Telephone (301) 344–2207.

SUPPLEMENTARY INFORMATION: The FOIA (5 U.S.C. 552(a)(1)) requires Federal agencies to publish in the Federal Register regulations describing how the public may obtain information from the agency. Part 2903 of Title 7, Code of Federal Regulations, was issued in accordance with the regulations of the Secretary of Agriculture at 7 CFR Part 1, Subpart A, implementing FOIA.

Pursuant to an internal reorganization of USDA, OE has been integrated into the Economic Research Service (ERS), USDA. This document removes 7 CFR Part 2903. Requests for information relating to OE may be obtained through the FOIA Coordinator for ARS pursuant to 7 CFR Part 1, Subpart A, and 7 CFR Part 3701.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the Federal Register. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Orders 12778 and 12866. Also, this rule will not cause a significant economic impact or other substantial effect on small entities. Therefore, the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., do not apply.

List of Subjects in 7 CFR Part 2903

Freedom of Information.

Accordingly, under the authority of 5 U.S.C. 301 & 552, Part 2903 is removed.

Done at Washington, DC, this 26th day of January, 1996.

Susan Offutt,

Administrator, Economic Research Service.

[FR Doc. 96–2351 Filed 2–2–96; 8:45 am]

BILLING CODE 3410–18–M

DEPARTMENT OF ENERGY

10 CFR Parts 830 and 835

Office of the General Counsel; Ruling 1995–1; Ruling Concerning 10 CFR Parts 830 (Nuclear Safety Management) and 835 (Occupational Radiation Protection)

AGENCY: Department of Energy.

ACTION: Notice of Ruling 1995–1.

SUMMARY: The Department of Energy (DOE) has issued Ruling 1995–1 which interprets certain regulatory provisions relating to DOE's nuclear safety requirements. This Ruling is intended to be a generally applicable clarification that addresses questions concerning the applicability and effect of these provisions.

FOR FURTHER INFORMATION CONTACT: Ben McRae, Office of the Assistant General Counsel for Civilian Nuclear Programs, Room 6A 167, Forrestal Building, 1000 Independence Ave., SW., Washington DC 20585; telephone (202) 586–6975.

SUPPLEMENTARY INFORMATION:

Department of Energy's Ruling 1995–1

A. Introduction

The Assistant Secretary for Environment, Safety and Health has requested that the General Counsel respond to several questions regarding nuclear safety regulations 10 CFR Parts 830 (Nuclear Safety Management) and 835 (Occupational Radiation Protection).

This ruling responds to those questions and constitutes an interpretation under Subpart D of 10 CFR Part 820.[1]

B. Questions and Responses

1. Is the scope of either Part 830 or Part 835 limited to those facilities or activities involving byproduct, source, or special nuclear materials, as defined in the Atomic Energy Act?

No, neither Part 830 nor 835 is limited to activities or facilities involving byproduct, source, or special nuclear material. The requirements in Parts 830 and 835 cover all activities under DOE's auspices with the potential to cause radiological harm. These rules are promulgated pursuant to section 161 of the Atomic Energy Act of 1954, as amended (AEA). Section 161b. of the AEA authorizes the Department to promulgate rules ''to govern the possession and use of special nuclear material, source material, and byproduct material'' and section 161i. authorizes the Department to prescribe such regulations as it deems necessary to govern *any* activity authorized pursuant to the AEA, specifically including standards for the protection of health and minimization of danger to life or property.

Although most sources of ionizing radiation are encompassed by the terms ''byproduct material,'' ''source material'' and ''special nuclear material,'' some sources, such as machine-produced radioactive material, are not. Because all ionizing radiation has the potential to cause harm, the Department did not limit the application of the nuclear safety requirements in Parts 830 and 835

[1] Subpart D of Part 820 sets forth the procedural framework for issuing an interpretation, which is defined in Part 820.2(a) to mean:

A statement by the General Counsel concerning the meaning or effect of the [Atomic Energy] Act, a Nuclear Statute, or a DOE Nuclear Safety Requirement which relates to a specific factual situation but may also be a ruling of general applicability where the General Counsel determines such action to be appropriate.

Sections 820.50, .51 and .52 state:

The General Counsel shall be * * * responsible for formulating and issuing any interpretation * * * [and] may utilize any procedure which he deems appropriate to comply with his responsibilities under this subpart. * * * Any written or oral response to any written or oral question which is not provided pursuant to this subpart does not constitute an interpretation and does not provide any basis for action inconsistent with the [Atomic Energy] Act, a Nuclear Statute, or a DOE Nuclear Safety Requirement.

to situations involving byproduct, source and special nuclear material.

Part 830 covers activities at facilities even where no nuclear material is present such as facilities that prepare the nonnuclear components of nuclear weapons, but which could cause radiological damage at a later time. 10 CFR 830.3(a)(6).

2. Do Parts 830 and 835 apply to Government employees in general and to the Department's Government-owned, Government-operated facilities specifically?

Part 830. Part 830.1 states that it governs the conduct of the Department's ''management and operating contractors and other persons at DOE nuclear facilities.'' [2] Section 830.4(a) provides that no *person* shall take or cause to be taken any action inconsistent with Part 830 or any document implementing Part 830. The definition of ''person'' in Part 830 excludes the Department, the Nuclear Regulatory Commission (NRC), as well as their employees when these employees are acting within the scope of their employment.[3] Therefore, the requirements in Part 830 do not apply to DOE employees.[4]

The preamble to the final Part 830 rule explained that the Department rejected comments that Part 830 be expanded to include DOE employees. The Department found that equivalent requirements were imposed on its employees through DOE directives.[5]

The requirements in Part 830 do not apply to the Department's Government-owned, Government-operated (GOGOs) facilities.[6] While the definition of nuclear facility in Part 830 does not contain an explicit exclusion for facilities operated by the Department, Part 830 only covers nuclear facilities operated and managed by a contractor. GOGOs are governed by the nuclear safety provisions contained in DOE directives.

Part 835. The requirements in Part 835 apply to DOE employees. The scope provision, section 835.1(a), does not limit its applicability to contractors.[7] Moreover, the general rule provision of section 835.3(a) explicitly provides that DOE personnel shall act consistently with the requirements of Part 835.[8]

The requirements in Part 835 also apply to activities at the Department's Government-owned, Government-operated facilities. Unlike Part 830, the general rule provision of Part 835 explicitly provides that, where there is no contractor responsible for a DOE activity, the Department shall ensure the implementation of and compliance with the requirements of Part 835.[9]

3. Is the scope of either Part 830 or Part 835 limited to those facilities or activities subject to civil penalties?

No, neither Part 830 nor 835 is not limited to those facilities or activities subject to civil penalties. The Department's authority to regulate its activities and those of its contractors derives from section 161 of the AEA. Section 161i. extends this authority to all activities undertaken by or for the Department pursuant to the AEA. The Price-Anderson Amendments Act of 1988 added section 234A to the Atomic Energy Act to provide the Department with authority to assess civil penalties for violations of rules, regulations or orders relating to nuclear safety by contractors and subcontractors who are indemnified by the Department pursuant to the Price-Anderson Act.[10] Section 234A did not limit the Department's regulatory authority under the Atomic Energy Act to those situations where the Department can assess civil penalties (that is, situations where there is a Price-Anderson indemnity agreement). Nor does Part 820, 830, or 835 contain any provision that would limit the exercise of this authority to only those facilities or activities subject to civil penalties.

4. To what extent do Parts 830 and 835 apply to subcontractors and suppliers, and is applicability dependent upon indemnification under the Price-Anderson provisions of the Atomic Energy Act?

Both Parts 830 and 835 apply to subcontractors and suppliers. As discussed in the response to question 3, there is no provision in the AEA or in 10 CFR Part 820, 830, or 835 that would limit the applicability of the requirements in Parts 830 and 835 to persons indemnified under the Price-Anderson provisions of the Atomic Energy Act.[11] Both parts provide that ''no person shall take or cause to be taken any action inconsistent with the requirements of the[ese] Part[s] or any program, plan, schedule, or other process established by the[ese] Part[s].'' [12] As discussed in the response to question 2, the definition of ''person'' in Parts 830 and 835 covers all individuals and entities other than the Department, the Commission and their employees. Thus, Parts 830 and 835 and implementation plans adopted thereunder apply to all contractors, subcontractors, suppliers and their employees. Even a visitor to a facility is obligated to comply with applicable requirements in these rules.

5. To what extent are activities performed on a DOE site subject to Parts 830 and 835 if they are regulated by the Nuclear Regulatory Commission (including activities certified by the NRC under section 1701 of the Atomic Energy Act) or by a State under an agreement with the NRC?

Both Parts 830 and 835 contain an explicit exclusion for activities regulated through a license by the Nuclear Regulatory Commission or a State under an Agreement with the

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[2] Section 830.1 states:

This part governs the conduct of the Department of Energy (DOE) management and operating contractors and other persons at DOE nuclear facilities.

[3] Sections 830.3(a) and 835.2(a) state:

Person means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency, any State or political subdivision of, or any political entity within a State, any foreign government or nation or other entity and any legal successor, representative, agent or agency of the foregoing; *provided that person does not include the Department or the United States NRC.* (emphasis added)

The only government agencies and employees thereof excluded from this definition are the Department and the NRC.

[4] Section 830.4(b) states:

With respect to a particular DOE nuclear facility, the contractor responsible for the design, construction, operation, or decommissioning of that facility shall be responsible for implementation of, and compliance with, the requirements of this part.

Section 830.4(a) states:

No person shall take or cause to be taken any action inconsistent with the requirements of this part or any program, plan, schedule, or other process established by this part.

[5] 59 FR 15845 (1994).

[6] DOE is considering expanding the scope of 830 to cover GOGOs and has requested comments on this issue in its Notice of limited reopening of comment periods published on August 31, 1995, 60 FR 45381.

[7] Section 835.1(a) states:

The rules in this part establish radiation protection standards, limits, and program requirements for protecting individuals from ionizing radiation resulting from the conduct of DOE activities.

[8] Section 835.3(a) states:

No person or *DOE personnel* shall take or cause to be taken any action inconsistent with the requirements of:

(1) This part; or

(2) Any program, plan, schedule, or other process established by this part. (emphasis added)

[9] Section 835.3(c) states:

Where there is no contractor for a DOE activity, DOE shall ensure implementation of and compliance with the requirements of this part.

[10] Section 234A.a. states:

Any person who has entered into an agreement of indemnification under subsection 170d. (or any subcontractor or supplier thereto) who violates (or whose employee violates) any applicable rule, regulation, or order related to nuclear safety prescribed or issued by the Secretary of Energy pursuant to this Act * * * shall be subject to a civil penalty. * * *

[11] Section 11 of the Atomic Energy Act defines ''person indemnified'' as ''the person with whom an indemnity agreement is executed * * * and *any other person* who may be liable for public liability. * * *'' (emphasis added)

[12] Sections 830.4(a) and 835.3(a) are set forth in footnotes 4 and 8, *supra*.

NRC [13] (or certified by the NRC under section 1701 of the Atomic Energy Act).[14] This exclusion is intended to prevent an activity from being subject to dual regulation under the Atomic Energy Act. The exclusion is not intended to permit activities to escape regulation and thus applies only to the portion of a facility or activity conducted pursuant to a NRC license or certification or state authorization derived from an agreement with the NRC.

6. To what extent are DOE activities performed off a DOE site subject to Parts 830 and 835, and what is the effect if these activities are performed on a site regulated by the Nuclear Regulatory Commission or by an Agreement State?

Part 830/Offsite Activities. Part 830 provides that it ''governs the conduct of the Department of Energy (DOE) management and operating contractors and other persons at DOE nuclear facilities.'' 10 CFR 830.1 (emphasis added) Section 830.3 provides that a ''nuclear facility'' may be either a ''reactor'' or a ''nonreactor nuclear facility.'' [15] ''Nonreactor nuclear facility means those activities or operations that involve radioactive or fissionable material in such form and quantity that a nuclear hazard potentially exists to the employees or the general public.'' [16] Thus, nonreactor facility includes not just facilities but activities and operations. However, because Part 830 applies only *at a DOE* nuclear facility, Part 830 applies only at DOE operations and activities and would not apply, for example, at a supplier's facility.[17]

Part 835/Offsite Activities. Part 835 is not limited to DOE activities at a DOE facility. Part 835 applies to the ''conduct of DOE activities.'' [18] ''DOE activities'' include ''an activity taken for or by the DOE that has the potential to result in * * * exposure * * * to radiation or radioactive material.'' [19] Thus, Part 835 covers activities performed off a DOE site and would include, for example, an action taken for DOE by a supplier at the supplier's faciltiy.[20]

Effect of NRC or State Licensing on Applicability of Parts 830 and 835. DOE activities that are subject to Nuclear Regulatory Commission licensing or certification or to Agreement State regulation are excluded from regulation under Parts 830 and 835. See answer to Question 5 above. With respect to activities regulated by a State, this exclusion only applies to the extent the State is regulating pursuant to AEA authority derived through an Agreement with the NRC.

7. To what extent do Parts 830 and 835 apply to activities performed under cooperative agreements, grants, and work-for-others?

Parts 830 and 835 apply to activities undertaken pursuant to the Department's authority under the Atomic Energy Act, including arrangements involving activities under cooperative agreements, grants, and work-for-others pursuant to its authority under section 31 (Research Assistance) and section 33 (Research For Others) of the AEA. Because neither Part 830 nor Part 835 contain any explicit exclusion of activities performed under work-for-others arrangements, cooperative agreements, or grants, the requirements in Parts 830 and 835 apply to such activities to the same extent the requirements apply to other activities undertaken pursuant to the Department's authority under the AEA.

Section 31d. of the Atomic Energy Act provides that arrangements under that section (cooperative agreements and grants) ''shall contain such provisions (1) to protect health [and] (2) to minimize danger to life and property * * * as the [Department] may determine.'' Thus, the Department has discretion to exclude from a particular arrangement some or all of the requirements in Parts 830 and 835.

Although the requirements of Parts 830 and 835 apply to arrangements other than contracts, civil penalty assessments are authorized only for a

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[13] Section 274 of the Atomic Energy Act provides that the NRC can enter into an agreement with a State to permit the State to regulate byproduct, special nuclear, and source material in certain specified situations. To the extent the NRC exercises this provision to transfer authority to a State, the State is considered an ''Agreement State.''

[14] Section 830.2 states:

This part does not apply to:

(a) Activities that are regulated through a license by the Nuclear Regulatory Commission (NRC) or a State under an Agreement with the NRC, including activities certified by the NRC under section 1701 of the Atomic Energy Act.

Section 835.1(b) states:

The requirements in this part do not apply to:

(1) Activities that are regulated through a license by the Nuclear Regulatory Commission or a State under an Agreement with the Nuclear Regulatory Commission, including activities certified by the Nuclear Regulatory Commission under section 1701 of the Atomic Energy Act.

[15] Section 830.3(a) states:

Nuclear facility means reactor and nonreactor nuclear facilities.

* * * * *

Non-reactor nuclear facility means those activities or operations that involve radioactive and/or fissionable materials in such form and quantity that a nuclear hazard potentially exists to the employees or the general public. Incidental use and generating of radioactive materials in a facility operation (e.g., check and calibration sources, use of radioactive sources in research and experimental and analytical laboratory activities, electron microscopes, and X-ray machines) would not ordinarily require the facility to be included in this definition. Transportation of radioactive materials, accelerators and reactors and their operations are not included. The application of any rule to a nonreactor nuclear facility shall be applied using a graded approach. Included are activities or operations that:

(1) Produce, process, or store radioactive liquid or solid waste, fissionable materials, or tritium;

(2) Conduct separations operations;

(3) Conduct irradiated materials inspections, fuel fabrication, decontamination, or recovery operations;

(4) Conduct fuel enrichment operations;

(5) Perform environmental remediation or waste management activities involving radioactive materials; or

(6) Design, manufacture, or assemble items for use with radioactive materials and/or fissionable materials in such form or quantity that a nuclear hazard potentially exists.

* * * * *

Reactor means * * * the entire nuclear reactor facility, including the housing, equipment, and associated areas devoted to the operation and maintenance of one or more reactor cores. * * *

[16] 10 CFR Part 830.3(a). Neither the AEA nor Part 830 limits the meaning of radioactive or fissionable material. In the preamble to the final rule that adopted Part 830, the Department rejected comments that requested a threshold to exclude coverage of low hazard facilities and reaffirmed its intent to cover all facilities that involve radioactive material in such form and quantity that a nuclear hazard potentially exists. See comment 9 and the response thereto, 59 FR 15844 (1994). In the same preamble, the Department stated that the definition of hazard in Part 830 is intended to cover ''all situations with any potential to cause harm to people, facilities, or the environment.'' See comment 7 and the respose thereto, 59 FR 15488 (1994). We are considering limiting the scope of Part 830 to those nuclear facilities classified as category 3 or higher in DOE Standard 1027. See Notice of Limited Reopening of Comment Periods, 60 FR 45381, August 31, 1995.

The only activities involving radioactive or fissionable materials not covered are those explicitly excluded by the definition of ''nonreactor nuclear facility,'' that is, activities that involve (1) transportation of radioactive material, (2) accelerators, or (3) the incidental use or generation of radioactive material associated with devices such as check and calibration sources, electron microscopes, and X-ray machines. While some activities at nuclear weapons facilities are excluded from coverage pursuant to section 830.2, these facilities are nonetheless nuclear facilities for purposes of section 830.3 and most activities at these facilities are covered by Part 830.

[17] DOE is considering expanding the scope of 830 to include those off-site activities that may affect the safe management of DOE sites and has requested comments on this issue in its Notice of Limited Reopening of Comment Periods published on August 31, 1995 in the Federal Register, 60 FR 45381.

[18] See footnote 7.

[19] Section 835.2(a) states:

DOE activities means an activity [sic] taken for or by the DOE that has the potential to result in the occupational exposure of an individual to radiation or radioactive material. The activity may be, but is not limited to, design, construction, operation, or decommissioning. To the extent appropriate, the activity may involve a single DOE facility or operation or a combination of facilities and operations, possibly including an entire site.

[20] The scope of Part 835 is also broader than 830 in that it does not exclude accelerators, transportation activities or incidental use of radioactive materials that are excluded from the definition of nonreactor nuclear facility in 830. See comment 11 and response thereto in the preamble to the final Part 835 rule, 59 FR 15845 (1994).

''person who may conduct activities under a contract with the Department of Energy * * *'' and any subcontractor or supplier thereto. Civil penalties are not authorized for activities conducted under a cooperative agreement, grant, or work-for-others arrangement, as distinguished from a contract. See Sections 234Aa. and 170d.(1)(A) of the AEA and the answer to question 8 below.

8. May DOE assess civil penalties against persons other than contractors indemnified under the Price-Anderson provisions of the Atomic Energy Act?

Civil penalties apply only to contractors who are indemnified under the Price-Anderson Act and any subcontractors and suppliers thereto.

Section 234A of the AEA authorizes civil penalties assessment for contractors of the Department (or any subcontractor or supplier thereto) that have entered into a Price-Anderson indemnity agreement with the Department. Section 170d.(1)(A) of the AEA mandates a Price-Anderson indemnity agreement between the Department and a contractor if activities by the contractor for the Department involve the risk of public liability.[21] Section 11 of the Atomic Energy Act defines public liability as ''any legal liability arising out of or resulting from a nuclear incident'' and defines nuclear incident as ''any occurrence * * * causing [damage or injury] * * * arising out of or resulting from * * * source, special nuclear, or byproduct material.''

Section 234A further limits civil penalties to situations where a contractor (or any subcontractor or supplier thereto) violates any applicable rule, regulation, or order of the Secretary of Energy relating to nuclear safety. 10 CFR Part 820 sets forth the procedural rules for DOE nuclear activities, including the procedures for assessing civil penalties. Part 820 defines nuclear safety requirement broadly to include all ''enforceable rules, regulations, or orders relating to nuclear safety adopted by DOE.* * *''[22] Section 820.20(b) limits the basis for assessment of civil penalties to violations of a DOE Nuclear Safety Requirement, *i.e.*, one set forth in the Code of Federal Regulations, a Compliance Order under part 820, or a plan or program implementing those provisions.[23] Thus, the requirements in Parts 830 and 835 form part of the set of nuclear safety requirements which, if violated, provide a basis for the assessment of civil penalties.

Therefore, only a Price-Anderson indemnified DOE contractor, and any subcontractor or supplier thereto, who violates a nuclear safety requirement of the type listed in section 820.20(b), may be assessed a civil penalty by the Department.

9. Are there any indemnification provisions other than the Price-Anderson provisions that apply to DOE facilities and activities and, if so, could such indemnification be used to invoke civil penalties for violations of Parts 830 and 835 or the applicability of the requirements in Parts 830 and 835?

Although there are other indemnification provisions that could be applied to DOE facilities and activities, there are no other indemnification provisions that could be used to invoke civil penalties under section 234A of the AEA. Section 170d.(1)(B)(i)(I) of the Atomic Energy Act provides that agreements of indemnification under the Price-Anderson provisions of that Act shall be the ''exclusive means of indemnification for public liability arising from activities'' conducted under a contract with the Department. This restriction on the Secretary's use of indemnity authority is directed to indemnification for public liability. With respect to situations involving liability other than public liability as defined in section 11 of the AEA,[24] other indemnification provisions (such as Public Law 85–804) may be available.

As discussed in the response to question 8, civil penalties under section 234A may be assessed only with respect to contractors indemnified under the Price-Anderson provisions of the AEA. The requirements of Parts 830 and 835, however, may be applied to DOE facilities or activities whether or not such facilities or activities are covered by DOE indemnification. As discussed in the response to question 3, section 161 of the AEA is the authority for the requirements in Parts 830 and 835 and the exercise of this authority is not dependent on whether the Department provides an indemnification for liability resulting from the activities to which the requirements apply.

10. What is the purpose of the exclusion in Parts 830 and 835 for activities conducted under the Nuclear Explosives and Weapons Safety Program relating to the prevention of accidental or unauthorized nuclear detonations and what activities are intended to be included within the scope of this exclusion?

Parts 830 and 835 contain identical exclusions for ''[a]ctivities conducted under the Nuclear Explosives and Weapons Safety Program relating to the prevention of accidental or unauthorized nuclear detonations.''[25] This exclusion is drafted narrowly to cover only those activities necessary to prevent an accidental or unauthorized nuclear detonations (that is, where the component parts of a nuclear weapon have been assembled in a manner such that a nuclear detonation could take place). The basis for this exclusion is the paramount importance of preventing accidental or unauthorized nuclear detonations and ensuring that the requirements in Parts 830 and 835 do not come into conflict with activities necessary to prevent any such detonation.

However, these exclusions are not intended to relieve the person responsible for a DOE nuclear facility or a DOE activity from complying with the requirements in Parts 830 and 835 to the extent they do not interfere with the conduct of activities undertaken to prevent an accidental or unauthorized nuclear detonation. For example, under Part 830, a contractor must develop and implement a Quality Assurance Program for a nuclear facility where nuclear weapons are or may be present. A provision within the Quality Assurance Program may be disregarded, however, to the extent it limits the conduct of an activity to prevent the detonation of a nuclear weapon. Under Part 835, for example, a contractor must implement and comply with the radiological posting requirements with respect to a

[21] Section 170d.(1)(A) states:

[T]he Secretary shall * * * enter into agreements of indemnification * * * with any person who may conduct activities under a contract with the Department of Energy that involve the risk of public liability.* * *

[22] Part 820.2(a) states:

DOE Nuclear Safety Requirements means the set of enforceable rules, regulations, or orders relating to nuclear safety adopted by DOE (or by another agency if DOE specifically identifies the rule, regulation, or order) to govern the conduct of persons in connection with any DOE activity and includes any programs, plans, or other provisions intended to implement these rules, regulations, orders, a Nuclear Statute [that is, any statute or provision of a statute that relates to a DOE nuclear activity and for which DOE is responsible], the [Atomic Energy] Act, including technical specifications and operational safety requirements for DOE nuclear facilities. For purposes of the assessment of civil penalties, the definition of DOE Nuclear Safety Requirements is limited to those set forth in 10 CFR section 820.20(b). (emphasis added)

[23] Section 820.20(b) provides that the basis for the assessment of civil penalties is a violation of:

(1) Any DOE Nuclear Safety Requirement set forth in the Code of Federal Regulations;

(2) Any Compliance Order issued pursuant to subpart C of this part; or

(3) Any program, plan, or other provision required to implement any requirement or order identified in paragraphs (b)(1) or (b)(2) of this section.

[24] See discussion in the answer to Question 8 above, regarding the definition of public liability.

[25] Sections 830.2(c) and 835.1(b)(3).

DOE activity that involves or may involve nuclear weapons. These posting requirements may be disregarded, however, to the extent they limit the conduct of a particular activity to prevent the detonation of a nuclear weapon, such as moving the weapon to an area that is not posted correctly for the presence of a nuclear weapon.

The Department, recognizes that the exclusion could be interpreted more broadly than intended and therefore may adopt a clarifying amendment to the exclusions stated in 10 CFR 830.2(c) and 835.1(b)(3).[26]

Robert R. Nordhaus,

General Counsel.

[FR Doc. 96–2345 Filed 2–2–96; 8:45 am]

BILLING CODE 6450–01–P

[26] See Notice of Limited Reopening of Comment Periods, 60 FR 45381, 45384 (1995) for a discussion of the weapons exclusion.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Loan Interest Rates

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The current 18 percent per year federal credit union loan rate ceiling is scheduled to revert to 15 percent on March 9, 1996, unless otherwise provided by the NCUA Board (Board). A 15 percent ceiling would restrict certain categories of credit and adversely affect the financial condition of a number of federal credit unions. At the same time, prevailing market rates and economic conditions do not justify a rate higher than the current 18 percent ceiling. Accordingly, the Board hereby continues an 18 percent federal credit union loan rate ceiling for the period from March 9, 1996 through September 8, 1997. Loans and lines of credit balances existing prior to May 15, 1987, may continue to bear their contractual rate of interest, not to exceed 21 percent. The Board is prepared to reconsider the 18 percent ceiling at any time should changes in economic conditions warrant.

EFFECTIVE DATE: March 9, 1996.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia, 22314–3428.

FOR FURTHER INFORMATION CONTACT: James F. Feeney, Office of Investment Services, Senior Investment Officer, at the above address. Telephone number: (703) 518–6620.

SUPPLEMENTARY INFORMATION:

Background

Public Law 96–221, enacted in 1979, raised the loan interest rate ceiling for federal credit credit unions from 1 percent per month (12 percent per year) to 15 percent per year. It also authorized the Board to set a higher limit, after consulting with Congress, the Department of the Treasury and other federal financial agencies, for a period not to exceed 18 months, if the Board should determine that: (1) money market interest rates have risen over the preceding 6 months; and (2) prevailing interest rate levels threaten the safety and soundness of individual credit unions as evidenced by adverse trends in growth, liquidity, capital and earnings.

On December 3, 1980, the Board determined that the foregoing conditions had been met. Accordingly, the Board raised the loan ceiling for 9 months to 21 percent. In the unstable environment of the first-half of the 1980s, the Board extended the 21 percent ceiling four times. On March 11, 1987, the Board lowered the loan rate ceiling from 21 percent to 18 percent effective May 18, 1987. This action was taken in an environment of falling market interest rates from 1980 to early 1987. The ceiling has remained at 18 percent to the present.

The Board felt, and continues to feel, that the 18 percent ceiling will fully accommodate an inflow of liquidity into the system, preserve flexibility in the system so that credit unions can react to any adverse economic developments, and will ensure that any increase in the cost of funds would not impinge on earnings of federal credit unions.

The Board would prefer not to set loan interest rate ceilings for federal credit unions. In the final analysis, the market sets the rates. The Board supports free lending markets and the ability of federal credit union boards of directors to establish loan rates that reflect current market conditions and the interests of credit union members. Congress has, however, imposed loan rate ceilings since 1934. In 1979, Congress set the ceiling at 15 percent but authorized the Board to set a ceiling in excess of 15 percent if the Board can justify it. The following analysis justifies a ceiling above 15 percent, but at the same time does not support a ceiling above the current 18 percent. The Board is prepared to reconsider this action at any time should changes in economic conditions warrant.

Justification for a Ceiling No Higher Than 18 Percent

Money Market Interest Rates

During the six-month period following the Board's July 1994 decision to continue the 18 percent ceiling, short-term money market rates increased about 150 basis points. For example, the two-year treasury note increased in yield from 6.15 percent to 7.69 percent for a gain of 154 basis points and a 25 percent change (see table 1).

TABLE 1.—MONEY MARKET INTEREST RATES

Maturity	Yields as of July 1, 1994	Yields as of December 30, 1994	Change in basis points
3-month	4.29	5.68	139
6-month	4.82	6.50	168
1-year	5.49	7.16	167
2-year	6.15	7.69	154
3-year	6.46	7.78	132
5-year	6.94	7.83	89

During the recent six-month period from July through December 1995, short-term money market rates decreased about 50 basis points. For example, the rate on the two-year treasury note dropped 60 basis points from 5.79 percent to 5.19 percent for a 10 percent change (see table 2). Although interest rates have fallen since July 1995, there is no assurance that they will remain at current levels during the period of this extension (from March 9,1996 through September 8, 1997). Most economists believe that rates will fall a bit further in early 1996 and then rise in the fourth quarter of 1996 or early in 1997.

Despite the market improvement in interest rates in the last six months, the NCUA board believes that, in view of the uncertain outlook for interest over the next 18 months, lowering the interest rate ceiling at this time could cause an unnecessary burden on credit unions, especially those with 20% or more of their assets in high-interest rate loans.

TABLE 2.—MONEY MARKET INTEREST RATES

Maturity	Yields as of July 1, 1995	Yields as of December 30, 1995	Change in basis points
3-month	5.60	5.12	48
6-month	5.60	5.18	42
1-year	5.62	5.16	46
2-year	5.79	5.19	60

TABLE 2.—MONEY MARKET INTEREST RATES—Continued

Maturity	Yields as of July 1, 1995	Yields as of December 30, 1995	Change in basis points
3-year	5.85	5.25	60
5-year	5.96	5.41	55

Liquidity, Capital, Earnings and Growth of Individual Credit Unions

For at least 1,673 (14%) credit unions, market conditions call for rates on unsecured loans to be above 15%. For some of these credit unions, three factors combine to require interest rate charges above 15 percent in order to maintain liquidity, capital, earnings and growth. The first factor is low average loan balance. For example, credit unions with under $2 million in assets have many unsecured loans with loan balances below $1000.

There are fixed costs of granting and processing a loan. Many of these costs are incurred regardless of the size of the loan. Expressed as a percentage of loan balance on which interest will be collected, these costs can be very high on small loans.

Many other types of financial institutions will not even consider loan applications for less than $1000. Lowering the interest rate ceiling for credit unions will discourage credit unions, too, from making these loans. Credit seekers' options will be reduced, with most of the affected members having no alternative but to turn to neighborhood lenders.

The second factor is credit risk. Loans to young members who have not yet established a credit history and loans to those who have built weak credit histories both carry high credit risk. Credit unions must charge rates sufficiently high enough to cover higher-than usual losses for such loans. There are undoubtedly more than 1,673 credit unions charging over 15 percent for unsecured loans to such members. Many credit unions have ''Credit Builder'' or ''Credit Rebuilder'' loans but must report the ''most common'' rate on the Call Report for unsecured loans.

The third factor is credit union size. Small credit unions have fewer loans over which to distribute their overhead costs. Thus, small credit unions making small loans to members with poor or no credit histories are struggling with far higher costs than the typical credit union. Both young people and lower income households have limited access to credit and, absent a credit union, often pay rates of 24 to 30 percent to small loan companies. Rates between 15 and 18 percent are attractive to such members. The higher rates are necessary to help cover the credit unions' costs of providing this kind of credit.

Table 3 shows the number of credit unions in each asset group that charge more than 15 percent for unsecured loans. It also shows the percent of credit unions in each group that do so. NCUA staff is not aware of any complaints from members of those credit unions offering high-risk, high-interest rate loans.

TABLE 3.—CREDIT UNIONS CHARGING MORE THAN 15 PERCENT ON UNSECURED LOANS AS OF JUNE 1995

Asset size group	Count of all CUs this asset size	Charging more than 15% on unsecured loans	
		Number	Percent
Less than $2MM	3,666	386	10.5
$2MM to $10MM	4,157	613	14.7
$10MM to $50MM	2,813	459	16.3
Over $50MM	1,200	215	17.9
Total .	11,836	1,673	14.1

Among the 1,673 credit unions charging more than 15 percent for unsecured loans, there are 367 credit unions with 20 percent or more of their assets in this kind of loan. For these credit unions, lowering their rates would damage their liquidity, capital, earnings and growth. Table 4 shows credit unions charging more than 15 percent that have more than 20 percent of their assets in these loans.

TABLE 4.—CREDIT UNIONS WITH MORE THAN 20 PERCENT OF ASSETS IN UNSECURED LOANS AS OF JUNE 1995

Asset size group	Number of CUs	Percent of size group	Average percent of assets in unsecured loans
Less than $2MM	152	4.1	381.1
$2MM to $10MM	133	3.2%	26.9
$10MM to $50MM	65	2.3	26.7
Over $50MM	17	1.4	25.5
Total .	367	3.1	31.4

In conclusion, the Board has continued the federal credit union loan interest rate ceiling of 18 percent per year for the period from March 9, 1996 through September 8, 1997. Loans and line of credit balances existing on May 15, 1987 may continue to bear interest at their contractual rate, not to exceed 21 percent. Finally, the Board is prepared to reconsider the 18 percent ceiling at any time during the extension period, should changes to economic conditions warrant it.

Regulatory Procedures

Administrative Procedure Act

The Board has determined that notice and public comment on this rule are impractical and not in the public interest, 5 U.S.C. 553(b)(B). Due to the need for a planning period prior to the March 8, 1996 expiration date of the current rule, and the threat to the safety and soundness of individual credit unions with insufficient flexibility to determine loan rates, final action on the loan rate ceiling is necessary.

Regulatory Flexibility Act

For the same reasons, a regulatory flexibility analysis is not required, 5 U.S.C. 604(a). However, the Board has considered the need for this rule, and the alternatives, as set forth above.

Paperwork Reduction Act

There are no paperwork requirements.

Executive Order 12612

The final rule does not affect state regulation of credit unions. It implements provisions of the Federal Credit Union Act applying only to federal credit unions.

List of Subjects in 12 CFR Part 701

Credit, Credit unions, Loan interest rates.

By the National Credit Union Administration Board on January 25, 1996.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends 12 CFR part 701 as follows:

PART 701—[AMENDED]

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

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789, 1798. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*; 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

2. Section 701.21(c)(7)(ii)(C) is revised to read as follows:

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

* * * * *

(c) * * *

(7) * * *

(ii) * * *

(C) *Expiration.* After September 8, 1997, or as otherwise ordered by the NCUA Board, the maximum rate on federal credit union extensions of credit to members shall revert to 15 percent per year. Higher rates may, however, be charged, in accordance with paragraphs (c)(7)(ii) (A) and (B) of this section, on loans and line of credit balances existing on or before September 8, 1997.

* * * * *

[FR Doc. 96–2016 Filed 2–2–96; 8:45 am]

BILLING CODE 7535–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 37–3–7203; FRL–5329–7]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Butte County Air Pollution Control District, Mojave Desert Air Quality Management District, Monterey Bay Unified Air Pollution Control District, Santa Barbara County Air Pollution Control District, and Yolo-Solano Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the approval of revisions to the California State Implementation Plan (SIP) proposed in the Federal Register on July 27, 1995. The revisions concern rules from Butte County Air Pollution Control District (BCAPCD), Mojave Desert Air Quality Management District (MDAQMD), Monterey Bay Unified Air Pollution Control District (MBUAPCD), Santa Barbara County Air Pollution Control District, and Yolo-Solano Air Quality Management District (YSAQMD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rules control VOC emissions from the manufacture and application of cutback and emulsified asphalt materials. Thus, EPA is finalizing the approval of these revisions into the California SIP 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.

EFFECTIVE DATE: This action is effective on March 6, 1996.

ADDRESSES: Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

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

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1219 ''K'' Street, Sacramento, CA 95814

Butte County Air Pollution Control District, 9287 Midway, Suite 1A, Durham, CA 95938

Mojave Desert Air Quality Management District, 15428 Civic Drive, Victorville, CA 92392

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940

Santa Barbara County Air Pollution Control District, 26 Castilian Drive B–23, Goleta, CA 93117.

Yolo-Solano Air Quality Management District, 1947 Galileo Court, Suite 103, Davis, CA 95616.

FOR FURTHER INFORMATION CONTACT: Patricia A. Bowlin, Rulemaking Section, Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1188.

SUPPLEMENTARY INFORMATION:

Background

On July 27, 1995 in 60 FR 38535, EPA proposed to approve the following rules into the California SIP: BCAPCD Rule 241, Cutback and Emulsified Asphalt; MDAQMD Rule 1103, Cutback and Emulsified Asphalt; MBUAPCD Rule 425, Use of Cutback Asphalt; SBCAPCD Rule 329, Cutback and Emulsified Asphalt Paving Materials; and YSAQMD Rule 2.28, Cutback and Emulsified Asphalts. The BCAPCD adopted Rule 241 on January 12, 1993; the MDAQMD adopted Rule 1103 on December 21, 1994; the MBUAPCD adopted Rule 425 on August 25, 1993; the SBCAPD adopted rule 329 on February 25, 1992; and the YSAQMD adopted Rule 2.28 on May 25, 1994. These rules were submitted by the California Air Resources Board (CARB) to EPA on May 13, 1993; December 22, 1994; November 18, 1993; June 19, 1992; and November 30, 1994 respectively. These rules were submitted in response to EPA's 1988 SIP-Call and the CAA section 182(a)(2)(A) requirement that nonattainment areas fix their reasonably available control technology (RACT) rules for ozone in accordance with EPA guidance that interpreted the requirements of the pre-amendment Act. A detailed discussion of the background for each of the above rules and nonattainment areas is provided in the NPRM cited above.

EPA has evaluated the above rules for consistency with the requirements of the CAA, EPA regulations, and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the NPRM cited above. EPA has found that the rules meet the applicable EPA requirements. A detailed discussion of the rule provisions and evaluations has been provided in 60 FR 38535 and in technical support documents (TSDs) available at EPA's Region IX office.

Response to Public Comments

A 30-day public comment period was provided in 60 FR 38535. EPA received no comments regarding the NPRM.

EPA Action

EPA is finalizing action to approve the above rules for inclusion into the California SIP. EPA is approving the submittals under section 110(k)(3) as meeting the requirements of section 110(a) and Part D of the CAA. This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of VOCs in accordance with the requirements of the CAA.

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.

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules

that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

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

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

Dated: October 31, 1995.

Felicia Marcus,

Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(188)(i)(A)(*4*), (193)(i)(C)(*1*), (194)(i)(F)(*2*), (207)(i)(C)(*2*), (210)(i)(C)(*1*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(188) * * *

(i) * * *

(A) * * *

(*4*) Rule 329, adopted on February 25, 1992.

* * * * *

(193) * * *

(i) * * *

(C) Butte County Air Pollution Control District.

(*1*) Rule 241, adopted on January 12, 1993.

* * * * *

(194) * * *

(i) * * *

(F) * * *

(*2*) Rule 425, adopted on August 25, 1993.

* * * * *

(207) * * *

(i) * * *

(C) * * *

(*2*) Rule 2.28, adopted on May 25, 1994.

* * * * *

(210) * * *

(i) * * *

(C) Mojave Desert Air Quality Management District.

(*1*) Rule 1103, adopted on December 21, 1994.

* * * * *

[FR Doc. 96–2141 Filed 2–2–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[WV035–6001; FRL–5416–6]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia: Interim Final Determination That West Virginia Has Corrected the Deficiencies in the Plan for the Follansbee PM–10 Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim Final Rule.

SUMMARY: In the Proposed Rules section of today's Federal Register, EPA has published a notice proposing to fully approve the State of West Virginia's submittal of revisions to its demonstration that its SIP is sufficient to attain national ambient air quality standards (NAAQS) for particulate matter with aerodynamic diameter less than or equal to 10 micrometers (PM–10) in the Follansbee, West Virginia area. Based on the proposed full approval, EPA is making an interim final determination by this notice that the State has corrected the deficiencies for which a sanctions clock began on August 24, 1994. 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 on this interim final determination as well as EPA's proposed approval of the State's submittal. If no comments are received on EPA's proposed approval of the State's submittal, EPA will take final approval action which will also finalize EPA's determination that the State has corrected the deficiency that started the sanctions clock. 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: Effective February 5, 1996.

Comments on this interim final determination must be received by March 6, 1996.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania and the West Virginia Department of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia.

FOR FURTHER INFORMATION CONTACT: Thomas A. Casey, (215) 597–2746, at the EPA Region III address above (Mailcode 3AT22) or via e-mail at casey.thomas@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the EPA Region III address above.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1991, West Virginia submitted an attainment SIP for the Follansbee nonattainment area. The submittal contained bilateral consent orders between the State of West Virginia and six companies requiring reductions in PM–10 emissions from six sources in the Follansbee area; an air quality modeling analysis intended to demonstrate that West Virginia's SIP, once revised to include the consent

orders, would be sufficient to attain the PM–10 NAAQS in the Follansbee area; and other supporting information. EPA took final limited approval and final limited disapproval action on West Virginia's 1991 submittal on July 25, 1994 (59 FR 37696). EPA's 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 (Act) and a 24-month clock for promulgation of a Federal implementation plan under section 110(c)(1) of the Act. The State submitted revisions to its attainment demonstration and emissions inventory on November 22, 1995 that correct the deficiencies in the original submittal. In a separate notice in the Proposed Rules today's Federal Register, EPA proposed full approval of this submittal.

II. EPA Action

Based on the proposed full 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 that started the sanction clock. Therefore, EPA is taking this interim final action that finds that the State has corrected the disapproval deficiencies. This determination is effective on publication. This action does not stop the sanction clock that started under section 179 for this area on August 24, 1994. However, this action will defer the application of the offset sanction and will defer the application of the highway sanction. *See* 59 FR 39832 (Aug. 4, 1994) to be codified at 40 CFR 52.31. If EPA's proposal to fully approve the State's submittal becomes effective, such action will permanently stop the sanction clock and will permanently lift any applied, stayed or deferred sanctions.

Today, EPA is also providing the public with an opportunity to comment on this interim final action. If, based on any comments on this action and any comments on EPA's proposed full 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 take further action to disapprove the State's submittal and to find 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. In addition, the sanctions consequences described in the sanctions rule will also apply. *See* 59 FR 39832.

III. Administrative Requirements

Because EPA has preliminarily determined that the State has an approvable plan, 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] *See* 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 deficiency that started the sanctions clock. Therefore, it is not in the public interest to initially apply sanctions or to keep applied sanctions in place when the State has most likely done all that it can to correct the deficiency 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 deficiency 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 stay or defer sanctions while EPA completes its rulemaking process on the approvability of the State's submittal. In addition, 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).

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

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. *See* 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This action, pertaining to the interim final determination for approval of corrections to the West Virginia's PM–10 attainment demonstration and emissions inventory for the Follansbee area, temporarily relieves sources of an additional burden potentially placed on them by the sanction provisions of the Act. Therefore, I certify that it does not have an impact on any small entities.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental regulations, Particulate matter.

Authority: 42 U.S.C. 7401–7671q.

Dated: January 25, 1996.

W. Michael McCabe,

Regional Administrator.

[FR Doc. 96–2251 Filed 2–2–96; 8:45 am]

BILLING CODE 6560–50–P

[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.

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40 CFR Parts 52 and 70

[CA 147–2–7201; AD-FRL–5330–3]

Clean Air Act Final Interim Approval of the Operating Permits Program; Approval of State Implementation Plan Revision for the Issuance of Federally Enforceable State Operating Permits; Mojave Desert Air Quality Management District, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interim approval.

SUMMARY: The EPA is promulgating interim approval of the Operating Permits Program submitted by the California Air Resources Board on behalf of the Mojave Desert Air Quality Management District (AQMD), California (district) for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources. In addition, EPA is promulgating final approval of a revision to Mojave Desert's portion of the California State Implementation Plan (SIP) regarding synthetic minor regulations for the issuance of federally enforceable state operating permits (FESOP). In order to extend the federal enforceability of state operating permits to hazardous air pollutants (HAP), EPA is also finalizing approval of Mojave Desert's synthetic minor regulations pursuant to section 112(l) of the Clean Air Act (CAA or Act). Finally, today's action grants final approval to Mojave Desert's mechanism for receiving delegation of section 112 standards as promulgated.

EFFECTIVE DATE: March 6, 1996.

ADDRESSES: Copies of the district's submittal and other supporting information used in developing the final interim approval are available for inspection during normal business hours at the following location: Operating Permits Section, A–5–2, Air

and Toxics Division, U.S. EPA-Region IX, 75 Hawthorne Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: Sara Bartholomew (telephone 415/744–1170), Mail Code A–5–2, U.S. Environmental Protection Agency, Region IX, Air & Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

Title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Act), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that States develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of Part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program.

On July 3, 1995, EPA proposed interim approval of the operating permits program for Mojave Desert AQMD, California. See 54 FR 34488. The Federal Register document also proposed approval of the district's interim mechanism for implementing section 112(g) and program for delegation of section 112 standards as promulgated. Public comment was solicited on these proposed actions. EPA received no public comment on the proposal. In this notice, EPA is promulgating interim approval of Mojave Desert's operating permits program and approving the section 112(g) and section 112(l) mechanisms noted above.

On June 28, 1989 (54 FR 27274), EPA published criteria for approving and incorporating into the SIP regulatory programs for the issuance of federally enforceable state operating permits. Permits issued pursuant to a program meeting the June 28, 1989 criteria and approved into the SIP are considered federally enforceable for criteria pollutants. The synthetic minor mechanism may also be used to create federally enforceable limits for emissions of HAP if it is approved pursuant to section 112(l) of the Act.

In the July 3, 1995 Federal Register document, EPA also proposed approval of Mojave Desert's synthetic minor program for creating federally enforceable limits in District operating permits. In this document, EPA is promulgating approval of the synthetic minor program for Mojave Desert as a revision to the district's SIP and pursuant to section 112(l) of the Act.

II. Final Action and Implications

A. Analysis of State Submission

Comments

On July 3, 1995, EPA proposed interim approval of Mojave Desert's title V operating permits program as it was submitted on March 10, 1995. Since the time that EPA proposed interim approval, Mojave Desert adopted regulations to implement title IV of the Act. On June 28, 1995, Mojave Desert incorporated part 72 by reference into District Rule 1210. Rule 1210 was submitted to EPA on August 3, 1995, and it corrects the third program deficiency identified in the proposed interim approval notice by adopting regulations to implement title IV of the Act.

EPA received no adverse public comment on Mojave Desert's title V operating permits program, the proposed approval of Mojave Desert's synthetic minor program, or program for receiving section 112(l) standards as promulgated.

B. Final Action

1. Title V Operating Permits Program

The EPA is promulgating interim approval of Mojave Desert's title V operating permits program as submitted on March 10, 1995. EPA did not receive any comments on the changes that were outlined as necessary for full approval. Therefore, the program deficiencies described in the proposed rulemaking, under II.B.1.(a), *Proposed Interim Approval*, and the legislative deficiency outlined under II.B.1.(b), *Legislative Source Category-Limited Interim Approval Issue*, must be corrected in order for the district to be granted full approval.

The scope of the Mojave Desert's part 70 program approved in this notice applies to all part 70 sources (as defined in the approved program) within the district, except any sources of air pollution over which an Indian Tribe has jurisdiction. See, *e.g.*, 59 FR 55813, 55815–18 (Nov. 9, 1994). The term ''Indian Tribe'' is defined under the Act as ''any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.'' *See* section 302(r) of the CAA; see also 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

This interim approval, which may not be renewed, extends until March 5, 1998. During this interim approval period, Mojave Desert is protected from sanctions, and EPA is not obligated to promulgate, administer and enforce a Federal operating permits program in this district. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of this interim approval, as does the 3-year time period for processing the initial permit applications.

If Mojave Desert fails to submit a complete corrective program for full approval by September 5, 1997, EPA will start an 18-month clock for mandatory sanctions. If the district then fails to submit a corrective program that EPA finds complete before the expiration of that 18-month period, EPA will be required to apply one of the sanctions in section 179(b) of the Act, which will remain in effect until EPA determines that the district has corrected the deficiency by submitting a complete corrective program. Moreover, if the Administrator finds a lack of good faith on the part of Mojave Desert, both sanctions under section 179(b) will apply after the expiration of the 18-month period until the Administrator determines that the district has come into compliance. In any case, if, six months after application of the first sanction, Mojave Desert still has not submitted a corrective program that EPA has found complete, a second sanction will be required.

If EPA disapproves Mojave Desert's complete corrective program, EPA will be required to apply one of the section 179(b) sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date the district has submitted a revised program and EPA has determined that it corrected the deficiencies that prompted the disapproval. Moreover, if the Administrator finds a lack of good faith on the part of Mojave Desert, both sanctions under section 179(b) shall apply after the expiration of the 18-month period until the Administrator determines that the district has come into compliance. In all cases, if, six months after EPA applies the first

sanction, Mojave Desert has not submitted a revised program that EPA has determined corrects the deficiencies, a second sanction is required.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if Mojave Desert has not submitted a timely and complete corrective program or EPA has disapproved its submitted corrective program. Moreover, if EPA has not granted full approval to the district's program by the expiration of this interim approval and that expiration occurs after November 15, 1995, EPA must promulgate, administer and enforce a federal permits program for Mojave Desert upon interim approval expiration.

2. District Preconstruction Permit Program Implementing Section 112(g)

EPA is approving the use of Mojave Desert's preconstruction review program found in Regulation XIII (New Source Review) as a mechanism to implement section 112(g) during the transition period between promulgation of EPA's section 112(g) rule and adoption by Mojave Desert of rules specifically designed to implement section 112(g). EPA is limiting the duration of this approval to 18 months following promulgation by EPA of the section 112(g) rule.

3. Program for Delegation of Section 112 Standards as Promulgated

Requirements for part 70 program approval, specified in 40 CFR section 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the District's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is also promulgating approval under section 112(l)(5) and 40 CFR section 63.91 of Mojave Desert's program for receiving delegation of section 112 standards that are unchanged from the federal standards as promulgated. This program for delegations applies to both existing and future standards but is limited to sources covered by the part 70 program.

4. State Operating Permit Program for Synthetic Minors

EPA is promulgating full approval of Mojave Desert's synthetic minor operating permit program, adopted by the district on December 21, 1994, and submitted to EPA by the California Air Resources Board, on behalf of the Mojave Desert, on March 31, 1995. The synthetic minor operating permit program is being approved into Mojave Desert's SIP pursuant to part 52 and the five approval criteria set out in the June 28, 1989 Federal Register document (54 FR 27282). EPA is also promulgating full approval pursuant to section 112(l)(5) of the Act so that HAP emission limits in synthetic minor operating permits may be deemed federally enforceable.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future 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.

III. Administrative Requirements

A. Docket

Copies of Mojave Desert's submittal and other information relied upon for the final interim approval are contained in docket number CA–MJ–95–01–OPS, maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final interim approval. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

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

C. Regulatory Flexibility Act

The EPA's actions under sections 502, 110, and 112 of the Act do not create any new requirements, but simply address operating permit programs submitted to satisfy the requirements of 40 CFR part 70. Because these actions do not impose any new requirements, they do not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated today does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under state or local law, and imposes no new federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

40 CFR Part 70

Administrative practice and procedure, Air pollution control, Environmental protection, Hazardous substances, Intergovernmental relations, Operating permits, and Reporting and recordkeeping requirements.

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

Dated: October 31, 1995.

Felicia Marcus,

Regional Administrator.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(216)(i)(A)(*2*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(216) * * *

(i) * * *

(A) * * *

(*2*) Rule 221, adopted December 21, 1994.

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PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

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

2. Appendix A to part 70 is amended by adding paragraph (q) to the entry for California to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

(q) *Mojave Desert AQMD* (complete submittal received on March 10, 1995); interim approval effective on March 6, 1996; interim approval expires March 5, 1998.

* * * * *

[FR Doc. 96–2247 Filed 2–2–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 70

[OK–FRL–5407–9]

Clean Air Act Final Interim Approval of Operating Permits Program; the State of Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final source category-limited interim approval.

SUMMARY: The EPA is promulgating source category-limited interim approval of the Operating Permits Program submitted by the Oklahoma Department of Environmental Quality (ODEQ) for the State of Oklahoma for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, except any sources of air pollution over which an Indian Tribe has jurisdiction, and to certain other sources.

EFFECTIVE DATE: March 6, 1996.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing this source category-limited interim approval are available for inspection during normal business hours at the following location:

U. S. Environmental Protection Agency, Region 6, Air Programs Branch (6T–AN), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Oklahoma Department of Environmental Quality, Air Quality Program, 4545 North Lincoln Blvd, Suite 250, Oklahoma City, Oklahoma 73105–3483.

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Wm. Nicholas Stone, New Source Review Section (6T-AN), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7226.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

Title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Clean Air Act (CAA or ''the Act'')), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that States develop and submit operating permits programs to the EPA by November 15, 1993, and that the EPA act to approve or disapprove each program within one year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, the EPA may grant the program interim approval for a period of up to two years. If the EPA has not fully approved a program by two years after November 15, 1993, or by the end of an interim program, it must establish and implement a Federal program.

On March 10, 1995, the EPA proposed source category-limited interim approval of the operating permits program for the State of Oklahoma. *See* 60 Federal Register (FR) 13088 (March 10, 1995). The EPA received comments on the proposal and compiled a Technical Support Document which describes the operating permits program in greater detail. In this document, the EPA is taking final action to promulgate source category-limited interim approval of the operating permits program for the State of Oklahoma.

II. Final Action and Implications

A. Analysis of State Submission

The State of Oklahoma submitted to the EPA, under a cover letter from the Governor dated January 7, 1994, the State's operating permits program. The submittal has adequately addressed all sixteen elements required for full approval as discussed in part 70, with the exception of seven interim issues listed in the proposal: (1) Revision of Subchapter 8 to incorporate the new transition schedule included in the Governor's request for source category-limited interim approval, (2) regulation revision to make the definition of ''major source'' consistent with part 70, (3) revision of the regulation to make the provisions for insignificant activities consistent with part 70, (4) revision of the regulation to make the permit content provisions consistent with part 70, (5) revision of the regulation to make the provisions regarding standing for judicial review consistent with part 70, (6) revision of the regulation to make the administrative amendments provisions consistent with part 70, and (7) submission of a State Implementation Plan (SIP) revision for Subchapter 7 consistent with Subchapter 8 and 40 CFR part 70.

The proposal noted three conditions that had to be met before the EPA could complete the approval process. The State of Oklahoma has adequately addressed each of these issues as shown below:

1. Acid Rain Incorporation by Reference

The State had not completed the rulemaking process for the acid rain rules when the proposal was sent to publication. The State of Oklahoma incorporated the acid rain rules by reference as an emergency rule signed January 5, 1995. This provision appears at Oklahoma Administrative Code (OAC) 252:100–8–6(i)(8) and became a permanent rule, due to inaction by the Legislature, on March 29, 1995.

2. Request for Source Category-Limited Interim Approval

The Governor of Oklahoma, in a letter dated May 26, 1995, requested source category-limited approval for the operating permits program. The Executive Director of the ODEQ submitted a detailed transition schedule in a letter dated January 23, 1995, for the source category-limited interim approval.

3. Supplemental Attorney General's Opinion

The State of Oklahoma provided the EPA with a supplemental Attorney General Opinion, dated June 23, 1995, which clarified the State's interpretation of the criminal liability statute. The EPA required this clarification to ensure that the criminal liability provision in the State statute would not preclude daily fines up to $10,000 for on-going violations.

The State of Oklahoma appropriately addressed all requirements necessary to receive source category-limited interim approval of the State operating permits

program pursuant to title V of the Act and 40 CFR part 70.

B. Response to Comments

Comments were received from six parties during the comment period that ran from March 10, 1995, until April 10, 1995. Several of the comments requested additional time so that comments could be made after the Air Quality Council meeting on April 18, 1995. The EPA extended the comment period until May 10, 1995, in a Federal Register document published April 26, 1995. Three additional parties submitted comments during the extension. Below is the EPA's response to comments received on the proposed source category-limited interim approval for the Oklahoma Operating Permits Program.

1. Section 112(g) Implementation

Comments were made that the EPA should reiterate its present interpretation of section 112(g) as published in the Federal Register on February 14, 1995.

The EPA concurs with the comment. The EPA proposed to approve the State's preconstruction review program for the purpose of implementing section 112(g) during the transition period before promulgation of a Federal rule implementing section 112(g). This proposal was based in part on an interpretation of the Act that would require sources to comply with section 112(g) beginning on the date of approval of the title V program, regardless whether the EPA had completed its section 112(g) rulemaking. The EPA has since revised this interpretation of the Act in a Federal Register document published on February 14, 1995, 60 FR 8333. The revised interpretation postpones the effective date of section 112(g) until after the EPA has promulgated a rule addressing that provision. The revised notice sets forth in detail the rationale for the revised interpretation.

The section 112(g) interpretive notice explains that the EPA is still considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the Federal rule so as to allow States time to adopt rules implementing the Federal rule, and that the EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until the EPA provides for such an additional postponement of section 112(g), Oklahoma must be able to implement section 112(g) during the transition period between promulgation of the Federal section 112(g) rule and adoption of implementing State regulations.

For this reason, the EPA is finalizing its approval of Oklahoma's preconstruction review program. This approval clarifies that the preconstruction review program is available as a mechanism to implement section 112(g) during the transition period between promulgation of the section 112(g) rule and adoption by Oklahoma of rules established to implement section 112(g). However, since the approval is for the single purpose of providing a mechanism to implement section 112(g) during the transition period, the approval itself will be without effect if the EPA decides in the final section 112(g) rule that sources are not subject to the requirements of the rule until State regulations are adopted. Further, the EPA is limiting the duration of this approval to 18 months following promulgation by the EPA of the section 112(g) rule.

The EPA believes that, although Oklahoma currently lacks a program designed specifically to implement section 112(g), the State's preconstruction review program will serve as an adequate implementation vehicle during a transition period because it will allow Oklahoma to select control measures that would meet the maximum achievable control technology, as defined in section 112, and incorporate these measures into a federally enforceable preconstruction permit.

2. Major Source Definition

Several comments questioned the EPA's position on the State's definition of ''major source'' because it requires the State to revise its definition to delete the non-aggregation provision for criteria pollutants at oil & gas facilities. Some of the comments cited section 112(n)(4) of the Act and interpreted the Federal statute to mean that emissions at oil and gas facilities cannot be aggregated.

The EPA does not agree with these comments. The EPA has required the State to revise the non-aggregation provision for criteria pollutants because, as written, the regulation could be interpreted to allow non-aggregation of criteria pollutants at oil and gas facilities. Section 112 of the Act applies only to hazardous air pollutants and no similar non-aggregation provision is found in title V of the Clean Air Act Amendments of 1990 for criteria pollutants at oil and gas facilities. Without this required change, the definition of ''major source'' will also be inconsistent with the definition of ''major source'' at 40 CFR 52.21 which contains the Prevention of Significant Deterioration (PSD) requirements.

3. Insignificant Activities

Several comments complained that EPA's approval of an insignificant activities list would limit State discretion. The comments also noted that the State should maintain this list as a guidance document and not as a part of the regulations. Further, comments were made that the insignificant emissions level of 10% of the permit limit or major source threshold was consistent with State law. Some of the comments noted that measurement equipment often has a 10% margin of error and that the current regulation is consistent with the limits of the equipment used. One comment suggested that the EPA complete formal rulemaking before imposing an insignificant emissions level.

The EPA does not agree with these comments. Regarding the need for prior approval by the EPA, the rule at 40 CFR 70.5(c) clearly requires the Administrator's approval of the State's insignificant activities list. Contrary to one individual's comment, even though insignificant activities are not a required element of a part 70 program, a State that opts to establish such activities must nevertheless meet certain requirements, including prior approval by the EPA. Though this list does not have to be a part of the regulations, the EPA must approve it to assure that all applicable requirements are met and that consistency among the various states is maintained. The insignificant activities list may exist as a guidance document and not as part of the State regulations, provided, of course, that this will allow for its effective implementation as a matter of State law. However, the list and any changes to the list must be submitted to the EPA for review and approval before they can be federally recognized.

The EPA plans to issue guidance addressing activities that it considers ''trivial'' in the sense that they never implicate applicable requirements. Such activities can be exempted from permit applications without the need for prior EPA approval. The State may act consistent with this guidance. However, activities that are ''insignificant'' (as opposed to ''trivial'') because they are not clearly unrelated to applicable requirements, must first be approved by the EPA.

Another element of the EPA's proposed approval was that the State eliminate the provision defining as insignificant increases in emissions less than 10 percent of a permit limit or 10

percent of the baseline potential to emit. The EPA continues to believe that defining insignificance levels relative to percentages of permitted limits or potential emissions is inappropriate, because it can result in increases being deemed insignificant that are large enough to trigger New Source Review (NSR) or other applicable requirements. In addition, use of a percentage of permit limits could be read to imply that sources may exceed those limits without incurring liability. Title V provides no authorization for this.

Several comments suggested that the State's insignificance levels should be approved because the equipment used to monitor emissions has a 10 percent margin of error. These comments misunderstand the role of insignificant activities. Insignificant activities or levels are not relevant to determining compliance with applicable requirements. The limits of verifiability for any particular emissions limits are therefore irrelevant to the EPA's approval of insignificant emissions limits.

Comments also asserted, with regard to the 10% levels discussed above, that these limits are additive to the 1 pound per hour (lb/hr) limits established for individual emissions units, and serve to limit the accumulation of exempted emissions units across an entire facility. While the establishment of ''tiered'' insignificance levels at the emissions unit and facility-wide level could be approvable (provided the levels were acceptable), the EPA does not read the State's rule to effect this result. Section 252:100–8–3(e)(3) defines as insignificant, ''in addition'' to units qualifying under 252:100–8–3(e) (1) or (2), any ''individual or combination of air emissions sources'' that is below the 10 percent levels. This provision might be redrafted to make clear that the 10 percent level does not supersede the 1 lb/hr and de minimis levels for individual emissions units. However, the EPA maintains that use of percentage levels for determining insignificant activities is inappropriate.

The EPA proposed that the 1 lb/hr level on insignificant activities for individual emissions units was excessive, and further proposed that the State could obtain full approval by changing this to a limit on potential, rather than actual emissions. One comment stated that the EPA lacks authority to reject the State's limits, and moreover cannot impose a specific emissions level except through rulemaking.

The EPA has authority under part 70 to reject insignificance levels that will interfere with the permitting authority's ability to determine and impose applicable requirements. Oklahoma has not attempted to show that the 1 lb/hr limit will not so interfere with this obligation. In the absence of such a demonstration, the EPA must exercise its judgement in light of applicable requirements. The EPA has serious concerns in this regard with the 1 lb/hr limit. The EPA agrees that it cannot impose a specific limit except through rulemaking. The EPA is stating here that it will fully approve a 1 lb/hr limit based on potential to emit. No comments objected to this. It will also approve a higher threshold if the State demonstrates that the level is in fact insignificant.

4. Permit Content Language

Some comments questioned the EPA's requirement that the State delete the phrase ''to the extent practicable'' from the regulation's requirement at OAC 252:100–8–6 that the permit include all applicable requirements. It was noted that some industries are concerned about applicable requirements which become effective after the application but before permit issuance would be included in the permit.

The EPA does not agree with these comments. The rule at 40 CFR 70.6(a)(1) requires the permit to contain emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance. Therefore, if an applicable requirement becomes effective after the application is determined complete, the draft permit must reflect the new requirement.

The EPA notes that it has proposed a revision to part 70 which would allow States flexibility in dealing with requirements promulgated near permit issuance. *See* 59 FR 44519 (August 29, 1994). Even under this proposed approach, however, the State rule would not be fully approvable, because the phrase ''to the extent practicable'' is unbounded.

5. Administrative Amendment Language

Comments were made that it was inappropriate for the EPA to disallow less frequent monitoring than was originally in the permit via the State's administrative amendment procedure at OAC 252:100–8–7(d)(1)(C).

The EPA does not agree with these comments. Although section 70.7(d)(1)(vi) allows the EPA to approve provisions for administrative amendments similar to those specified in part 70, less frequent monitoring is not sufficiently similar. Administrative amendments are appropriate for incorporation of actions that do not require a case by case judgement. Switching to more frequent monitoring or reporting will always be more stringent, and therefore does not require case by case approval. However, switching to less frequent monitoring has the potential to adversely impact the enforceability of a requirement, and would therefore need to be reviewed on a case by case basis through a minor or significant permit modification.

Another comment noted that the proposed revisions to part 70, *see* FR 44519 (August 29, 1994), would allow changes using the Oklahoma NSR procedures that would satisfy the requirements of part 70. If the Oklahoma regulation meets the requirements of part 70 after the revision is promulgated, then the State would not be required to change the regulation.

6. Judicial Review for Oral Comments

One comment was made requesting clarification of the EPA's requirement that the State regulations assure that review is available for comments made at hearings. The comment asserted that the State's rule is consistent with general administrative law, which the individual commenting believes requires a written record of oral comments.

The EPA disagrees with this comment. Section 502(b)(6) of the Act and section 70.4(b)(3)(x) do not distinguish participation in a public comment period through oral as opposed to written comments. The requirement that Oklahoma delete the word ''written'' from OAC 252:100–8–7(j)(2)(A) was made to ensure that all comments would be covered under the judicial review provisions of subchapter 8 of the State's regulations. Though written records of comments made at public hearings are normally made in Oklahoma, removal of the word ''written'' will make the regulation clear so that judicial review is available to all those who comment.

The EPA has elsewhere found a lack of standing to be grounds for program disapproval. *See* 59 FR 62324, December 5, 1994, (Virginia). The standing deficiency in the Virginia title V program is considerably more far-reaching than that noted here. Regarding the need for written comments, citizens wishing to comment on permits in Oklahoma, if they are aware of the provision at issue, may reduce their comments to writing so as to avoid the potential bar to judicial review. The bar to standing in the Virginia program is not so easily avoided.

Oklahoma's other judicial review deficiency is that the State's regulations

are unclear as to whether judicial review is available for minor modifications and administrative amendments. The EPA is requiring the State to clarify that such review is available.

The seriousness of the deficiencies regarding judicial review in Oklahoma is minor relative to those identified for Virginia, and so does not merit full disapproval. In addition, Oklahoma has not indicated any reluctance to change its rules as necessary to obtain full approval on these issues. Therefore, the EPA is granting interim approval for the Oklahoma program.

7. Variance Provisions

A comment was made objecting to the EPA's position that variance provisions under State statute may not apply to title V permits unless title V processes are followed.

The EPA does not agree with this comment. As discussed in the proposed notice, the EPA recognizes the State's statutory authority to grant variances as a matter of State law. However, 40 CFR part 70 does not allow States to grant variances from title V requirements. The EPA recognizes that title V permits may include compliance schedules for sources which are out of compliance with applicable requirements. However, such measures to bring a source into compliance are not the same as variances, which normally provide a complete exemption from a requirement. The EPA also recognizes that Oklahoma may exercise enforcement discretion when addressing permit violations, but this, likewise, is not analogous to the issuance of variances.

8. Fee Demonstration

One comment was received in support of the proposed annual fee of $15.19 per ton. No adverse comments were received on the proposed fee. The EPA has concluded that the fee proposed in the workload analysis and fee demonstration of $15.19 per ton per year will be adequate to fund the title V program in the State of Oklahoma. The EPA will, as part of its oversight role, review the program periodically to ensure that adequate funding is maintained.

9. Phased Application Schedule

Several comments requested that the State of Oklahoma utilize a phased application schedule during the transition period.

The EPA concurs with these comments. The State has, under the signature of the Governor, requested source category-limited interim approval. This form of approval provides a one-year time period for the submission of applications to be permitted during the two year interim approval period. Then, the State has another one-year time period for the submission of all other applications to be permitted during the first three years of full approval. In this way, all sources will be permitted within five years after approval with the sources submitting applications in two phases.

C. Final Action

The EPA is promulgating source category-limited interim approval of the operating permits program submitted by the State of Oklahoma on January 12, 1994. The State must make the following changes to receive full approval:

1. Revise Subchapter 8 To Include Transition Schedule

The State must revise subchapter 8 to reflect a transition schedule providing for permitting certain sources during the two year interim approval period and then permitting all other sources during the first three years of full approval. This revision was signed by the Governor as an emergency and permanent rule on November 4, 1995. During the interim approval period the State will submit the revised regulation as part of the corrected program.

2. Revise Subchapter 8 Definition of ''Major Source''

The language at OAC 252:100–8–2 must be revised to clarify that for criteria pollutants, units cannot be considered separately at a facility when determining a source is major.

3. Revise Subchapter 8 Insignificant Activities Provisions

The State must revise OAC 252:100–8–3(e) to reflect an insignificant emissions level of 1 lb/hr of operation, based on potential to emit, or such other level as the State may demonstrate is insignificant with respect to applicable requirements.

4. Revise Subchapter 8 Permit Content Language

The language at OAC 252:100–8–6(a) must be revised to delete the phrase, ''to the extent practicable.''

5. Revise Subchapter 8 Judicial Review Provisions

The language at OAC 252:100–8–7(j) must be revised to provide judicial review for comments made during public review and provide judicial review for all final permit actions.

6. Revise Subchapter 8 Administrative Amendment Provisions

The language at OAC 252:100–8–7(d) must be revised to delete the phrase ''or less'' from subpart (1)(d) and be amended to define the term ''Enhanced NSR procedures'' consistent with part 70.

7. Submission of a SIP Revision for Subchapter 7

The State must revise subchapter 7 consistent with subchapter 8 and 40 CFR part 70. This revised regulation must be submitted as a SIP revision within 18 months after interim approval is granted to ensure consistency between the SIP and title V for major sources.

The scope of the Oklahoma part 70 program approved in this notice applies to all part 70 sources (as defined in the approved program) within the State of Oklahoma, except any sources of air pollution over which an Indian Tribe has jurisdiction. *See, e.g.*, 59 FR 55813, 55815–18 (November 9, 1994). The term ''Indian Tribe'' is defined under the Act as ''any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.'' *See* section 302(r) of the CAA; *see also* 59 FR 43956, 43962 (August 25, 1994); 58 FR 54364 (October 21, 1993).

This interim approval, which may not be renewed, extends until March 5, 1998. During this interim approval period, the State of Oklahoma is protected from sanctions, and the EPA is not obligated to promulgate, administer, and enforce a Federal operating permits program in the State of Oklahoma. Permits issued under a program with source category-limited interim approval have full standing with respect to part 70, and the one year time period for submittal of permit applications by subject sources begins upon the effective date of this interim approval. The State will issue permits to these sources during the interim approval period and then have an additional one year time period for application submittal of all remaining sources. The State will issue permits to all remaining sources during the first three years after full approval.

If Oklahoma fails to submit a complete corrective program for full approval by September 5, 1997, the EPA will start an 18-month clock for mandatory sanctions. If Oklahoma then fails to submit a corrective program that the EPA finds complete before the

expiration of that 18-month period, the EPA will apply sanctions as required by section 502(d)(2) of the Act, which will remain in effect until the EPA determines that the State of Oklahoma has corrected the deficiency by submitting a complete corrective program.

If the EPA disapproves Oklahoma's complete corrective program, the EPA will apply sanctions as required by section 502(d)(2) on the date 18 months after the effective date of the disapproval, unless prior to that date Oklahoma has submitted a revised program and the EPA has determined that it corrected the deficiencies that prompted the disapproval.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if the State of Oklahoma has not timely submitted a complete corrective program or the EPA has disapproved its submitted corrective program. Moreover, if the EPA has not granted full approval to the Oklahoma program by the expiration of this interim approval and that expiration occurs after November 15, 1995, the EPA must promulgate, administer and enforce a Federal permits program for the State of Oklahoma upon interim approval expiration.

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by the EPA as they apply to part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, the EPA is also promulgating approval under section 112(l)(5) and 40 CFR 63.91 of the State's program for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations only applies to sources covered by the part 70 program.

III. Administrative Requirements

A. Docket

Copies of the State's submittal and other information relied upon for the final source category-limited interim approval, including the thirteen public comment letters received and reviewed by the EPA on the proposal, are contained in docket number OPP–6–9–1 maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, the EPA in the development of this final source category-limited interim approval. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

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

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: January 11, 1996.

Jane N. Saginaw,

Regional Administrator (6A).

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

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

2. Appendix A to part 70 is amended by adding the entry for the State of Oklahoma in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Oklahoma

(a) The Oklahoma Department of Environmental Quality submitted its operating permits program on January 12, 1994, for approval. Source category—limited interim approval is effective on March 6, 1996. Interim approval will expire March 5, 1998. The scope of the approval of the Oklahoma part 70 program excludes all sources of air pollution over which an Indian Tribe has jurisdiction.

(b) Reserved

* * * * *

[FR Doc. 96–2358 Filed 2–2–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 282

[FRL–5331–9]

Underground Storage Tank Program: Approved State Program for Georgia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Resource Conservation and Recovery Act of 1976, as amended (RCRA), authorizes the U.S. Environmental Protection Agency (EPA) to grant approval to states to operate their underground storage tank programs in lieu of the federal program. 40 CFR part 282 codifies EPA's decision to approve state programs and incorporates by reference those provisions of the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of RCRA subtitle I and other applicable statutory and regulatory provisions. This rule codifies in part 282 the prior approval of Georgia's underground storage tank program and incorporates by reference appropriate provisions of state statutes and regulations.

DATES: This regulation is effective March 4, 1996, unless EPA publishes a prior Federal Register document withdrawing this immediate final rule. All comments on the codification of Georgia's underground storage tank program must be received by the close of business February 1, 1996. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of March 4, 1996, in accordance with 5 U.S.C. 552(a).

ADDRESSES: Comments may be mailed to the Underground Storage Tank Section (GWP–15), U.S. EPA Region 4, 345 Courtland St., Atlanta, GA 30365. Comments received by EPA may be inspected in the public docket, located in the Water Management Division, 345 Courtland Street NE., Atlanta, GA 30365 from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: John Mason, Chief, Underground Storage Tank Section, U.S. EPA Region 4, 345 Courtland Street NE., Atlanta, GA 30365. Phone: (404) 347–3866, ext. 6672.

SUPPLEMENTARY INFORMATION:

Background

Section 9004 of the Resource Conservation and Recovery Act of 1976, as amended, (RCRA), 42 U.S.C. 6991c, allows EPA to approve state underground storage tank programs to operate in the state in lieu of the federal underground storage tank program. EPA published a Federal Register document announcing its decision to grant approval to Georgia. (56 FR 91, May 10, 1991). Approval was effective on July 9, 1991.

EPA codifies its approval of state programs in 40 CFR part 282 and incorporates by reference therein the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions. Today's rulemaking codifies EPA's approval of the Georgia underground storage tank program. This codification reflects the state program currently in effect (including statutory and regulatory updates made since the time EPA granted Georgia approval under section 9004(a), 42 U.S.C. 6991c(a) for its underground storage tank program). Notice and opportunity for comment were provided earlier on the Agency's decision to approve the Georgia program, and EPA is not now reopening that decision nor requesting comment on it.

This effort provides clear notice to the public of the scope of the approved program in each state. By codifying the approved Georgia program and by amending the Code of Federal Regulations whenever a new or different set of requirements is approved in Georgia, the status of federally approved requirements of the Georgia program will be readily discernible. Only those provisions of the Georgia underground storage tank program for which approval has been granted by EPA will be incorporated by reference for enforcement purposes.

To codify EPA's approval of Georgia's underground storage tank program, EPA has added section 282.60 to title 40 of the CFR. Section 282.60 incorporates by reference for enforcement purposes the State's statutes and regulations. Section 282.60 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the underground storage tank program under subtitle I of RCRA.

The Agency retains the authority under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions in approved states. With respect to such an enforcement action, the Agency will rely on federal sanctions, federal inspection authorities, and federal procedures rather than the state authorized analogs to these provisions. Therefore, the approved Georgia enforcement authorities will not be incorporated by reference. Section 282.60 lists those approved Georgia authorities that would fall into this category.

Certification Under the Regulatory Flexibility Act

This rule codifies the decision already made (56 FR 91, May 10, 1991) to approve the Georgia underground storage tank program and thus has no separate effect. Therefore, this rule does not require a regulatory flexibility analysis. Thus, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, federal agencies must consider the paperwork burden imposed by any information request contained in a proposed or final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 282

Environmental protection, Hazardous substances, Incorporation by reference, Intergovernmental relations, State program approval, Underground storage tanks, Water pollution control.

Dated: October 20, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

For the reasons set forth in the preamble, 40 CFR Part 282 is proposed to be amended as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

1. The authority citation for part 282 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

2. Subpart B is amended by adding § 282.60 to read as follows:

Subpart B—Approved State Programs

§ 282.60 Georgia State-Administered Program.

(a) The State of Georgia is approved to administer and enforce an underground storage tank program in lieu of the federal program under Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State's program, as administered by the Georgia Department of Natural Resources, Environmental Protection Division, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this Chapter. EPA approved the Georgia program on April 29, 1991 and it was effective on July 9, 1991.

(b) Georgia has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, as well as under other statutory and regulatory provisions.

(c) To retain program approval, Georgia must revise its approved program to adopt new changes to the federal subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c,

and 40 CFR part 281, subpart E. If Georgia obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the Federal Register.

(d) Georgia has final approval for the following elements submitted to EPA in Georgia's program application for final approval and approved by EPA on April 29, 1991. Copies may be obtained from the Underground Storage Tank Management Program, Georgia Environmental Protection Division, 4244 International Parkway, Suite 100, Atlanta, GA 30354.

(1) *State statutes and regulations.* (i) The provisions cited in this paragraph are incorporated by reference as part of the underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(A) Georgia Statutory Requirements Applicable to the Underground Storage Tank Program, 1995.

(B) Georgia Regulatory Requirements Applicable to the Underground Storage Tank Program, 1995.

(ii) The following statutes and regulations are part of the approved state program, although not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include the following sections of the Georgia Underground Storage Tank Act:

12–13–5—Rules and regulations; enforcement powers,
12–13–8—Investigations,
12–13–14—Corrective action for violations of chapter, rules, etc., and for release of regulated substance into environment,
12–13–15—Injunctions and restraining orders,
12–13–16—Hearings and review,
12–13–17—Judgement by superior court,
12–13–19—Violations; imposition of penalties,
12–13–20—Action in emergencies, and
12–13–22—Representation by Attorney General

(B) The regulatory provisions include the following sections of Rules of Georgia Department of Natural Resources, Environmental Protection Division, Underground Storage Tank Management:

391–3–15–.01(2)—Authority, and
391–3–15–.14—Enforcement

(2) *Statement of legal authority.* (i) ''Attorney General's Certification of 'No Less Stringent' Objectives And 'Adequate Enforcement' Authorities Implementing The Underground Storage Tank Program'', signed by the Attorney General of Georgia on February 20, 1990, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The ''Demonstration of Procedures for Adequate Enforcement'' submitted as part of the original application on February 20, 1990, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program Description.* The program description and any other material submitted as part of the original application in February 1990, though not incorporated by reference, are referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 4 and the Georgia Department of Natural Resources, signed by the EPA Regional Administrator on July 10, 1991, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

3. Appendix A to part 282 is amended by adding in alphabetical order ''Georgia'' and its listing.

Appendix A to Part 282—State Requirements Incorporated by Reference in Part 282 of the Code of Federal Regulations

* * * * *

Georgia

(a) The statutory provisions include the Georgia Underground Storage Tank Act (GUSTA) (O.C.G.A. § 12–13–1, *et seq.*):

Section 12–13–2—Public policy.
Section 12–13–3—Definitions.
Section 12–13–4—Exceptions to chapter.
Section 12–13–5—Rules and regulations; enforcement powers.
Section 12–13–6—Powers and duties of director.
Section 12–13–7—Performance standards applicable until rules and regulations effective.
Section 12–13–8—Investigations.
Section 12–13–9—Establishing financial responsibility; claims against guarantor; Underground storage Trust Fund.
Section 12–13–10—Environmental assurance fees.
Section 12–13–11—Corrective action for release of petroleum product into environment.
Section 12–13–12—Recovery in event of discharge or threat of discharge of regulated substance.
Section 12–13–13—Notice by owner of underground storage tank.
Section 12–13–14—Corrective action for violations of chapter, rules, etc., and for release of regulated substance into environment.
Section 12–13–15—Injunctions and restraining orders.
Section 12–13–16—Hearings and review.
Section 12–13–17—Judgement by superior court.
Section 12–13–18—Required compliance with chapter; proof that petroleum subjected to environmental fee.
Section 12–13–19—Violations; imposition of penalties.
Section 12–13–20—Action in emergencies.
Section 12–13–21—Public access to records.
Section 12–13–22—Representation by Attorney General.

(b) The regulatory provisions include the Rules of Georgia Department of Natural Resources, Environmental Protection Division, Underground Storage Tank Management:

Section 391–3–15–.01—General provisions. Amended.
Section 391–3–15–.02—Definitions, UST Exclusions, and UST Deferrals. Amended.
Section 391–3–15–.03—Confidentiality of Information. Amended.
Section 391–3–15–.04—Interim Prohibition for Deferred UST Systems. Amended.
Section 391–3–15–.05—UST Systems: Design, Construction, Installation and Notification. Amended.
Section 391–3–15–.06—General Operating Requirements. Amended.
Section 391–3–15–.07—Release Detection. Amended.
Section 391–3–15–.08—Release Reporting, Investigation, and Confirmation. Amended.
Section 391–3–15–.09—Release Response and Corrective Action for UST Systems Containing Petroleum. Amended.
Section 391–3–15–.10—Release Response and Corrective Action for UST Systems Containing Hazardous Substances. Amended.
Section 391–3–15–.11—Out-of-Service UST Systems and Closure. Amended.
Section 391–3–15–.12—UST Systems Containing Petroleum; Financial Responsibility Requirements. Amended.
Section 391–3–15–.13—Georgia Underground Storage Tank (GUST) Trust Fund. Amended.
Section 391–3–15–.14—Enforcement.
Section 391–3–15–.15—Variances.

[FR Doc. 96–2225 Filed 2–2–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4100

[WO–330–1020–00–24 1A]

RIN 1004–AB89

Grazing Administration, Exclusive of Alaska; Amendments to the Grazing Regulations; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correcting amendments.

SUMMARY: This document contains correcting amendments to the final amendments to the grazing regulations of the Bureau of Land Management, published on February 22, 1995, in the Federal Register [60 FR 9960], and to the pre-existing grazing regulations not affected by the 1995 amendments.

EFFECTIVE DATE: February 5, 1996.

FOR FURTHER INFORMATION CONTACT: Matthew Reed, 202–452–5069.

SUPPLEMENTARY INFORMATION: The Department of the Interior is making correcting amendments to the final regulations pertaining to livestock grazing published in the Federal Register on February 22, 1995 [60 FR 9960], and to the pre-existing grazing regulations not affected by the 1995 amendments. The following revisions are made as editorial, and not substantive, changes. The changes include correction of erroneous cross-references, removal of an unnecessary and inaccurate paragraph and removal/replacement of several inaccurate or unnecessary acronyms, words and phrases.

The Department of the Interior has determined that, because this rulemaking makes only correcting amendments to the final rulemaking published on February 22, 1995, it is a rule of organization, procedure and practice and does not require notice and an opportunity for public comment pursuant to the Administrative Procedure Act (5 U.S.C. 553(b)(A)). Therefore, these correcting amendments are published as a final rulemaking effective February 5, 1996. The Department of the Interior has determined that this rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. Neither an environmental impact analysis nor a regulatory flexibility analysis is required. This rulemaking does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The principal author of this final rulemaking is Matthew Reed, Regulatory Management Team, Bureau of Land Management.

List of Subjects in 43 CFR Part 4100

Administrative practice and procedure, Grazing lands, Livestock, Penalties, Range management, Reporting and record-keeping requirements.

For the reasons stated in the preamble and under the authority of 43 USC 1740, part 4100, group 4100, subchapter D, of subtitle B of chapter II of title 43 of the Code of Federal Regulations is amended as set forth below:

PART 4100—[AMENDED]

1. The authority citation for part 4100 continues to read as follows:

Authority: 43 U.S.C. 315, 315a–315r, 1181d, 1740.

1A. Section 4100.0–3(g) is removed.

2. In § 4110.2–2(b), the phrase ''grazing preference'' is revised to ''permitted use.''

3. In § 4110.2–3(a)(2), the phrase ''cooperative agreements'' is revised to ''cooperative range improvement agreements.''

4. In § 4120.2(e), the word ''multiple'' is removed.

5.–6. In § 4120.3–1(c), the section reference ''§ 4130.6–2'' is revised to read ''§ 4130.3–2.''

7.–8. In § 4120.3–2 (a), (b) & (d), the acronym ''BLM'' is revised to read ''the Bureau of Land Management.''

9. In § 4120.3–4, the phrase ''cooperative agreements'' is revised to read ''cooperative range improvement agreements''.

10. In § 4120.3–6(d), the phrase ''cooperative agreement'' is revised to ''cooperative range improvement agreement.''

11. In § 4120.3–8(b), the acronym ''BLM'' is revised to read ''the Bureau of Land Management.''

12. In § 4130.1–2(a), the section reference ''§ 4130.2(d)'' is revised to read ''§ 4130.2(e).''

13. In § 4130.2(g) introductory text, the acronym ''AMP'' is revised to read ''allotment management plan.''

14. In § 4130.2(g)(1), the word ''nonuse'' is revised to ''use.''

15. In § 4130.2(i), the section reference ''§ 4130.6–2'' is revised to read ''§ 4130.3–2.''

16. In § 4130.2(i), the section reference ''§ 4130.4–1'' is revised to read ''§ 4130.6–1.''

17. In § 4130.4(a), the section reference ''§ 4130.7–3'' is revised to read ''§ 4130.8–3.''

18. In § 4130.8–1(c), the acronyms ''BLM'' and ''AUMs'' are revised to read ''the Bureau of Land Management'' and ''animal unit months'' respectively.

19. In § 4130.8(d), the acronym ''AUM'' is revised to read ''animal unit month.''

20. In § 4140.1(a)(4), the phrase ''range improvement cooperative agreements'' is revised to read ''cooperative range improvement agreements.''

21. In § 4140.1(b) introductory text, the phrase ''shall be subject'' is inserted after the word ''rangelands'' and prior to the phrase ''to civil and criminal penalties.''

22. In § 4140.1(b)(1)(iv), the section reference ''§ 4130.5(c)'' is revised to read ''§ 4130.7(c).''

23. In § 4140.1(b)(8), the phrase ''cooperative agreements'' is revised to read ''cooperative range improvement agreements''.

24. In § 4150.3(e), the section reference ''§ 4160.1–2'' is revised to read ''§ 4160–1.''

25. In § 4160.2, the phrase ''affected interests'' is revised to read ''interested public.''

26. In § 4160.3(b), the pronoun ''his'' is revised (four times) to read ''her/his.''

27. In § 4160.4, the word ''decision'' is revised to read ''appeal'' the first time it appears in the second sentence.

Dated: January 26, 1996.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 96–2193 Filed 2–2–96; 8:45 am]

BILLING CODE 4310–84–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 10

RIN 3067–AC41

Environmental Considerations/ Categorical Exclusions

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule revises the categories of actions or categorical exclusions that normally would not require an environmental impact statement or environmental assessment. These changes are intended to reduce the administrative processes and decrease the time required for project funding and implementation, while still ensuring that FEMA satisfies

environmental concerns and issues. The changes are consistent with Federal directives, regulations and statutes.

EFFECTIVE DATE: February 5, 1996.

FOR FURTHER INFORMATION CONTACT: Rick Shivar, Office of Policy and Regional Operations, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, or phone (202) 646–3610.

SUPPLEMENTARY INFORMATION: On August 3, 1995, FEMA published a proposed rule for comment in the Federal Register, 60 FR 39694. The proposed rule contained changes responding to numerous suggestions for additional exclusion categories and for modifications to existing exclusion categories. They reflect several years' experience on the types of actions that generally receive a finding of no significant impact after FEMA makes an environmental assessment. These changes are intended to speed the approval of those projects with no potential for significant environmental effects and to allow attention to be focused on those projects with potential environmental concerns. The publication of the proposed rule allowed for a 45-day comment period ending on September 18, 1995. During this period, comments were received from one state, two Federal agencies, an environmental group and from within FEMA. The concerns identified in these comments are addressed later in this section.

In order to produce a complete and effective update of exclusion categories, we conducted a review of the environmental assessments (EA) and the findings of no significant impact (FONSI) that FEMA has issued. In the last few years we have completed over 340 EAs, but there is only one case where an environmental impact statement (EIS) was written. While many EAs identified impacts that were able to be mitigated below the level of significance, we found that the clear majority of actions have no significant impact. Reviewing this last group revealed specific types of projects that historically did not produce significant environmental effects. In conjunction with the review of FEMA's EAs, we conducted a literature review of other Federal documents containing similar types of exclusions to ensure consistency of FEMA's exclusions with other Federal agencies' regulations. The results of these two reviews are the basis for these changes to FEMA's list of exclusion categories.

These changes are also in keeping with the Council on Environmental Quality's guidance to Federal agencies on this subject (48 FR 34263, July 28, 1983). That guidance encourages Federal agencies to add flexibility to implementing procedures to allow new types of actions to be classified as categorical exclusions (CATEXs) with minimal documentation required. This is done by developing more broadly defined categories as well as providing examples of typical CATEXs, rather than a comprehensive list, so that specific actions not previously listed by an agency can be considered for CATEX status on a case-by-case basis.

These revised exclusion categories will not affect FEMA's responsibility to comply with all other applicable local, state, and Federal laws and regulations relating to health, safety and the environment. This encompasses Federal environmentally oriented statutes including, among others: the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Coastal Zone Management Act, the Coastal Barrier Resources Act, the Endangered Species Act, the National Historic Preservation Act, and the Archaeological and Historic Preservation Act. It would not affect FEMA's responsibilities under Executive Orders 11988, 11990, and 12898. Nor would it affect FEMA's implementing regulations at 44 CFR part 9, or FEMA's National Flood Insurance Program rules at 44 CFR parts 59 through 77.

A point of clarification of the term ''categorical exclusion'' is necessary in the discussion of this revised rule. Section 316 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), Pub. L. 93–288, as amended, 42 U.S.C. 5159, provides (1) for a statutory exclusion from NEPA requirements for certain actions taken under specific sections of that Act (§§ 402, 403, 407 and 502), and (2) for those actions under § 406 of the Stafford Act that have ''the effect of restoring a facility substantially to its condition prior to the disaster or emergency.'' While statutory exclusions are exempted from all NEPA documentation, actions that are categorically excluded from preparation of an EA or an EIS must be documented by FEMA under this part. However, as with actions categorically excluded, an action statutorily excluded from NEPA is *not* exempt from the requirements of the other environmentally oriented statutes indicated above. To help determine the level of environmental review required and, specifically, when neither an EA nor an EIS is likely to be required for a proposed action, the list of exclusion categories presented by this rule is comprehensive in that it includes both categorical exclusions and those actions that are statutorily excluded (denoted by [SE]).

The list of exclusion categories is presented with administrative type actions appearing first followed by emergency and other actions. The administrative actions relate mainly to activities that in and of themselves do not normally impact the environment, such as: planning, design, procurement, acquisition, training, studies and other administrative processes. The emergency and other actions mainly address emergency, disaster-related, or other activities that could impact features of the human and natural environment, such as: construction; maintenance or repair of facilities or vegetation; relocation of structures; floodproofing; emergency response and deployment; physical and other assistance.

Since this revision republishes and redesignates some paragraphs, and modifies other paragraphs, the following discussion is directed only at those items that are added, removed, or revised from the current 44 CFR § 10.8.

44 CFR § 10.8 is revised to redesignate and revise the discussion of statutory exclusions to recognize the difference between the basic nature of the statutory exclusion and of the CATEX. We also updated references to sections of the Stafford Act.

New paragraph (d)(2) modifies the nomenclature ''List of categorical exceptions'' to ''List of exclusion categories'' to reflect the categorical nature of the list as opposed to a list of exceptions. This change is also reflected in new paragraph (d)(6).

New paragraphs (d)(2) (i), (ii), (iii), (v), (vii), and (x) make minor wording revisions and clarify the language of existing categories but do not change their general substance.

New paragraph (d)(2)(iv) addresses inspection and monitoring processes that are part of the compliance requirements for various programs. These activities are passive as to the environment. Any federally funded action that the inspections or monitoring might recommend is subject to the NEPA process.

New paragraph (d)(2)(vi) expands the scope of the old paragraph (d)(2)(iii) on procurement of goods and services for operational support of facilities to include support of emergency operations together with temporary storage of those goods.

Paragraph (d)(2)(viii) addresses the purchase or leasing of existing facilities

when land use requirements allow the proposed use.

Paragraph (d)(2)(ix) covers the acquisition, installation, or operation of utilities, gauges, communication and warning systems when using existing systems or facilities, or currently utilized infrastructure rights-of-way.

Paragraph (d)(2)(xi) would allow for the planting of indigenous vegetation, for example, to reduce erosion or fire hazard.

Paragraph (d)(2)(xii) applies to the removal of uncontaminated structures, improvements or debris to sites permitted for such material. The paragraph also applies to the demolition associated with the removal of structures or improvements.

Paragraph (d)(2)(xiii) applies to small, individual structures that are to be relocated to a new site, where FEMA is not involved in the selection or development of the new site.

Paragraph (d)(2)(xiv) excludes the act of granting a community exception for residential basement floodproofing pursuant to the National Flood Insurance Program.

Paragraph (d)(2)(xv) provides to actions under the mitigation and other programs a slightly broader exclusion than that available by statute to actions funded pursuant to § 406 of the Stafford Act whereby a facility can be restored to its approximate preexisting design, function and location. The broader interpretation also applies to § 406 actions. Some existing statutory exclusions are incorporated into the CATEX list in this paragraph and in paragraph (d)(2)(xix).

Paragraph (d)(2)(xvi) allows for improvements to an existing facility or for the construction of small scale mitigation measures in an already developed and appropriately zoned area on previously disturbed or graded lot(s). This includes improvements in the disturbed portion of a lot of an existing building, culverts, and berms within the previously disturbed perimeter of a road, storm drainage or utility system or existing facility. Any action covered by this category cannot change the basic function, exceed the capacity of other system components, violate land use requirements, or operate in a way as to affect the environment adversely.

Paragraph (d)(2)(xvii) permits actions within enclosed facilities which comply with local construction, noise, pollution and waste disposal regulations.

Paragraph (d)(2)(xviii) excludes, in addition to the existing category for the deployment and support of Emergency Support Teams, direct response activities including activation and support of the Catastrophic Disaster Response Group, Regional Operations Centers, Emergency Response Teams, Urban Search and Rescue Teams, and situation assessment, reconnaissance and other data gathering efforts in response to and for recovery from a disaster.

Paragraph (d)(2)(xix) excludes emergency assistance and relief activities and rephrases terminology to reflect the amended Stafford Act. This includes general Federal and essential assistance (Stafford Act §§ 402 and 403), food coupons and commodities (§§ 412 and 413), and Federal emergency assistance (§ 502). Debris removal (§ 407) becomes less restrictive. The temporary housing definition (§ 408) is simplified as are the definitions of the individual and family grant (§ 411) and community disaster loan (§ 417) exclusions.

In paragraph (d)(3) the list of Extraordinary Circumstances, which was § 10.8(e), is updated to clarify the circumstances that may cause an action that is normally categorically excluded to have the potential for significant environmental impact. The previous paragraph (e)(2) describing ''actions in highly populated or congested areas'' is replaced in paragraph (d)(3)(ii) with a more workable ''actions with a high level of controversy.'' In paragraph (d)(3)(iv) clarifying language is added to the term ''unproven technology.'' In paragraph (d)(3)(vi) the hazardous substance condition was changed from ''use'' to ''presence'' and linked to levels that would trigger local, state, or Federal requirements. Paragraph (d)(3)(vii), which addresses flood plains or wetlands, is expanded to include other special or critical resources, i.e., coastal zones, wildlife refuge and wilderness areas, wild and scenic rivers, sole or principal drinking water aquifers, etc.

Three new categories are added to insure that adverse health and safety effects, paragraph (d)(3)(viii); the potential violation of Federal, state, local or tribal requirements, paragraph (d)(3)(ix); and cumulative impacts, (d)(3)(x); will now be considered as extraordinary circumstances.

Paragraph (d)(5), Revocation, is added to assure that if the conditions upon which a categorical exclusion was granted have changed or new information is discovered indicating that the action no longer meets the conditions of the categorical exclusion, the responsible official must revoke the exclusion and ask for a full environmental review.

Paragraphs (d)(6)(i) and (d)(6)(ii), which address changes to the list of exclusion categories, adds ''directorates'' to ''offices and administrations'' to more correctly reflect all the organizational entities in FEMA.

The comments received during the comment period centered on four areas: (1) hazardous materials; (2) exception categories being too expansive; (3) extraordinary circumstances; and (4) clarification of terms and the scope of several of the proposed categories. In addition, it has been suggested that some of the categories could be combined and that some could be eliminated because they were not germane to FEMA activities. The following discussion addresses those comments directed at the substance of the proposed rule.

Several comments expressed concern about the integration of hazardous waste requirements into the categories, specifically the original sections (d)(2)(viii), (x), (xiv), and (xv). That integration already exists in the form of the extraordinary circumstance defined in (3)(vi) and in general FEMA policy regarding hazardous materials. The extraordinary circumstance would override the categorical exclusion if special hazardous material situations were identified associated with any categorically excluded action. In addition, it is FEMA policy that before the acquisition of property all state and local hazardous material ordinances must be adhered to and that the property itself must be free of contaminates. Original sections (d)(2)(vii) and (d)(2)(x) have been dropped and sections (d)(2)(xiv) and (d)(2)(xv) are adequately covered by existing policy and the extraordinary circumstance.

Commenters felt that the proposed (d)(2)(xvii) was too expansive in what it could include and that it went beyond the definition used to describe what was allowed by the statutory exclusion of the Stafford Act, 42 U.S.C. 5159. The new wording intentionally goes beyond that of the statutory exclusion. Our experience in working with this type of project indicates that many projects that truly fit the categorical exemption criteria were not covered and this language now includes them for all FEMA programs. Any project qualifying for this exclusion that is not covered by the statutory exclusion will still be evaluated for extraordinary circumstances and will lose its categorical exclusion if any of those circumstances apply.

One comment suggested adding a new extraordinary circumstance to section (d)(3) that could override the categorical exclusion of an action if that action impacted the recovery of an endangered species or could be used be

affirmatively used in that recovery. It was felt that the existing endangered species extraordinary circumstance, (d)(3)(v), would be invoked by the mere presence of a protected species and once the environmental assessment was required the opportunity for affirmatively considering recovery efforts would be available.

A suggestion was made to modify the wording of the extraordinary circumstance (d)(3)(vii) which addresses ''special status areas or other critical resources'' to include rare habitat that may not be on the critical list. This modification has been made by adding the quality of ''uniqueness'', i.e., ''special status areas or other unique or critical resources.''

The addition of a new extraordinary circumstance, (d)(3)(x) was suggested to address situations where normally excludable actions have impacts which by themselves are not significant, but when combined with impacts of other past, present, or foreseeable future activities have the potential for significant impact.

Two proposed categories addressing the acquisition of real property for future use, (d)(2)(viii), and the transfer of administrative control, (d)(2)(x), were eliminated as not germane to normal FEMA activities.

Newly designated sections (c)(1), (c)(2), (d)(2), (d)(2)(vi), (d)(2)(vii), (d)(2)(ix), (d)(2)(x), (d)(2)(xii), (d)(2)(xiii), (d)(2)(xv), (d)(2)(xvi), (d)(2)(xix)(F), (d)(3)(v), (d)(3)(vi), and (d)(5) have been modified from the corresponding proposed sections in response to specific suggestions to improve clarity and definition. The explanation presented above which addresses any of these modified sections reflects the new changes since the proposed rule was published.

National Environmental Policy Act

The requirements of 44 CFR part 10, Environmental Consideration, exclude this rule according to § 10.8(c)(2)(i). FEMA has not prepared an environmental impact statement.

Regulatory Flexibility Act

I certify that this rule would 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 rule adds eight categories to FEMA's categorical exclusions from reviews under the National Environmental Policy Act, and FEMA does not expect the rule (1) will affect adversely the availability of disaster assistance funding to small entities, (2) will have significant secondary or incidental effects on a substantial number of small entities, or (3) will create any additional burden on small entities.

Regulatory Planning and Review

This rule is not a significant regulatory action within the meaning of § 2(f) of E.O. 12866 of September 30, 1993, Regulatory Planning and Review, 3 CFR, 1994 Comp., p. 638. To the extent possible this proposed rule adheres to the regulatory principles set forth in E.O. 12866, but has not been reviewed by the Office of Management and Budget under E.O. 12866.

Paperwork Reduction Act

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

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 10

Environmental impact statements.

Accordingly, 44 CFR part 10 is amended as follows:

PART 10—ENVIRONMENTAL CONSIDERATIONS

1. The authority citation for Part 10 is revised to read as follows:

Authority: 42 U.S.C. 4321 *et seq.*; E.O. 11514 of March 7, 1970, 35 FR 4247, as amended by E. O. 11991 of March 24, 1977, 3 CFR, 1977 Comp., p. 123; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of March 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412, as amended.

2. Section 10.8 is amended by revising paragraphs (c), (d) and (e) to read as follows:

§ 10.8 Determination of requirement for environmental review.

* * * * *

(c) *Statutory exclusions.* The following actions are statutorily excluded from NEPA and the preparation of environmental impact statements and environmental assessments by section 316 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended, 42 U.S.C. 5159;

(1) Action taken or assistance provided under sections 403, 407, or 502 of the Stafford Act; and

(2) Action taken or assistance provided under section 406 of the Stafford Act that has the effect of restoring facilities substantially as they existed before a major disaster or emergency.

(d) *Categorical Exclusions (CATEXs).* CEQ regulations at 40 CFR 1508.4 provide for the categorical exclusion of actions that do not individually or cumulatively have a significant impact on the human environment and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. Full implementation of this concept will help FEMA avoid unnecessary or duplicate effort and concentrate resources on significant environmental issues.

(1) *Criteria.* The criteria used for determination of those categories of actions that normally do not require either an environmental impact statement or an environmental assessment include:

(i) Minimal or no effect on environmental quality;

(ii) No significant change to existing environmental conditions; and

(iii) No significant cumulative environmental impact.

(2) *List of exclusion categories.* FEMA has determined that the following categories of actions have no significant effect on the human environment and are, therefore, categorically excluded from the preparation of environmental impact statements and environmental assessments except where extraordinary circumstances as defined in paragraph (d)(5) of this section exist. If the action is of an emergency nature as described in § 316 of the Stafford Act (42 U.S.C. 5159), it is statutorily excluded and is noted with [SE].

(i) Administrative actions such as personnel actions, travel, procurement of supplies, etc., in support of normal day-to-day activities and disaster related activities;

(ii) Preparation, revision, and adoption of regulations, directives, manuals, and other guidance documents related to actions that qualify for categorical exclusions;

(iii) Studies that involve no commitment of resources other than manpower and associated funding;

(iv) Inspection and monitoring activities, granting of variances, and actions to enforce Federal, state, or local codes, standards or regulations;

(v) Training activities and both training and operational exercises utilizing existing facilities in accordance with established procedures and land use designations;

(vi) Procurement of goods and services for support of day-to-day and emergency operational activities, and the temporary storage of goods other than hazardous materials, so long as storage occurs on previously disturbed land or in existing facilities;

(vii) The acquisition of properties and the associated demolition/removal [see paragraph (d)(2)(xii) of this section] or relocation of structures [see paragraph (d)(2)(xiii) of this section] under any applicable authority when the acquisition is from a willing seller, the buyer coordinated acquisition planning with affected authorities, and the acquired property will be dedicated in perpetuity to uses that are compatible with open space, recreational, or wetland practices.

(viii) Acquisition or lease of existing facilities where planned uses conform to past use or local land use requirements;

(ix) Acquisition, installation, or operation of utility and communication systems that use existing distribution systems or facilities, or currently used infrastructure rights-of-way;

(x) Routine maintenance, repair, and grounds-keeping activities at FEMA facilities;

(xi) Planting of indigenous vegetation;

(xii) Demolition of structures and other improvements or disposal of uncontaminated structures and other improvements to permitted off-site locations, or both;

(xiii) Physical relocation of individual structures where FEMA has no involvement in the relocation site selection or development;

(xiv) Granting of community-wide exceptions for floodproofed residential basements meeting the requirements of 44 CFR 60.6(c) under the National Flood Insurance Program;

(xv) Repair, reconstruction, restoration, elevation, retrofitting, upgrading to current codes and standards, or replacement of any facility in a manner that substantially conforms to the preexisting design, function, and location; [SE, in part]

(xvi) Improvements to existing facilities and the construction of small scale hazard mitigation measures in existing developed areas with substantially completed infrastructure, when the immediate project area has already been disturbed, and when those actions do not alter basic functions, do not exceed capacity of other system components, or modify intended land use; provided the operation of the completed project will not, of itself, have an adverse effect on the quality of the human environment;

(xvii) Actions conducted within enclosed facilities where all airborne emissions, waterborne effluent, external radiation levels, outdoor noise, and solid and bulk waste disposal practices comply with existing Federal, state, and local laws and regulations;

(xviii) The following planning and administrative activities in support of emergency and disaster response and recovery:

(A) Activation of the Emergency Support Team and convening of the Catastrophic Disaster Response Group at FEMA headquarters;

(B) Activation of the Regional Operations Center and deployment of the Emergency Response Team, in whole or in part;

(C) Deployment of Urban Search and Rescue teams;

(D) Situation Assessment including ground and aerial reconnaissance;

(E) Information and data gathering and reporting efforts in support of emergency and disaster response and recovery and hazard mitigation; and

(xix) The following emergency and disaster response, recovery and hazard mitigation activities under the Stafford Act:

(A) General Federal Assistance (§ 402); [SE]

(B) Essential Assistance (§ 403); [SE]

(C) Debris Removal (§ 407) [SE]

(D) Temporary Housing (§ 408), except locating multiple mobile homes or other readily fabricated dwellings on sites, other than private residences, not previously used for such purposes;

(E) Unemployment Assistance (§ 410);

(F) Individual and Family Grant Programs (§ 411), except for grants that will be used for restoring, repairing or building private bridges, or purchasing mobile homes or other readily fabricated dwellings;

(G) Food Coupons and Distribution (§ 412);

(H) Food Commodities (§ 413);

(I) Legal Services (§ 415);

(J) Crisis Counseling Assistance and Training (§ 416);

(K) Community Disaster Loans (§ 417);

(L) Emergency Communications (§ 418);

(M) Emergency Public Transportation (§ 419);

(N) Fire Suppression Grants (§ 420); and

(O) Federal Emergency Assistance (§ 502) [SE].

(3) *Extraordinary circumstances.* If extraordinary circumstances exist within an area affected by an action, such that an action that is categorically excluded from NEPA compliance may have a significant adverse environmental impact, an environmental assessment shall be prepared. Extraordinary circumstances that may have a significant environmental impact include:

(i) Greater scope or size than normally experienced for a particular category of action;

(ii) Actions with a high level of public controversy;

(iii) Potential for degradation, even though slight, of already existing poor environmental conditions;

(iv) Employment of unproven technology with potential adverse effects or actions involving unique or unknown environmental risks;

(v) Presence of endangered or threatened species or their critical habitat, or archaeological, cultural, historical or other protected resources;

(vi) Presence of hazardous or toxic substances at levels which exceed Federal, state or local regulations or standards requiring action or attention;

(vii) Actions with the potential to affect special status areas adversely or other critical resources such as wetlands, coastal zones, wildlife refuge and wilderness areas, wild and scenic rivers, sole or principal drinking water aquifers;

(viii) Potential for adverse effects on health or safety; and

(ix) Potential to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment.

(x) Potential for significant cumulative impact when the proposed action is combined with other past, present and reasonably foreseeable future actions, even though the impacts of the proposed action may not be significant by themselves.

(4) *Documentation.* The Regional Director will prepare and maintain an administrative record of each proposal that is determined to be categorically excluded from the preparation of an environmental impact statement or an environmental assessment.

(5) *Revocation.* The Regional Director shall revoke a determination of categorical exclusion and shall require a full environmental review if, subsequent to the granting an exclusion, the Regional Director determines that due to changes in the proposed action or in light of new findings, the action no longer meets the requirements for a categorical exclusion.

(6) *Changes to the list of exclusion categories.*

(i) The FEMA list of exclusion categories will be continually reviewed and refined as additional categories are

identified and experience is gained in the categorical exclusion process. An office, directorate, or administration of FEMA may, at any time, recommend additions or changes to the FEMA list of exclusion categories.

(ii) Offices, directorates, and administrations of FEMA are encouraged to develop additional categories of exclusions necessary to meet their unique operational and mission requirements.

(iii) If an office, directorate, or administration of FEMA proposes to change or add to the list of exclusion categories, it shall first:

(A) Obtain the approval of the Environmental Officer and the Office of the General Counsel; and

(B) Publish notice of such proposed change or addition in the Federal Register at least 60 days before the effective date of such change or addition.

(e) *Actions that normally require an environmental assessment.* When a proposal is not one that normally requires an environmental impact statement and does not qualify as a categorical exclusion, the Regional Director shall prepare an environmental assessment.

Dated: January 26, 1996.

Harvey G. Ryland,

Deputy Director.

[FR Doc. 96–2087 Filed 2–2–96; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95–32; RM–8545]

Radio Broadcasting Services; Parker and Port St. Joe, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Southern Broadcasting Companies, Inc., reallots Channel 233C from Port St. Joe, Florida to Parker, Florida, and modifies Station WPBH(FM)'s license accordingly. *See* 60 FR 15275, March 23, 1995. Channel 233C can be allotted to Parker in compliance with the Commission's minimum distance separation requirements with a site restriction of 47.9 kilometers (29.8 miles) southeast at Station's WPBH(FM)'s presently licensed transmitter site. The coordinates for Channel 233C at Parker, Florida, are North Latitude 29–49–09 and West Longitude 85–15–34. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 15, 1996.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Mass Media Bureau, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 95–32, adopted December 15, 1995, and released January 30, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 233C at Port St. Joe, and by adding Parker, Channel 233C.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–2280 Filed 2–2–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–79; RM–8620]

Radio Broadcasting Services; De Kalb, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Choctaw Broadcasting, allots Channel 289C2 to De Kalb, Mississippi, as the community's first local aural transmission service. *See* 60 FR 31277, June 14, 1995. Channel 289C2 can be allotted to De Kalb, Mississippi, in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 289C2 at De Kalb are 32–46–03 and 88–39–03. With this action, this proceeding is terminated.

DATES: Effective March 15, 1996. The window period for filing applications will open on March 15, 1996, and close on April 15, 1996.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 95–79, adopted January 16, 1996, and released January 30, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by adding De Kalb, Channel 289C2.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–2279 Filed 2–2–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–136; RM–8682]

Television Broadcasting Services; Sioux Falls, SD

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Red River Broadcast Corp., allots UHF Television Channel 46 at Sioux Falls, South Dakota, as potentially the community's sixth local television broadcast service. *See* 60 FR 45390, August 31, 1995. We will also allow petitioner to amend its application (BPCT–941227KI) to specify operation on Channel 46 in lieu of Channel 36+ and retain its cut-off protection. Channel 46, with zero offset, can be allotted at Sioux Falls in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 46 are North Latitude 43–32–30 and West Longitude 96–44–00. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 95–136, adopted October 15, 1995, and released January 26, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.606 [Amended]

2. Section 73.606(b), the Table of TV Allotments under South Dakota, is amended by adding Channel 46 at Sioux Falls.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–2275 Filed 2–2–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–151; RM–8695]

Radio Broadcasting Services; Snyder, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Mark C. Nolte, allots Channel 246A to Snyder, Texas, as the community's second local FM service. *See* 60 FR 49541, September 26, 1995. Channel 246A can be allotted to Snyder in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 246A at Snyder are 32–43–04 and 100–55–02. With this action, this proceeding is terminated.

DATES: Effective March 11, 1996. The window period for filing applications will open on March 11, 1996, and close on April 11, 1996.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 95–151, adopted December 14, 1995, and released January 26, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 246A at Snyder.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–2278 Filed 2–2–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–138; RM–8684]

Radio Broadcasting Services; Casper, WY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Bruce L. Erickson, Hart Mountain Media, Inc. and Rule Communications, allots Channels 273A and 284A at Casper, Wyoming, as potentially the community's sixth and seventh local commercial FM transmission services. *See* 60 FR 45391, August 31, 1995. We will also permit Rule (BPH–950105ME) and Hart (BPH–950104MD) to amend their pending applications to specify operation on Channels 273A and 284A, respectively, in lieu of Channel 247A at Casper and retain cut-off protection. An engineering analysis has determined that Channels 273A and 284A can be allotted at Casper in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channels 273A and 284A at Casper are North Latitude 42–50–48 and West Longitude 106–18–48. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 95–138, adopted December 15, 1995, and released January 26, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by adding Channels 273A and 284A at Casper.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–2276 Filed 2–2–96; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 95–98; RM–8603]

Radio Broadcasting Services; Cheyenne and Saratoga, WY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Rule Communications and KRAE, Inc., allots Channel 260A at Cheyenne, Wyoming, as potentially the community's fifth local FM transmission service. *See* 60 FR 33398, June 28, 1995. We will also permit Rule to amend its pending application (BPH–930923ME) to specify operation on Channel 260A in lieu of Channel 285A and retain its cut-off protection. To accommodate the allotment, we will delete vacant Channel 260C at Saratoga, Wyoming, since no party has expressed an interest in the channel. An engineering analysis has determined that Channel 260A can be allotted at Cheyenne in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, provided Channel 260C at Saratoga is deleted. The coordinates for Channel 260A at Cheyenne are North Latitude 41–08–18 and West Longitude 104–48–48. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 95–98, adopted December 15, 1995, and released January 26, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by adding Channel 260A at Cheyenne, and by deleting Channel 260C at Saratoga.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–2277 Filed 2–2–96; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 90

[PR Docket No. 92–235, DA 95–2217]

Private Land Mobile Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; correcting amendments.

SUMMARY: This document contains corrections to the final regulations (PR Docket No. 92–235, FCC 95–255), which were published Wednesday, July 19, 1995 (60 FR 37152). The regulations related to revisions of the private land mobile radio spectrum below 800 MHz.

EFFECTIVE DATE: February 5, 1996.

FOR FURTHER INFORMATION CONTACT: Ira Keltz of the Wireless Telecommunications Bureau at (202) 418–0616.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections, revised the private land mobile radio (PLMR) spectrum below 800 MHz to promote highly effective and efficient use of the PLMR spectrum and to facilitate the introduction of advanced technologies.

Need for Correction

As published, the final regulations contain errors which may prove to be misleading to some applicants and manufacturers and are in need of correction.

List of Subjects in 47 CFR Part 90

Communications equipment, Radio.

Accordingly, 47 CFR Part 90 is corrected by making the following correcting amendments:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for Part 90 continues to read as follows:

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

§ 90.19 [Amended]

2. Section 90.19 is amended by removing the entries for 851 to 856 kHz, 928 kHz and above, 929 to 930 kHz, and 1427 to 1435 kHz from the table in paragraph (d).

3. Section 90.75 is amended by revising the entries for 462.7625 MHz, 462.7875 MHz, 462.8125 MHz, 462.8375 MHz, 462.8625 MHz, 462.8875 MHz, 462.9125 MHz, 467.8625 MHz, 467.8875 MHz, 467.9125 MHz, and 469.8625 MHz, and adding entries for 469.850 MHz, 469.85625 MHz, and 469.86875 MHz in the table in paragraph (b), and adding limitation (52) in paragraph (c) to read as follows:

§ 90.75 Business Radio Service.

* * * * *

(b) * * *

Frequency or band	Class of station(s)	Limitations
Megahertz:		
* * *	*	*
462.7625 ...	Mobile	52
* * *	*	*
462.7875 ...	Mobile	52
* * *	*	*
462.8125 ...	Mobile	52
* * *	*	*
462.8375 ...	Mobile	52
* * *	*	*
462.8625 ...	Mobile	52
* * *	*	*
462.8875 ...	Mobile	52
* * *	*	*
462.9125 ...	Mobile	52

Frequency or band	Class of station(s)	Limitations
* * *	*	*
467.8625 ...	.....do	52
* * *	*	*
467.8875 ...	.....do	52
* * *	*	*
467.9125 ...	.....do	52
* * *	*	*
469.850	.....do	1, 2, 26
469.85625 .	.....do	1, 2, 26, 46
469.8625 ...	.....do	1, 2, 24, 26
469.86875 .	.....do	1, 2, 26, 46

* * * * *

(c) * * *

(52) Use of this frequency is on a secondary basis and subject to the provisions of § 90.267(a)(3), (a)(4), (a)(5), and (a)(7).

* * * * *

4. Section 90.210 is amended by revising the second sentence in the introductory text, the fifth sentence in paragraph (d)(4), and the fifth sentence in paragraph (e)(4), and by revising the second sentence in paragraph (m) to read as follows:

§ 90.210 Emission Masks.

* * * Unless otherwise stated, per paragraphs (d)(4), (e)(4), and (m) of this section, measurements of emission power can be expressed in either peak or average values provided that emission powers are expressed with the same parameters used to specify the unmodulated transmitter carrier power. * * *

* * * * *

(d) * * *

(4) * * * For emissions beyond 50 kHz from the edge of the authorized bandwidth, see paragraph (m) of this section. * * *

* * * * *

(e) * * *

(4) * * * For emissions beyond 50 kHz from the edge of the authorized bandwidth, see paragraph (m) of this section. * * *

* * * * *

(m) * * * When measuring emissions in the 150–174 MHz and 421–512 MHz the following procedures will apply. * * *

* * * * *

5. Section 90.213 is amended by revising the entries for 220–222 MHz and 421–512 MHz, and by adding footnote 12 to the table in paragraph (a) to read as follows:

§ 90.213 Frequency stability.

(a) * * *

MINIMUM FREQUENCY STABILITY

[Parts per million (ppm)]

Frequency range (MHz)	Fixed and base stations	Mobile stations: Over 2 watts output power	Mobile stations: 2 watts or less output power
*	*		*
220–222 [12]	0.1	1.5	1.5
421–512	[7] [11] 2.5	[8] 5	[8] 5
*	*		*

* * * * * * *

[7] In the 421–512 MHz band, fixed and base stations with a 12.5 kHz channel bandwidth must have a frequency stability of 1.5 ppm. Fixed and base stations with a 6.25 kHz channel bandwidth must have a frequency stability of 0.1 ppm.

[8] In the 421–512 MHz band, mobile stations designed to operate with a 12.5 kHz channel bandwidth or designed to operate on a frequency specifically designated for itinerant use or designed for low-power operation of two watts or less, must have a frequency stability of 2.5 ppm. Mobile stations designed to operate with a 6.25 kHz channel bandwidth must have a frequency stability of 0.5 ppm.

* * * * * * *

[11] Paging transmitters operating on paging-only frequencies must operate with frequency stability of 5 ppm in the 150–174 MHz band and 2.5 ppm in the 421–512 MHz band.

[12] Mobile units may utilize synchronizing signals from associated base stations to achieve the specified carrier stability.

* * * * *

6. Section 90.267 is amended by revising paragraph (a)(3) and adding paragraph (a)(7) to read as follows:

§ 90.267 Assignment and use of frequencies in the 450–470 MHz band for low-power use.

* * * * *

(a) * * *

(3) Stations are limited to 2 watts output power and will be licensed as mobile, but may serve the functions of base, fixed, or mobile relay stations.

* * * * *

(7) Antennas of mobile stations used as fixed stations communicating with one or more associated stations located within 45 degrees of azimuth shall be directional and have a front to back ratio of at least 15 dB. Except as provided in this paragraph (b)(7), the height of the antenna used at any mobile station serving as a base, fixed or mobile relay station may not exceed 7 m. (20 ft) above the ground level.

(i) No limit shall be placed on the length or height above ground level of any commercially manufactured radiating transmission line when the transmission line is terminated in a non-radiating load and is routed at least 7 m. (20 ft) interior to the edge of any structure or is routed below ground level.

(ii) Only sea-based stations, and central alarm stations operating on frequencies allocated for central station protection operations, may utilize antennas mounted not more than 7 m. (20 ft.) above a man-made supporting structure, including antenna structures.

Federal Communications Commission.

Regina M. Keeney,

Chief, Wireless Telecommunications Bureau.

[FR Doc. 96–2202 Filed 2–2–96; 8:45 am]

BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 61, No. 24
Monday, February 5, 1996

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

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 741

Requirements for Insurance

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The proposed rule would amend the existing NCUA Regulation regarding the filing of Financial and Statistical Reports, Form 5300 (the ''5300 Report'') by adding a provision to allow the NCUA to directly assess federally-insured credit unions for the actual cost of repeated incidents of filing inaccurate or late 5300 Reports.

DATES: Comments must be received on or before April 5, 1996.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. Post comments on NCUA's electronic bulletin board by dialing (703) 518–6480. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: Herbert S. Yolles, Director, Division of Risk Management, (703) 518–6363, or Jeffrey Mooney, Staff Attorney, (703) 518–6563, at the above address.

SUPPLEMENTARY INFORMATION: Section 741.6 of NCUA Regulations, 12 CFR § 741.6, requires that federally-insured credit unions with assets in excess of $50 million file a quarterly 5300 Report (or ''call report'') with NCUA and that all federally-insured credit unions file semiannually. Each quarter, a significant number of these reports are submitted late or inaccurately. As a result, NCUA is required to undertake review and collection efforts that include: identifying those federally-insured credit unions that have not submitted their call reports; correcting errors; sending notices to federally-insured credit unions advising them of errors contained in their 5300 Report; asking federally-insured credit unions why they have not submitted a 5300 Report; requiring federally-insured credit unions to submit amended call reports or additional information; and as necessary in some cases, making personal contact with federally-insured credit unions through telephone calls and/or on-site visits to correct the errors or simply to obtain the 5300 Report. NCUA regional offices have indicated that each year an additional 4,000 hours are spent by federal examiners attempting to correct or obtain late call reports.

Sections 120 of the Federal Credit Union Act provides the NCUA Board general rulemaking authority to ''prescribe rules and regulations for the administration of this chapter,'' and, under Section 209 of the Federal Credit Union Act to, ''prescribe such regulations as it may deem necessary or appropriate to carry out the provisions of this title.'' 12 U.S.C. 1766 and 1789. All federally-insured credit unions are required to file call reports with the NCUA. 12 U.S.C. 1782(a)(2) and 12 CFR 741.6. The Board has determined that the cost of correcting or obtaining repeatedly inaccurate or late reports from federally-insured credit unions should be charged to the federally-insured credit unions responsible rather than borne as a shared costs by the vast majority of federally-insured credit unions which routinely comply with the filing requirement. As a result, the Board proposes to assess the agency's actual costs to federally-insured credit unions that cause this unnecessary expense.

The costs will be calculated using the staff time and costs of identifying federally-insured credit unions that have not filed their 5300 Report or corrected inaccurate information. NCUA will multiply the actual NCUA staff time expended to obtain or correct the 5300 Report by the average hourly compensation rate for field staff rate to determine the assessed amount.

Prior to assessing costs for a late call report, the appropriate NCUA regional office will notify the federally-insured credit union in writing that their call report is late, that the federally-insured credit union has in at least one of the three reporting periods prior to the subject call report also filed their report late, and that the NCUA will assess costs on the federally-insured credit union if the report is not promptly received. The regional office will also inform the federally-insured credit union of the potential costs associated with processing the late submission.

The report is deemed inaccurate if it: (1) Contains a substantive error requiring the federally-insured credit union to submit an amended 5300 Report or (2) when substantive errors are found during the 5300 Report editing process that require correction and verification by the federally-insured credit union, and (3) the federally-insured credit union has, at least twice during four continuous reporting periods to include the report at issue, produced a 5300 Report with substantive errors that require the region's direct efforts to correct. A 5300 Report can also be considered inaccurate if numerous nonsubstantive errors affect the integrity of the submitted data and correction is required in at least two of the past four reporting periods to include the period at issue. A substantive error is one where a correction would result in changing any amount reported in the 5300 Report by one or more percent or $5,000, whichever is less.

If a 5300 Report is inaccurate, the NCUA regional office will notify the federally-insured credit union in writing accordingly, describe the substantive errors and suggest steps on how to avoid committing similar errors, request a response, and advise the federally-insured credit union that the NCUA will assess costs if the error(s) are not promptly corrected without further NCUA involvement. The regional office will also inform the federally-insured credit union of NCUA's estimate costs associated in obtaining a corrected submission.

NCUA will assess and recover the costs in the quarter immediately following the call report's filing date. NCUA examiners will recommend the assessment of costs to their supervisors by describing the facts and circumstances surrounding the call report's deficiencies or lateness. The examiner will itemize the time and expense used resolving the matter. The examiner will also provide any prior recent history where the federally-insured credit union has filed late or inaccurate call reports. The regional

director will issue the final assessment. The regional director may decide to waive or abate cots after taking into account the size of a federally-insured credit union, the gravity of the error, the federally-insured credit union's efforts in correcting the error or the promptness in responding to the request for the late call report and reviewing any submissions from the federally-insured credit union that sets forth a reasonable basis for waiving or abating the costs. Costs will not be assessed unless the assessment is based on the same type of error, repeated numerous errors, or repeated lateness. For example, a federally-insured credit union may not be assessed costs if in the first reporting period it files a late 5300 Report and during the fourth reporting period it files an inaccurate 5300 Report.

A federally-insured credit union may appeal a cost assessment by a regional director by submitting written reasons why the assessment should be abated to the NCUA Board within 30 days of receiving the final assessment from the region. The Board may delegate the authority to determine appeals. The Board or its designee will review all of the relevant facts, consult with the regional director involved and any other appropriate party including the affected federally-insured credit union and issue a final agency determination. There is no right to a hearing.

In order to assure uniformity, the regional offices will inform the Director of the Office of Examination and Insurance of the facts and circumstances surrounding each assessment of costs during the prior quarter, including those circumstances that warranted waiver or abatement.

These costs are not being assessed as part of an administrative action or civil money penalty as defined by the Federal Credit Union Act, 12 U.S.C. 1786(k)(2). The costs are assessed to recover the agency's expenses based upon the amount of additional time and resources that NCUA must devote to a particular federally-insured credit union's 5300 Report. NCUA may choose to seek civil money penalties or take other administrative actions against the federally-insured credit union for violating the regulatory requirement to file timely and accurate call report. The purpose of the proposed rule is to recover the additional costs the NCUA incurs when collecting late and correcting inaccurate call reports.

The NCUA requests comment on any aspect of this proposal.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board has determined and certifies that the proposed amendment, if adopted, will not have a significant economic impact on a substantial number of small federally-insured credit unions, primarily those under $1 million in assets. Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

The collection of information requirements contained in this notice of proposed rulemaking will be submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act. Written comments on the collection of information should be forwarded directly to the OMB Desk Officer indicated below at the following address: OMB Reports Management Branch, New Executive Office Building, Room 1020, Washington, DC 20503. Attn: Milo Sunderhauf. NCUA will publish a notice in the Federal Register once OMB action is taken on the submitted request.

The collection of information requirements in this proposed regulation are found in 12 CFR 741.6 (c)(4)(f), (c)(6) and (c)(7). This information is required to proposed implementing procedures that will enable the federally-insured credit union to comply with the requirements of this section, and to challenge the assessment of costs. The likely respondents/recordkeepers are federally insured credit unions.

Estimated number of respondents and/or recordkeepers: 630.

Estimated average annual burden hours per respondent/recordkeeper: 2 hours.

Estimated total annual reporting and recordkeeping burden: 1260 hours.

Start up cost to respondents: $29.76.

Executive Order 12612

The proposed change in § 741.6 will apply to both federal credit unions and federally-insured, state chartered credit union. The NCUA Board, pursuant to Executive Order 12612, has determined that the proposed amendment will not have substantial direct effect on the states, on the relationship between hat national government and the states, or on the distribution of power and responsibilities among the various levels of government. Further, the proposed rule will not preempt provisions of state law or regulation.

List of Subjects in 12 CFR Part 741

Bank deposit insurance, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on January 25, 1966.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA proposes to amend 12 CFR part 741 as follows:

PART 741—REQUIREMENTS FOR INSURANCE

1. The authority citation for part 741 is revised to read as follows:

Authority: 12 U.S.C. 1757, 1766, and 1781 through 1790.

2. Section 741.6 is amended by adding paragraph (c):

§ 741.6 Financial and statistical and other reports.

* * * * *

(c) If NCUA incurs costs due to a federally-insured credit union's failure to file an accurate or timely Financial and Statistical Report on Form 5300 (5300 Report), the federally-insured credit union involved will be assessed those costs if during any of the prior three reporting periods the federally-insured credit union has also filed its 5300 Reports late, or during any of the prior three reporting periods the federally-insured credit union has also filed the 5300 Report with substantive or numerous inaccuracies.

(1) A 5300 Report is considered late if it is postmarked after the date prescribed in paragraph (a) above.

(2) A 5300 Report is inaccurate if it contains one or more substantive errors or numerous nonsubstantive errors requiring an amended report or when substantive errors or numerous nonsubstantive errors are found during the editing process that require correction and verification by the federally-insured credit union.

(i) A substantive error exists if correction would result in changing any amount reported in the 5300 Report by more than one percent of the correctly reported amount or $5,000, whichever is less.

(3) The appropriate NCUA regional office will provide written notice to the federally-insured credit union if the federally-insured credit union will be assessed a fee for late or inaccurate filing under this section. The NCUA will provide the federally-insured credit union with the following information:

(i) whether the federally-insured credit union has filed its 5300 Report inaccurately or late;

(ii) a recent history of the accuracy or timeliness of the federally-insured credit union's prior 5300 Reports;

(iii) the estimated costs to NCUA as a result of the inaccuracy or late filing;

(iv) whether the errors, if any, were substantive and why and;

(v) steps that the federally-insured credit union could take to avoid filing future inaccurate or late 5300 reports.

(vi) request that the federally-insured credit union respond within 30 days with a written proposal that describes how it intends to avoid submitting another late or inaccurate 5300 Report, seeks a waiver or abatement of the assessment or states why the federally-insured credit union's 5300 Reports is not inaccurate or late.

(4) The costs for a late or inaccurate 5300 Report shall be calculated based on the actual hours expended by NCUA personnel multiplied by the average hourly cost of the salaries and benefits of such personnel.

(5) Prior to making a final assessment determination, the NCUA regional director may waive or abate any costs assessed against a federally-insured credit union after taking into account the size of federally-insured credit union that sets forth a reasonable basis for waiving or abating the costs.

(6) A federally-insured credit union may challenge a final assessment by submitting written reasons why the assessment should waived or abated to the NCUA Board within 30 days of receiving the final assessment from the region. The Board may delegate the authority to determine an appeal of an assessment. The Board or its designee shall consider all relevant facts and consult with any relevant parties prior to making a final agency determination.

[FR Doc. 96–2017 Filed 2–2–96; 8:45 am]

BILLING CODE 7535–01–M

12 CFR Parts 701 and 705

Community Development Revolving Loan Program For Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed Amendments.

SUMMARY: The purpose of the Community Development Revolving Loan Program for Credit Unions is to make reduced rate loans and provide technical assistance to both federal and state-chartered credit unions serving low-income communities. The Board is proposing to modify this regulation to: eliminate the limits on technical assistance that may be provided per year to participating credit unions; clarify that student credit unions may not participate in the Program; clarify that credit unions may receive up to $300,000 in loans in the aggregate at any one time; and require additional documentation from nonfederally insured credit unions that may wish to participate in the Program. Finally, the Board is requesting comment on updating the percentage of the differentials used to calculate the low-income levels.

DATES: Comments must be received on or before April 5, 1996.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. Post comments on NCUA's electronic bulletin board by dialing (703) 518–6480. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: Joyce Jackson, Special Assistant, Office of Community Development Credit Unions, at the above address or telephone (703) 518–6610 or Michael J. McKenna, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION: The purpose of the Community Development Revolving Loan Program (''Program'') is to make reduced rate loans and provide technical assistance to federal and state-chartered credit unions serving low-income communities so that they may provide needed financial services and help to stimulate the economy in the community served.

Although the Program has functioned well, the Board is proposing five amendments to improve and clarify certain aspects of the Program.

Section 705.3 Definitions

This section, among other things, defines the term low-income members. In documenting its low-income membership, a credit union that serves a geographic area where a majority of residents fall at or below the annual income standard is presumed to be serving predominantly low-income members. In applying the low-income standard the Regional Director must use specifically defined differentials for geographical areas with a higher cost of living. These differentials were originally obtained from a list maintained by the Bureau of Labor Statistics, as updated by the Employment and Training Administration. In order to recognize geographic economic differences, cities that were above the national average for the lower level standard of living numbers for the 25 largest metropolitan areas were provided differentials to be applied by the Regional Director. Since the differentials were added to the regulation in April 1993, there have been changes in economic conditions in many cities. NCUA is studying how the differentials should be adjusted and invites comment on how they should be updated.

Some in the credit union community have questioned whether student credit unions are eligible to participate in the Program. The preamble to the final 1993 amendments stated that although ''student federal credit unions are 'low-income credit unions' for purposes of receiving nonmember deposits, they do not qualify for participation in the Program because they are not specifically involved in the stimulation of economic development activities and community revitalization efforts.'' 58 FR 21642, 21645 (April 23, 1993). The Board proposes to amend Section 705.3(b) to clarify that student credit unions may not participate in the Program.

Section 705.5 Application for Participation

The Board is proposing that a nonfederally insured credit union that wishes to participate in the Program provide additional documentation during the application process. Because NCUA neither regulates nor insures nonfederally insured state chartered credit unions, additional information is required so that NCUA may properly consider the application. This change would provide documentation that is comparable to the information accessible to NCUA for federally insured credit unions. Accordingly, the Board is proposing that Section 705.5(b)(1) be amended to require non federally insured credit union to provide in its application for Program participation a copy of its most recent outside audit report and proof of deposit and surety bond insurance which states the maximum insurance levels permitted by the policies.

Section 705.7 Loans to Participating Credit Unions

Section 705.7 states that a participating credit union is eligible ''to receive up to $300,000, as determined by the NCUA Board, in the form of a loan from the Community Development Revolving Loan Fund for Credit Unions.'' Some have questioned whether this means that a credit union may receive more than one $300,000

loan under the Program. The Board does not believe it is appropriate to grant loans in excess of $300,000 to one credit union considering the Program's limited funds. Accordingly, the proposed amendment to Section 705.7(a) clarifies that the aggregate dollar amount of outstanding loans to one credit union is limited to $300,000.

Section 705.10 Technical Assistance

Under the current Section 705.10, technical assistance may not exceed $120,000 per year. The Board believes that technical assistance is a vital component of the Program and anticipates that available earnings may soon exceed $120,000. As a result, the Board is proposing to eliminate the dollar threshold on technical assistance. This change will provide NCUA greater flexibility in providing technical assistance.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed regulation may have on a substantial number of small credit unions (primarily those under $1 million in assets). The proposed amendments generally clarify operational issues. The one significant change regarding technical assistance is expected to benefit credit unions by increasing the available pool of funds for technical assistance. Accordingly, the Board determines and certifies that this proposed rule does not have a significant impact on a substantial number of small credit unions and that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

NCUA has determined that the proposed amendments do not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget (OMB). 60 FR 44978 (August 29, 1995).

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its action on state interests. The Program is implemented in its entirety by the NCUA. The proposed rule will permit more funds to be available for technical assistance to all credit unions, including state-chartered credit unions. The proposed amendments impose a minimal burden on nonfederally insured state chartered credit unions that wish to participate in the Program. The amendments will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of powers among the various levels of government.

List of Subjects

12 CFR Part 701

Credit, Credit unions.

12 CFR Part 705

Community development, Credit unions, Loans programs-housing and community development, Reporting and recordkeeping requirements, Technical assistance.

By the National Credit Union Administration Board on January 25, 1996.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA proposes to amend 12 CFR parts 701 and 705 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 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C 1601 *et seq.*; 42 U.S.C. 1861 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

2. Section 701.34 is amended by revising paragraph (a)(1) to read as follows:

§ 701.34 Designation of Low-Income Status; Receipt of Secondary Capital Accounts by Low-Income Designated Credit Unions.

(a) *Designation of low-income status.* (1) Section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) authorizes federal credit unions serving predominantly low-income members to receive shares, share drafts and share certificates from nonmembers. In order to utilize this authority, a federal credit union must receive a low-income designation from its Regional Director. The designation may be removed by the Regional Director upon notice to the federal credit union if the definition set forth in paragraphs (a)(2) and (3) of this section are no longer met. Removals may be appealed to the NCUA Board within 60 days. Appeals should be submitted through the Regional Director.

* * * * *

PART 705—COMMUNITY DEVELOPMENT REVOLVING LOAN PROGRAM FOR CREDIT UNIONS

3. The authority citation for part 705 is revised to read as follows:

Authority: 12 U.S.C. 1772c–1; 42 U.S.C 9822 and 9822 note.

4. Section 705.3 is amended by revising paragraph (b) to read as follows:

§ 705.3 Definitions.

* * * * *

(b) For purposes of this part, a *participating credit union* means a state- or federally chartered credit union that is specifically involved in the stimulation of economic development activities and community revitalization efforts aimed at benefiting the community it serves; whose membership consists of predominantly low-income members (excluding students) as defined in paragraph (a) of this section or applicable state standards as reflected by a current low-income designation pursuant to § 701.34(d)(1) or § 741.204 of this chapter or, in the case of a state-chartered nonfederally insured credit union, under applicable state standards; and has submitted an application for a loan and/or technical assistance and has been selected for participation in the Program in accordance with this Part.

5. Section 705.5 is amended by revising paragraph (b)(1) to read as follows:

§ 705.5 Application for participation.

* * * * *

(b) * * *

(1) Information demonstrating a sound financial position and the credit union's ability to manage its day-to-day business affairs, including the credit union's latest financial statement. Nonfederally insured credit unions must include the following:

(i) A copy of its most recent outside audit report;

(ii) Proof of deposit and surety bond insurance which states the maximum insurance levels permitted by the policies;

(iii) A balance sheet for the most recent month-end and each of the twelve months preceding that month-end;

(iv) An income and expense statement for the most recent month-end and each of the twelve months preceding the month-end;

(v) A delinquent loan list for the most recent month-end and each of the twelve months preceding the month-end.

* * * * *

§ 705.7 [Amended]

5. Section 705.7 is amended in paragraph (a) by adding ''in the aggregate'' after the number ''$300,000''.

6. Section 705.10 is revised to read as follows:

§ 705.10 Technical assistance.

Based on available earnings, NCUA may contract with outside providers to render technical assistance to participating credit unions. Participating credit unions can be provided with technical assistance without obtaining a Program loan. Technical assistance provided will aid participating credit unions in providing services to their members and in the efficient operation of such credit unions.

[FR Doc. 96–2019 Filed 2–2–96; 8:45 am]

BILLING CODE 7535–01–P

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 228

Rules on Source, Origin and Nationality for Commodities and Services Financed by the Agency for International Development

AGENCY: United States Agency for International Development (USAID), IDCA.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposed rule would add a new Part 228 to Title 22 of the CFR which would codify the rules on source, origin and nationality for commodities and services financed by USAID.

DATES: Comments on this proposed rule must be submitted on or before April 5, 1996.

ADDRESSES: Comments should be mailed to the Procurement Policy Division (M/OP/P), Office of Procurement, USAID, SA–14, Room 1600I, 320 21st Street, NW., Washington, DC 20523–1435.

FOR FURTHER INFORMATION CONTACT: Kathleen J. O'Hara, Office of Procurement, Procurement Policy Division (M/OP/P), USAID, SA–14, Room 1600I, USAID, Washington, DC 20523–1435. Telephone (703) 875–1534, Facsimile (703) 875–1243.

SUPPLEMENTARY INFORMATION: This proposed rule would codify USAID's current rules (published as internal agency policy) on source, origin and nationality for commodities and services with a few changes which are explained below.

USAID's rules currently include a limitation on the value of components from countries which are not authorized sources for procurement which may be included in a produced commodity. The total cost of such components to the producer of the commodity (delivered at the point of production of the commodity) may not exceed 50 percent of the lowest price (excluding the cost of ocean transportation and marine insurance) at which the supplier makes the commodity available for export sale (whether or not financed by USAID). As the U.S. economy has become more global, this requirement concerning componentry has become substantially more complex, and internal USAID audits have essentially found it to be impracticable to implement and enforce.

Further, USAID has determined that the test of origin of the commodity (i.e., the requirement that a commodity be mined, grown, or produced in an authorized source country) provides sufficient assurance that economic benefits will accrue to the country from which the commodity is purchased. Therefore, for purposes of streamlining USAID rules, removing unnecessary compliance burdens for government contractors and ensuring that the government buys at the lowest available price, the componentry requirement has been deleted from this proposed rule.

Additionally, this proposed rule specifically excludes the applicability of USAID's rules on nationality to commissions paid by suppliers, bonds and guarantees, and liability insurance under construction contracts, with the exception that no payments shall be made to suppliers designated as ineligible in Section 228.36 of the proposed regulation. These are considered miscellaneous services transactions, which can be commodity-related, but may also be related to contracts for professional, technical, or construction services. By the nature of the services involved, it is not considered practical to apply the nationality requirements to these services.

Public comments on this proposed rule are welcome.

USAID has determined that this proposed rule is not a significant regulatory action under Executive Order 12866. The proposed rule has been reviewed in accordance with the requirement of the Regulatory Flexibility Act. USAID has determined that the proposed rule would not have a significant economic impact on a substantial number of small entities, and, therefore, a Regulatory Flexibility Analysis is not required. There are no information collection requirements in this proposed rule as contemplated by the Paperwork Reduction Act.

Lists of Subjects in 22 CFR Part 228

Commodity procurement, Grant programs—foreign relations, Administrative practice and procedures.

Accordingly, Part 228 of Title 22 of the Code of Federal Regulations is proposed to be added, consisting of Subparts A through F, to read as follows:

PART 228—RULES ON SOURCE AND NATIONALITY FOR COMMODITIES AND SERVICES FINANCED BY USAID

Subpart A—Definitions and Scope of This Part

Sec.

228.01 Definitions.
228.02 Scope and application.
228.03 Identification of principal geographic code numbers.

Subpart B—Conditions Governing Source and Nationality of Commodity Procurement Transactions for USAID Financing

228.10 Purpose.
228.11 Source and origin of commodities.
228.12 Long-term leases.
228.13 Special source rules requiring procurement from the United States.
228.14 Nationality of suppliers of commodities.

Subpart C—Conditions Governing the Eligibility of Commodity-Related Services for USAID Financing

228.20 Purpose.
228.21 Ocean transportation.
228.22 Air transportation.
228.23 Eligibility of marine insurance.
228.24 Other delivery services.
228.25 Incidental services.

Subpart D—Conditions Governing the Nationality of Suppliers of Services for USAID Financing

228.30 Purpose.
228.31 Privately owned commercial suppliers.
228.32 Nonprofit organizations.
228.33 Foreign government-owned organizations.
228.34 Joint ventures.
228.35 Construction services from foreign-owned local firms.
228.36 Ineligible suppliers.
228.37 Nationality of employees under contracts or subcontracts for services.
228.38 Miscellaneous service transactions.

Subpart E—Conditions Governing Source and Nationality of Local Procurement Transactions for USAID Financing

228.40 Local procurement.

Subpart F—Waivers

228.50 General.
228.51 Commodities.
228.52 Suppliers of commodities.
228.53 Suppliers of services—privately owned commercial suppliers and nonprofit organizations.
228.54 Suppliers of services—foreign government-owned organizations.

228.55 Delivery services.
228.56 Authority to approve waivers.

Authority: Sec. 621, Pub. L. 87–195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163 of Sept. 29, 1979, (3 CFR, 1979 Comp., p. 435).

Subpart A—Definitions and Scope of This Part

§ 228.01 Definitions.

As used in this part, the following terms shall have the meanings indicated below:

(a) *Commodity* means any material, article, supply, goods, or equipment.

(b) *Commodity-related services* means delivery services and/or incidental services.

(c) *Component* means any good that goes directly into the production of a produced commodity.

(d) *Cooperating country* means the country receiving the USAID assistance subject to this part 228.

(e) *Delivery* means the transfer to, or for the account of, an importer of the right to possession of a commodity, or, with respect to a commodity-related service, the rendering to, or for the account of, an importer of any such service.

(f) *Delivery service* means any service customarily performed in a commercial export transaction which is necessary to effect a physical transfer of commodities to the cooperating country. Examples of such services are the following: export packing, local drayage in the source country (including waiting time at the dock), ocean and other freight, loading, heavy lift, wharfage, tollage, switching, dumping and trimming, lighterage, insurance, commodity inspection services, and services of a freight forwarder. ''Delivery services'' may also include work and materials necessary to meet USAID marking requirements.

(g) *Implementing document* means any document, including a letter of commitment, issued by USAID which authorizes the use of USAID funds for the procurement of services or commodities and/or commodity related services, and which specifies conditions which apply to such procurement.

(h) *Incidental services* means the installation or erection of USAID-financed equipment, or the training of personnel in the maintenance, operation and use of such equipment.

(i) *Mission* means the USAID Mission or representative in a cooperating country.

(j) *Origin* means the country where a commodity is mined, grown or produced. A commodity is produced when, through manufacturing, processing, or substantial and major assembling of components, a commercially recognized new commodity results that is significantly different in basic characteristics or in purpose or utility from its components.

(k) *Services* means the performance of identifiable tasks, rather than the delivery of an end item of supply.

(l) *Source* means the country from which a commodity is shipped to the cooperating country, or the cooperating country if the commodity is located therein at the time of the purchase. Where, however, a commodity is shipped from a free port or bonded warehouse in the form in which received therein, ''source'' means the country from which the commodity was shipped to the free port or bonded warehouse.

(m) *State* means the District of Columbia or any State, Commonwealth, territory or possession of the United States.

(n) *Supplier* means any person or organization, governmental or otherwise, who furnishes services, commodities and/or commodity related services financed by USAID.

(o) *United States* means the United States of America, any State(s) of the United States, the District of Columbia, and areas of U.S. associated sovereignty, including commonwealths, territories and possessions.

(p) *USAID* means the U.S. Agency for International Development or any successor agency, including when applicable, each U.S.AID Mission abroad.

(q) *USAID Geographic Code* means a code in the USAID Geographic Code Book which designates a country, a group of countries, or an otherwise defined area. The principal USAID geographic codes are described in § 228.03.

(r) *USAID/W* means the USAID in Washington, DC 20523, including any office thereof.

§ 228.02 Scope and application.

This part is applicable to goods and services financed with USAID project and program funds. The appropriate implementing documents will indicate the authorized sources of procurement. Whenever this part 228 is applicable, those terms and conditions which are in effect on the date of issuance of the contract or placement of an order will govern for all procurements under that contract or order.

§ 228.03 Identification of principal geographic code numbers.

The USAID Geographic Code Book sets forth the official description of all geographic codes used by USAID in authorizing or implementing documents, to designate authorized source countries or areas. The following are summaries of the principal codes:

(a) Code 000—*The United States:* The United States of America, any State(s) of the United States, the District of Columbia, and areas of U.S.-associated sovereignty, including commonwealths, territories and possessions.

(b) Code 899—*Free World:* Any area or country, except the cooperating country itself and the following countries: Afghanistan, Libya, Vietnam, Cuba, Cambodia, Laos, Iraq, Iran, North Korea, Syria and the People's Republic of China.

(c) Code 935—*Special Free World:* Any area or country in the Free World, including the cooperating country.

(d) Code 941—*Selected Free World:* The United States and any independent country in the Free World, except the cooperating country itself and the following: Albania, Andorra, Angola, Armenia, Austria, Australia, Azerbaijan, Bahamas, Bahrain, Belgium, Bosnia and Herzegovina, Bulgaria, Byelarus, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Italy, Japan, Kazakhstan, Kuwait, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Macedonia*, Malta, Moldova, Monaco, Mongolia, Montenegro*, Netherlands, New Zealand, Norway, Poland, Portugal, Qatar, Romania, Russia, San Marino, Saudi Arabia, Serbia*, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Taiwan*, Tajikistan, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, Uzbekistan, and Vatican City.

* Has the status of a ''Geopolitical Entity'', rather than an independent country.

Subpart B—Conditions Governing Source and Nationality of Commodity Procurement Transactions for USAID Financing

§ 228.10 Purpose.

Sections 228.11 through 228.14 set forth the rules governing the eligible source of commodities and nationality of commodity suppliers for USAID financing. These rules may be waived in accordance with the provisions in subpart F of this part.

§ 228.11 Source and origin of commodities.

(a) The source and origin of a commodity shall be a country or countries authorized in the

implementing document by name or by reference to a USAID geographic code.

(b) Any component from a non-Free World country makes the commodity ineligible for USAID financing.

(c) When the commodity being purchased is a kit (e.g., scientific instruments, tools, or medical supplies packaged as a single unit), the kit will be considered a produced commodity.

(d) When spare parts for vehicles or equipment are purchased, each separate shipment will be considered a produced commodity, rather than each individual spare or replacement part. The parts must be packed in and shipped from an eligible country.

(e) When a package installation is procured as a single entity, USAID may determine that the installation as a whole should be considered a produced commodity.

§ 228.12 Long-term leases.

Any commodity obtained under a long-term lease agreement is subject to the source and origin requirements of this subpart B. For purposes of this subpart B, a long-term lease is defined as a single lease of more than 180 days, or repetitive or intermittent leases under a single project or program within a one-year period totalling more than 180 days, for the same type of commodity.

§ 228.13 Special source rules requiring procurement from the United States.

(a) Agricultural commodities and products thereof must be procured in the United States domestic price is less than parity, unless the commodity cannot reasonably be procured in the United States in fulfillment of the objectives of a particular assistance program under which such commodity procurement is to be financed. (22 U.S.C. 2354)

(b) Motor vehicles must be manufactured in the United States to be eligible for USAID financing. Also, any vehicle to be financed by USAID under a long-term lease or where the sale is to be guaranteed by USAID must be manufactured in the United States. (22 U.S.C. 2396) For purposes of this section, motor vehicles are defined as self-propelled vehicles with passenger carriage capacity, such as highway trucks, passenger cars and buses, motorcycles, scooters, motorized bicycles and utility vehicles. Also, for purposes of this section, a long-term lease is defined as a single lease of more than 180 days, or repetitive or intermittent leases under a single project or program within a one-year period totalling more than 180 days. In addition to the above requirements, passenger cars, light trucks, vans, minivans and utility vehicles must be manufactured by either Chrysler, Ford or General Motors and bear their nameplates, brand names or logos, to be eligible for financing by USAID. The nameplate, brand name or logo requirements do not apply when vehicles are procured under a source waiver.

(c) Pharmaceutical products must be manufactured in the United States in order to be eligible for USAID financing.

§ 228.14 Nationality of suppliers of commodities.

(a) The rules on nationality of suppliers of commodities relate only to the suppliers, and not to the commodities they supply. The nationality of the supplier is an additional eligibility criterion to the rules on source, origin and componentry.

(b) A supplier providing commodities must fit one of the following categories for the transaction to be eligible for USAID financing:

(1) An individual who is a citizen or a lawfully admitted permanent resident of a country or area included in the authorized geographic source code, except as provided in paragraph (c) of this section;

(2) A corporation or partnership organized under the laws of a country or area included in the authorized geographic source code and with a place of business in such country;

(3) A controlled foreign corporation (within the meaning of section 957 et seq. of the Internal Revenue Code) as attested by current information on file with the Internal Revenue Service of the United States (on IRS Form 959, 2952, 3646, or on substitute or successor forms) submitted by shareholders of the corporation; or

(4) A joint venture or unincorporated association consisting entirely of individuals, corporations, or partnerships which are eligible under either paragraph (b) (1), (2) or (3) of the section.

(c) Citizens of any country or area, or firms or organizations located in, organized under the laws of, or owned in any part by citizens or organizations of any country or area not included in Geographic Code 935 are ineligible for financing by USAID as suppliers of commodities. Limited exceptions to this rule are:

(1) Individuals lawfully admitted for permanent residence in the United States are eligible, as individuals or owners, regardless of their citizenship; and

(2) The USAID Deputy Assistant Administrator for Management (DAA/M) may authorize the eligibility of organizations having minimal ownership by citizens or organizations of non-Geographic Code 935 countries.

Subpart C—Conditions Governing the Eligibility of Commodity-Related Services for USAID Financing

§ 228.20 Purpose.

Sections 228.21 through 228.25 set forth the rules governing the eligibility of commodity-related services, both delivery services and incidental services, for USAID financing. These rules may be waived in accordance with the provisions in subpart F of this part. The rules on delivery services apply whether or not USAID is also financing the commodities being transported. In order to be identified and eligible as incidental services, such services must be connected with a USAID-financed commodity procurement.

§ 228.21 Ocean transportation.

The eligibility of ocean transportation services is determined by the flag registry of the vessel.

(a) When the authorized source for procurement is Geographic Code 000 (U.S.A.), USAID will finance ocean transportation only on U.S. flag vessels.

(b) When the authorized source for procurement is Geographic Code 941 (selected Free World), USAID will finance ocean transportation on vessels under flag registry of the United States, other countries in Geographic Code 941, and the cooperating country.

(c) When commodities whose eligibility is restricted to Geographic Code 000 are purchased under agreements which authorize Geographic Code 941 for the procurement of all other commodities, USAID will finance the ocean transportation in accordance with paragraph (b) of this section.

(d) USAID will finance costs incurred on vessels under flag registry of any Geographic Code 899 (Free World) country if the costs are part of the total cost on a through bill of lading that is paid to a carrier for initial carriage on a vessel which is eligible in accordance with paragraphs (a), (b) or (c) of this section.

§ 228.22 Air transportation.

(a) The eligibility of air transportation is determined by the flag registry of the aircraft. The term ''U.S.'' flag air carrier'' means one of a class of air carriers holding a certificate under Section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) authorizing operations between the United States or its territories and one or more foreign countries.

(b) For air transport financed under USAID grants, there is a U.S. Government statute that requires the use of U.S. flag air carriers for all international air travel and transportation, unless such service is not available. When U.S. flag air carriers are not available, any Geographic Code 935 flag air carrier may be used.

(c) Different requirements may be authorized in the implementing document if the transaction is financed under a USAID loan.

(d) The Comptroller General's memorandum (B–138942), dated March 31, 1981, entitled ''Revised Guidelines for Implementation of the Fly America Act'', established criteria for determining when U.S. flag air carriers are unavailable. See 48 CFR 47.403–1, or USAID Optional Standard Provision on ''Air Travel and Transportation'' for grants and cooperative agreement.

(e) While the Comptroller General's memorandum does not establish specific criteria for determining when freight service is unavailable, it is USAID's policy that such service is not available when the following criteria are met:

(1) When no U.S. flag air carrier provides scheduled air freight service from the airport serving the shipment's point of origin and a non-U.S. flag carrier does;

(2) When the U.S. flag air carrier(s) serving the shipment's point of origin decline to issue a through air waybill for transportation at the shipment's final destination airport;

(3) When use of a U.S.-flag air carrier would result in delivery to final destination at least seven days later than delivery by means of a non-U.S. flag carrier;

(4) When the total weight of the consignment exceeds the maximum weight per shipment which the U.S. flag air carrier will accept and transport as a single shipment and a non-U.S. flag air carrier will accept and transport the entire consignment as a single shipment;

(5) When the dimensions (length, width, or height) of one or more of the items of a consignment exceed the limitations of the U.S. flag aircraft's cargo door opening, but do not exceed the acceptable dimensions for shipment on an available non-U.S. flag scheduled air carrier.

§ 228.23 Eligibility of marine insurance.

The eligibility of marine insurance is determined by the country in which it is ''placed''. Insurance is ''placed'' in a country if payment of the insurance premium is made to, and the insurance policy is issued by, an insurance company office located in that country. Eligible countries for placement are governed by the authorized geographic code. However, if Geographic Code 941 is authorized, the cooperating country is also eligible to provide such services, unless the implementing document specified otherwise based on the following:

(a) If a cooperating country discriminates against marine insurance companies authorized to do business in any State of the United States, then all USAID-financed goods for that country must be insured in the United States against marine risk. The term ''authorized to do business in any State of the United States'' means that foreign-owned insurance companies licensed to do business in the United States (by any State) are treated the same as comparable U.S.-owned companies.

(b) The prima facie test of discrimination is that a cooperating country takes actions which hinder private importers in USAID-financed transactions from making cost, insurance and freight (C.I.F.) or cost and insurance (C.&I.) contracts with United States commodity suppliers, or which hinder importers in instructing such suppliers to place marine insurance with companies authorized to do business in the United States.

(c) When discrimination is found to exist and the cooperating country fails to correct the discriminatory practice, USAID requires that all commodities procured with USAID funds be insured in the United States against marine loss. The decision of any cooperating country to insure all public sector procurements locally with a government-owned insurance agency is not considered discrimination.

§ 228.24 Other delivery services.

No source or nationality rules apply to other delivery services, such as export packing, loading, commodity inspection services, and services of a freight forwarder. Such services are eligible in connection with a commodity which is financed by USAID.

§ 228.25 Incidental services.

Source and nationality rules do not apply to suppliers of incidental services specified in a purchase contract relating to equipment. However, citizens or firms of any country not included in USAID Geographic Code 935 are ineligible to supply incidental services, except that individuals lawfully admitted for permanent residence in the U.S. are eligible regardless of their citizenship.

Subpart D—Conditions Governing the Nationality of Suppliers of Services for USAID Financing

§ 228.30 Purpose.

Sections 228.31 through 228.37 set forth the nationality rules governing the eligibility for USAID financing of services which are not commodity-related. These rules may be waived in accordance with the provisions in subpart F of this part.

§ 228.31 Privately owned commercial suppliers.

(a) A supplier providing services must fit one of the following categories to be eligible as a contractor (personal services contractors are not included under the term ''contractor'' in this section) or as a subcontractor. In the case of the categories described in paragraphs (a)(2) (i) and (ii) of this section, the certification requirements in paragraph (b) of this section must be met.

(1) The supplier is an individual who is a citizen of and whose principal place of business is in a country or area included in the authorized geographic code, or a non-U.S. citizen lawfully admitted for permanent residence in the United States whose principal place of business is in the United States;

(2) The supplier is a privately owned commercial (i.e., for profit) corporation or partnership that is incorporated or legally organized under the laws of a country or area included in the authorized geographic code, has its principal place of business in a country or area included in the authorized geographic code, and meets the criteria set forth in either paragraph (a)(2) (i) or (ii) of this section.

(i) The corporation or partnership is more than 50 percent beneficially owned by individuals who are citizens of a country or area included in the authorized geographic code or non-U.S. citizens lawfully admitted for permanent residence in the United States. In the case of corporations, ''more than 50 percent beneficially owned'' means that more than 50 percent of each class of stock is owned by such individuals; in the case of partnerships, ''more than 50 percent beneficially owned'' means that more than 50 percent of each category of partnership interest (e.g., general, limited) is owned by such individuals. (With respect to stock or interest held by companies, funds or institutions, the ultimate beneficial ownership by individuals is controlling.)

(ii) The corporation or partnership:

(A) Has been incorporated or legally organized in the United States for more

than 3 years prior to the issuance date of the invitation for bids or request for proposals,

(B) Has performed within the United States administrative and technical, professional, or construction services, similar in complexity, type and value to the services being contracted (under a contract, or contracts, for services) and derived revenue therefrom in each of the 3 years prior to the date described in the paragraph (a)(2)(i)(A) of this section,

(C) Employs United States citizens and non-U.S. citizens lawfully admitted for permanent residence in the United States in more than half its permanent full-time positions in the United States and more than half of its principal management positions, and

(D) Has the existing technical and financial capability in the United States to perform the contract.

(3) The supplier is a joint venture or an unincorporated association consisting entirely of individuals, corporations, partnerships, or nonprofit organizations which are eligible under paragraphs (a) or (b) of this section or § 228.32.

(b) A duly authorized officer of a firm or nonprofit organization shall certify that the participating firm or nonprofit organization meets either the requirements of paragraphs (a)(2)(i) or (ii) of this section or § 228.32. In the case of corporations, the certifying officer shall be the corporate secretary. With respect to the requirements of paragraph (a)(2)(i) of this section, the certifying officer may presume citizenship on the basis of the stockholders' record address, provided the certifying officer certifies, regarding any stockholder (including any corporate fund or institutional stockholder) whose holdings are material to the corporation's eligibility, that the certifying officer knows of no fact which might rebut that presumption.

§ 228.32 Nonprofit organizations.

(a) Nonprofit organizations, such as educational institutions, foundations, and associations, must meet the criteria listed in this section and the certification requirement in § 228.31(b) to be eligible as contractors or subcontractors for services. Any such institution must:

(1) Be organized under the laws of a country or area included in the authorized geographic code;

(2) Be controlled and managed by a governing body, a majority of whose members are citizens of countries or areas included in the authorized geographic code; and

(3) Have its principal facilities and offices in a county or area included in the authorized geographic code.

(b) International agricultural research centers and such other international research centers as may be, from time to time, formally listed as such by the USAID Assistant Administrator, Global Bureau, are considered to be of U.S. nationality.

§ 228.33 Foreign government-owned organizations.

Firms operated as commercial companies or other organizations (including nonprofit organizations other than public educational institutions) which are wholly or partially owned by foreign governments or agencies thereof are not eligible for financing by USAID as contractors or subcontractors, except if their eligibility has been established by a waiver approved by USAID in accordance with § 228.54. This does not apply to foreign government ministries or agencies.

§ 228.34 Joint ventures.

A joint venture or unincorporated association is eligible only if each of its members is eligible in accordance with § 228.31, § 228.32, or § 228.33.

§ 228.35 Construction services from foreign-owned local firms.

(a) When the estimated cost of a contract for construction services is $5 million or less and only local firms will be solicited, a local corporation or partnership which does not meet the test in § 228.31(b)(1) for eligibility based on ownership by citizens of the cooperating country (i.e., it is a foreign-owned local firm) will be eligible if it is determined by USAID to be an integral part of the local economy. However, such a determination is contingent on first ascertaining that no United States construction company with the required capability is currently operating in the cooperating country or, if there is such a company, that it is not interested in bidding for the proposed contract.

(b) A foreign-owned local firm is an integral part of the local economy provided:

(1) It has done business in the cooperating country on a continuing basis for not less than three years prior to the issuance date of invitations for bids or requests for proposals to be financed by USAID;

(2) It has a demonstrated capability to undertake the proposed activity;

(3) All, or substantially all, of its directors of local operations, senior staff and operating personnel are resident in the cooperating country;

(4) Most of its operating equipment and physical plant are in the cooperating country.

§ 228.36 Ineligible suppliers.

Citizens of any country or area not included in Geographic Code 935, and firms and organizations located in, organized under the laws of, or owned in any part by citizens or organizations of any country or area not included in Geographic Code 935 are ineligible for financing by USAID as suppliers of services, or as agents in connection with the supply of services. The limited exceptions to this rule are:

(a) Individuals lawfully admitted for permanent residence in the United States are eligible, as individuals or owners, regardless of their citizenship, and

(b) The USAID Deputy Assistant Administrator for Management (DAA/M) may authorize the eligibility of organizations having minimal ownership by citizens or organizations of non-Geographic Code 935 countries.

§ 228.37 Nationality of employees under contracts or subcontracts for services.

(a) The rules set forth in §§ 228.31 through 228.36 do not apply to the employees of contractors or subcontractors. Such employees must, however, be citizens of countries included in Geographic Code 935 or, if they are not, have been lawfully admitted for permanent residence in the United States.

(b) When the contractor on a USAID-financed construction project is a United States firm, at least half of the supervisors and other specified key personnel working at the project site must be citizens or permanent legal residents of the United States. Exceptions may be authorized by the USAID Mission in writing if special circumstances exist which make compliance impractical.

§ 228.38 Miscellaneous service transactions.

This section sets forth rules governing certain services which may be considered commodity-related, but may also relate to contracts for professional, technical, or construction services.

(a) *Commissions.* The nationality rules in subparts C and D of this part, with the exception of § 228.36, do not apply to the payment of commissions by suppliers. A commission is defined as any payment or allowance by a supplier to any person for the contribution which the person has made to securing the sale or contract for the supplier or which that person makes to securing on a continuing basis similar sales or contracts for the supplier.

(b) *Bonds and guarantees.* The nationality rules in subparts C and D of this part, with the exception of § 228.36, do not apply to surety companies, insurance companies or banks who issue bonds or guarantees under USAID-financed contracts.

(c) *Liability insurance under construction contracts.* The nationality rules in subparts C and D of this part, with the exception of § 228.36, do not apply to firms providing liability insurance under construction contracts.

Subpart E—Conditions Governing Source and Nationality of Local Procurement Transactions for USAID Financing

§ 228.40 Local procurement.

Local procurement in the cooperating country involves the use of appropriated funds to finance the procurement of goods and services supplied by local businesses, dealers or producers, with payment normally being in the currency of the cooperating country. Unless otherwise specified in an implementing document, or a waiver is approved by USAID in accordance with subpart F of this part, local procurement is eligible for USAID financing only in the following situations:

(a) Locally available commodities of U.S. origin, which are otherwise eligible for financing, if the value of the transaction is estimated not to exceed the local currency equivalent of $100,000 (exclusive of transportation costs).

(b) Commodities of Geographic Code 935 origin if the value of the transaction does not exceed $5,000.

(c) Professional services contracts estimated not to exceed the local currency equivalent of $250,000.

(d) Construction services contracts, including construction materials required under the contract, estimated not to exceed the local currency equivalent of $5,000,000.

(e) Under a fixed-price construction contract of any value, the U.S. prime contractor may procure locally produced goods and services under subcontracts.

(f) The following commodities and services which are only available locally:

(1) Utilities, including fuel for heating and cooking, waste disposal and trash collection;

(2) Communications—telephone, telex, facsimile, postal and courier services;

(3) Rental costs for housing and office space;

(4) Petroleum, oils and lubricants for operating vehicles and equipment;

(5) Newspapers, periodicals and books published in the cooperating country;

(6) Other commodities and services (and related expenses) that, by their nature or as a practical matter, can only be acquired, performed, or incurred in the cooperating country, e.g., vehicle maintenance, hotel accommodations, etc.

Subpart F—Waivers

§ 228.50 General.

USAID may expand the authorized source in order to accomplish project or program objectives by processing a procurement source waiver. When a waiver is processed to include a new source, procurement is not limited to the added source, but may be from any country included in the authorized source. All waivers must be in writing.

§ 228.51 Commodities.

(a) *Waiver criteria.* Any waiver must be based upon one of the criteria listed below. Waivers to Geographic Code 899 or Code 935 which are justified under paragraph (a) (2) or (3) of this section may only be authorized on a case-by-case basis.

(1) Commodities required for assistance are of a type that are not produced in and available for purchase in the United States, and for waivers to Code 899 or Code 935, also not in the cooperating country, or any country in Code 941.

(2) It is necessary to permit procurement in a country not otherwise eligible in order to meet unforeseen circumstances, such as emergency situations.

(3) It is necessary to promote efficiency in the use of United States foreign assistance resources, including to avoid impairment of foreign assistance objectives.

(4) For waivers to authorize procurement from Geographic Code 941 or the cooperating country:

(i) For assistance other than commodity import programs, when the lowest available delivered price from the United States is reasonably estimated to be 50 percent or more higher than the delivered price from a country or area including in Geographic Code 941 or the cooperating country.

(ii) For assistance other than commodity import programs, when the estimated cost of U.S. construction materials (including transportation and handling charges) is at least 50 percent higher than the cost of locally produced materials.

(iii) For commodity import programs or similar sector assistance, an acute shortage exists in the United States for a commodity generally available elsewhere.

(iv) Persuasive political considerations.

(v) Procurement in the cooperating country would best promote the objectives of the foreign assistance program.

(vi) Such other circumstances as are determined to be critical to the success of project objectives.

(b) *Additional requirements.* A waiver to authorize procurement from outside the United States of agricultural commodities, motor vehicles, or pharmaceuticals (see § 228.13, ''Special source rules requiring procurement from the United States,'') must also meet requirements established in USAID directives on commodity eligibility.

§ 228.52 Suppliers of commodities.

Geographic code changes authorized by waiver with respect to the source of commodities automatically apply to the nationality of their suppliers. A waiver to effect a change in the geographic code only with respect to the nationality of the supplier of commodities, but not in the source of the commodities, may be sought if the situation requires it based on the appropriate criteria in § 228.51.

§ 228.53 Suppliers of services—privately owned commercial suppliers and nonprofit organizations. Waiver criteria.

Any waiver must be based upon one of the criteria listed in this section. Waivers to Geographic Code 899 or Code 935 which are justified under paragraphs (b) or (c) of this section may only be authorized on a case-by-case basis.

(a) Services required for assistance are of a type that are not available for purchase in the United States, and for waivers to Code 899 or Code 935, also not in the cooperating country, or any country in Code 941.

(b) It is necessary to permit procurement in a country not otherwise eligible in order to meet unforeseen circumstances, such as emergency situations.

(c) It is necessary to promote efficiency in the use of United States foreign assistance resources, including to avoid impairment of foreign assistance objectives.

(d) For waivers to authorize procurement from Geographic Code 941 or the cooperating country:

(1) There is an emergency requirement for which non-USAID funds are not available and the requirement can be met in time only from suppliers in a country or area not included in the authorized geographic code.

(2) No suppliers from countries or areas included in the authorized geographic code are able to provide the required services.

(3) Persuasive political considerations.

(4) Procurement of locally available services would best promote the objectives of the foreign assistance program.

(5) Such other circumstances as are determined to be critical to the achievement of project objectives.

§ 228.54 Suppliers of services—foreign government-owned organizations.

A waiver to make foreign government-owned organizations, described in § 228.33, eligible for financing by USAID must be justified on the basis of the following criteria:

(a) The competition for obtaining a contract will be limited to cooperating country firms/organizations meeting the criteria set forth in § 228.31 or § 228.32.

(b) The competition for obtaining a contract will be open to firms from countries or areas included in the authorized geographic code and eligible under the provisions of § 228.31 or § 228.32, and it has been demonstrated that no U.S. firm is interested in competing for the contract.

(c) Services are not available from any other source.

(d) Foreign policy interests of the United States outweigh any competitive disadvantage at which United States firms might be placed or any conflict of interest that might arise by permitting a foreign government-owned organization to compete for the contract.

§ 228.55 Delivery services.

(a) *Ocean transportation.* A waiver to expand the flag eligibility requirements to allow the use of vessels under flag registry of the cooperating country, Geographic Code 941, 899 or 935 countries may be authorized when:

(1) It is necessary to assure adequate competition in the shipping market in order to obtain competitive pricing, particularly in the case of bulk cargoes and large cargoes carried by liners;

(2) Eligible vessels provide liner service, only by transshipment, for commodities that cannot be containerized, and vessels under flag registry of countries to be authorized by the waiver provide liner service without transshipment;

(3) Eligible vessels are not available, and cargo is ready and available for shipment, provided it is reasonably evident that delaying shipment would increase costs or significantly delay receipt of the cargo;

(4) Eligible vessels are found unsuitable for loading, carriage, or unloading methods required, or for the available port handling facilities;

(5) Eligible vessels do not provide liner service from the port of loading stated in the procurement's port of export delivery terms, provided the port is named in a manner consistent with normal trade practices; or

(6) Eligible vessels decline to accept an offered consignment.

(b) *Air transportation.* The preferences for use of United States flag air carriers or for use of United States, other Geographic Code 941 countries, or cooperating country flag air carriers are not subject to waiver. Other free world air carriers may be used only as provided in § 228.05(b).

§ 228.56 Authority to approve waivers.

The authority to approve waivers of established policies on source, origin and nationality are delegated authorities within USAID, as set forth in its Handbooks.

Dated: December 6, 1995.

Michael D. Sherwin,

Deputy Assistant Administrator for Management.

[FR Doc. 96–2288 Filed 2–2–96; 8:45 am]

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NATIONAL LABOR RELATIONS BOARD

29 CFR Part 103

Appropriateness of Requested Single Location Bargaining Units in Representation Cases

AGENCY: National Labor Relations Board.

ACTION: Notice of extension of time for filing comments to proposed rulemaking.

SUMMARY: The National Labor Relations Board gives notice that it is extending the time for filing comments on the proposed rulemaking on the appropriateness of requested single location bargaining units in representation cases.

DATES: The comment period which presently ends at the close of business on February 8, 1966, is extended to the close of business on March 15, 1996.

ADDRESS: Comments on the proposed rulemaking should be sent to: Office of the Executive Secretary, 1099 14th Street NW., Room 11600, Washington, DC 20570.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, Telephone: (202) 273–1940.

SUPPLEMENTARY INFORMATION: The Board's notice of proposed rulemaking on the appropriateness of requested single location bargaining in representation cases was published in the Federal Register on September 28, 1995 (60 FR 50146). The notice provided that all responses to the notice of proposed rulemaking must be received on or before November 27, 1995. On November 20, 1995 the Board extended the time to January 22, 1996. Because of the recent shutdown of operations due to lack of appropriated funds, the Board extended the time to February 8, 1996. In view of public interest, the Board has decided to further extend the period for filing responses to the notice of proposed rulemaking until the close of business on Friday March 15, 1996.

By direction of the Board.

John J. Toner,

Executive Secretary.

[FR Doc. 96–2360 Filed 2–2–96; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WV035–6001; FRL–5416–5]

Approval and Promulgation of Implementation Plans; West Virginia: Approval of PM–10 Implementation Plan for the Follansbee Area

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On November 22, 1995, the State of West Virginia submitted to EPA a revised attainment demonstration for the Follansbee, West Virginia nonattainment area for particulate matter with an aerodynamic diameter less than or equal to 10 micrometers (PM–10). West Virginia submitted these revisions to address deficiencies identified by EPA in a final limited disapproval of the particulate matter plans published in the Federal Register on July 25, 1994 (59 FR 37696). Today, EPA is proposing to approve West Virginia's demonstration. By separate notice today, EPA is making an interim final determination that the revised demonstration remedies the deficiencies identified in the rulemaking of July 25, 1994. As a result, the sanctions which could have resulted from the July 1994 rulemaking shall not apply.

DATES: Comments on this proposed action must be received by March 6, 1996.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air

Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania and the West Virginia Department of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia.

FOR FURTHER INFORMATION CONTACT: Thomas A. Casey, (215) 597–2746, at the EPA Region III address above (Mailcode 3AT22) or via e-mail at casey.thomas@epamail.epa.gov.

While information may be requested via e-mail, comments must be submitted in writing to the EPA Region III address above.

SUPPLEMENTARY INFORMATION:

I. Background

Requirements for PM–10 Nonattainment Areas

The air quality planning requirements for moderate PM–10 nonattainment areas are set out in subparts 1 and 4 of Title I of the Clean Air Act (Act). EPA has issued a ''General Preamble'' describing EPA's preliminary views on how EPA intends to review SIP's and SIP revisions submitted under Title I of the Act, including those State submittals containing moderate PM–10 nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)).

Upon enactment of the Clean Air Act Amendments of 1990, all Group I areas (and Group II areas that had monitored violations before January 1, 1989) were designated nonattainment by operation of law. A list of these initial nonattainment areas, including the Follansbee area in Brooke County, West Virginia and the adjacent Steubenville area in neighboring Jefferson County, Ohio, was published on March 15, 1991 (56 FR 11101) with corrections on May 20, 1991 (56 FR 23105).[1]

Those States containing initial moderate PM–10 nonattainment areas were required to submit to EPA, among other things, the following by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology—RACT) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every 3 years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM–10 also apply to major stationary sources of PM–10 precursors except where the Administrator determines that such sources do not contribute significantly to PM–10 levels which exceed the national ambient air quality standards (NAAQS) in the area. See sections 172(c), 188, and 189 of the Act.

Some provisions were due at later dates. States with initial moderate PM–10 nonattainment areas were required to submit permit programs for the construction and operation of new and modified major stationary sources of PM–10 by June 30, 1992 (see section 189(a)). Such States also must submit contingency measures by November 15, 1993 which become effective without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM–10 NAAQS by the applicable statutory deadline. See section 172(c)(9) and 57 FR 13543–44.

West Virginia's 1991 Submittal

Pursuant to these requirements, West Virginia submitted a SIP revision request for the Follansbee area on November 15, 1991. The submittal contained bilateral consent orders between the State of West Virginia and six companies requiring reductions in PM–10 emissions from six sources in the Follansbee area; an air quality modeling analysis intended to demonstrate that West Virginia's SIP, once revised to include the consent orders, would be sufficient to attain the PM–10 NAAQS in the Follansbee area; and other supporting information, such as RACT analyses and an analysis of PM–10 precursors.

On July 25, 1994, EPA took final limited approval and limited disapproval actions on West Virginia's 1991 submittal (59 FR 37696). EPA approved the six consent orders for incorporation into the SIP and determined, among other things, that the revised SIP provided for RACM. EPA disapproved certain elements of the attainment demonstration because of technical inadequacies. Specifically, there were errors in estimates of emissions from coke oven batteries; there was no analysis of intermediate terrain (terrain between stack height and plume height); and the demonstration included non-guideline use of the Gaussian-Plume Multiple Source Air Quality Algorithm (RAM) dispersion model in a meteorologically rural area. The notice of proposed rulemaking (59 FR 988) and Technical Support Document to that rulemaking provides detailed descriptions of these deficiencies and documents other deficiencies that are more directly related to sources in Ohio, such as the underestimation of emissions from basic oxygen furnaces.

EPA took no action on the contingency measures contained in the 1991 SIP submittal with respect to the requirements of 179(c)(9) of the Act. The General Preamble to Title I of the Clean Air Act Amendments of 1990 established a November 15, 1993 deadline for State submittal of contingency plans. EPA will take action on the contingency measures in a separate rulemaking.

West Virginia's 1995 Submittal

On November 22, 1995, West Virginia submitted to EPA additions to its 1991 attainment demonstration and emissions inventory for the Follansbee area. While the revised demonstration and inventory rest largely on the same data as the 1991 submittal, several changes were made. Specifically, coke oven battery emission estimates were corrected; the entire emissions inventory was remodeled using EPA's newly available ISC3 (Industrial Source Complex) model (incorporating an intermediate terrain analysis and a revised area source algorithm); the meteorological data were reprocessed using the Meteorological Processor for Regulatory Models (MPRM); the coordinates of several sources, which were in error in the original submittal, were corrected; and certain annual emission rate estimates were refined.

The result of the revised modeling is that West Virginia's SIP (as revised in 1991), along with Ohio's SIP, is sufficient to attain the NAAQS. The analysis shows that, even if all sources emit at their maximum allowable emission rates, the 24-hour PM–10

[1] The Follansbee, West Virginia nonattainment area was defined in this notice as the area bounded on the north by the Market Street Bridge, on the east by West Virginia Route 2, on the south by the extension of the southern boundary of Steubenville Township, Jefferson County, Ohio, and on the West by the Ohio/West Virginia border.

concentration will not exceed 150 μg/m^3 more than once per year in any location in the area. Similarly, the demonstration shows that, in the attainment year, the annual PM–10 concentration will not exceed the annual PM–10 NAAQS of 50 μg/m^3. The analysis is also sufficient to demonstrate that the PM–10 NAAQS will be maintained in future years because the population the area not increasing. The analysis was performed in a manner that is consistent with the Guideline on Air Quality Models (40 CFR 51 Appendix W). For more details regarding the attainment demonstration, see the Technical Support Document.

These revisions correct the deficiencies that resulted in EPA's limited disapproval of the attainment demonstration and emissions inventory.

II. Today's Proposal

Today, EPA is proposing to approve West Virginia's November 22, 1995 additions to its attainment demonstration and to approve the demonstration as meeting the requirements of section 189(a)(1)(B) for an attainment demonstration and the 172(c)(3) requirement for an accurate emissions inventory. By separate notice today, EPA is making an interim final determination that the revised demonstration remedies the deficiencies identified in the rulemaking of July 25, 1994. As a result, the sanctions which could have resulted from the July 1994 rulemaking shall not apply.

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.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

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.

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed/promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The Administrator's decision to approve or disapprove West Virginia's PM–10 attainment demonstration and emissions inventory for the Follansbee area will be based on whether it meets the requirements of section 110(a)(2)(A)-(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter.

Authority: 42 U.S.C. 7401–7671q.

Dated: January 25, 1996.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 96–2250 Filed 2–2–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 70

[AD–FRL–5417–4]

Approval and Promulgation of Implementation Plans; State of Missouri;

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of the public comment period.

SUMMARY: EPA is giving notice that the public comment period for a notice of proposed rulemaking published December 15, 1995 (60 FR 64404), has been extended 30 days. The December 15, 1995, notice proposed interim approval of the operating permits program and delegation 112(l) authority for the state of Missouri. EPA is extending the comment period based on an extension request by a Missouri industry. The request is based on the fact that EPA was unavailable, during the government shutdown, to provide necessary information to the public.

DATES: Comments are now due on or before February 13, 1996.

ADDRESSES: Comments may be mailed to Joshua A. Tapp, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Joshua Tapp at (913) 551–7606 or at the aforementioned address.

Authority: 42 U.S.C. 7401–7671q.

Dated: January 29, 1996.

Dennis Grams,

Regional Administrator.

[FR Doc. 96–2354 Filed 2–2–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 100

RIN 0906–AA36

National Vaccine Injury Compensation Program: Revisions and Additions to the Vaccine Injury Table—II

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Proposed rule; notice of public hearing.

SUMMARY: This document announces a public hearing to receive information and views on the Notice of Proposed Rulemaking (NPRM) entitled ''National Vaccine Injury Compensation Program: Revisions and Additions to the Vaccine Injury Table—II.''

DATES: The public hearing will be held on February 29, 1996, from 1:00 p.m. to 5:00 p.m.

ADDRESSES: The public hearing will be held in Conference Room D in the Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas E. Balbier, Jr., Director, Division of Vaccine Injury Compensation, at (301) 443–6593.

SUPPLEMENTARY INFORMATION: The National Childhood Vaccine Injury Act (Public Law 99–660, as amended, Title XXI of the Act) provides a system of no-fault compensation for certain individuals who have been injured by specific childhood vaccines: namely, diphtheria, tetanus, pertussis, polio, measles, mumps or rubella vaccines. Section 2114 of the Act contains a Vaccine Injury Table (the Table) which lists these vaccines and the time periods in which certain adverse events, e.g., injuries, disabilities, illnesses, or death, must occur in order for claimants to be entitled to a presumption that the event was vaccine-related. The Table was amended by regulation pursuant to Section 312 of the Act in the Final Rule published in the Federal Register on February 8, 1995 (60 FR 7678). The Secretary has proposed further revisions of the Vaccine Injury Table and accompanying Qualifications and Aids to Interpretation based on the findings of an Institute of Medicine report, which was released in late 1993, and the recommendations made by two advisory bodies, the National Vaccine Advisory Committee and the Advisory Commission on Childhood Vaccines. Among other changes, this proposed rule will add vaccines against Hepatitis B and hemophilus influenzae type b to the Table. The NPRM was published in the Federal Register, November 8, 1995: Vol. 60, No. 216, Pages 56289–56300. The public comment period closes May 6, 1996.

In view of the importance of the Vaccine Injury Compensation Program and the effect of the NPRM, the Secretary has determined that, in addition to the 180-day period for written comments on the NPRM, an informal public hearing will be held. This hearing is to provide an open forum for the presentation of information and views concerning all aspects of the NPRM by interested persons.

In preparing a final regulation, the Secretary will consider the administrative record of this hearing along with all other written comments received during the comment period specified in the NPRM. Individuals or representatives of interested organizations are invited to participate in the public hearing in accord with the schedule and procedures set forth below.

The hearing will be held on February 29, 1996, beginning at 1:00 p.m., in Conference D in the Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. The hearing will be held following the noon adjournment of the February 28–29 meeting of the Advisory Commission on Childhood Vaccines.

The presiding officer representing the Secretary, HHS, will be Mr. Thomas E. Balbier, Jr., Director, Division of Vaccine Injury Compensation, Bureau of Health Professions (BHPr), Health Resources and Services Administration.

Persons who wish to participate are requested to file a notice of participation with the Department on or before February 15, 1996. The notice should be mailed to Division of Vaccine Injury Compensation, BHPr, Room 8A–35, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. To ensure timely handling any outer envelope should be clearly marked ''NPRM Hearing.'' The notice of participation should contain the interested person's name, address, telephone number, any business or organizational affiliation of the person desiring to make a presentation, a brief summary of the presentation, and the approximate time requested for the presentation. Groups that have similar interests should consolidate their comments as part of one presentation. Time available for the hearing will be allocated among the persons who properly file notices of participation. If time permits, interested parties attending the hearing who did not submit a notice of participation in advance will be allowed to make an oral presentation at the conclusion of the hearing.

Persons who find that there is insufficient time to submit the required information in writing may give oral notice of participation by calling Mr. Thomas E. Balbier, Jr., Director, Division of Vaccine Injury Compensation, at (301) 443–6593 no later than February 15, 1996. Those persons who give oral notice of participation should also submit written notice containing the information described above to the Department by the close of business February 22, 1996.

After reviewing the notices of participation and accompanying information, the Department will schedule each appearance and notify each participant by mail or telephone of the time allotted to the person(s) and the approximate time the person's oral presentation is scheduled to begin.

Written comments and transcripts of the hearing will be made available for public inspection as soon as they have been prepared, on weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m. at the Division of Vaccine Injury Compensation, Room 8A–35, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Dated: January 30, 1996.

Ciro V. Sumaya,

Administrator.

[FR Doc. 96–2322 Filed 2–2–96; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 525, 541, 555, 571, and 581

[Docket No. 95–95, Notice 1]

Exemptions From Average Fuel Economy Standards; Federal Motor Vehicle Theft Prevention Standard; Federal Motor Vehicle Safety Standards; Bumper Standard

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

ACTION: Notice of public meeting; request for comments.

SUMMARY: This notice announces a public meeting at which NHTSA will seek information from small volume manufacturers and the public on regulatory problems of such manufacturers. Previously, NHTSA announced that it is interested in developing a legislative package tailored to reduce the burden of its requirements

on small businesses and manufacturers. NHTSA is requesting suggestions for actions with respect to NHTSA's Corporate Average Fuel Economy (CAFE) regulations, Theft Prevention Standard, Federal Motor Vehicle Safety Standards, and Bumper Standard, that govern the compliance and exemption of such vehicles. This notice also invites written comments on the same subjects.

DATES: The public meeting will be held on Wednesday, March 13, 1996, at 9:00 a.m. An agenda for the meeting will be made based on the number of persons wishing to make oral presentations and will be available on the day of the meeting. Those wishing to make oral presentations at the meeting should contact Taylor Vinson, at the address or telephone number listed below, by the close of business Monday, February 26, 1996. Written comments may be submitted at any time before or after the meeting, but not later than April 4, 1996.

ADDRESSES: *Public meeting:* The public meeting will be held in Rooms 6244–6248, Nassif Building (DOT headquarters), 400 Seventh Street, SW, Washington, DC.

Written comments: Written comments should be sent to the Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 7th Street, SW., Washington, DC 20590, ATTN: Docket No. 95–95; Notice 1.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA, 400 7th Street, SW, Washington, DC 20590 (telephone 202–366–5263).

SUPPLEMENTARY INFORMATION:

Regulatory Reform

Calling for a new approach to the way Government regulates the private sector, President Clinton has asked Executive Branch agencies to improve the regulatory process. Specifically, the President requested that agencies (1) cut obsolete regulations; (2) create grassroots partnerships by meeting with those affected by regulations and other interested parties; and (3) make more frequent use of consensual rulemaking such as regulatory negotiation.

This is the second of NHTSA's announced meetings to create grassroots partnerships with regulated industries that do not deal with NHTSA on a daily basis. By meeting with these groups, NHTSA believes that it can derive a better understanding of their needs and concerns. Other groups that the agency plans to meet with are manufacturers of school buses, heavy trucks, child seats, and lamps and reflectors. The agency met on December 12, 1995, with manufacturers of multistage vehicles.

As part of its contribution towards regulatory reform to reduce unnecessary regulatory burdens, NHTSA has announced that it plans to develop a legislative package tailored to reduce the burden of its requirements on small manufacturers. Such a package could include longer leadtimes for small manufacturers and greater flexibility in granting small-manufacturer exemptions. NHTSA recognizes that small volume manufacturers are faced with somewhat different problems than manufacturers who produce in larger quantities. Therefore, the agency has decided to hold a public meeting to receive the comments of this group and the public on how the regulatory process might be improved without any diminution of regulatory goals.

Small-Volume Manufacturers

Under the current statutes and regulations administered by NHTSA, there is no specific definition of ''small-volume manufacturer''. However, eligibility for application for exemption from average fuel economy standards and motor vehicle safety standards is statutorily predicated upon the volume of production. This statutory criterion is reflected in the agency's regulations. Under 49 CFR Part 525 *Exemptions From Average Fuel Economy Standards*, a manufacturer who produces fewer than 10,000 passenger automobiles may apply for an exemption. Similarly, under 49 CFR Part 555 *Temporary Exemption From Motor Vehicle Safety Standards*, a manufacturer whose total motor vehicle production (passenger cars and all other types) does not exceed 10,000 may apply for an exemption on grounds that compliance would cause it substantial economic hardship. Thus, at present, a manufacturer whose annual motor vehicle production does not reach 10,000 units can apply for regulatory relief that is not available to manufacturers whose yearly production is greater. NHTSA, therefore, considers any manufacturer of motor vehicles that which fabricates not more than 10,000 units a year to be a ''small-volume manufacturer'' within the meaning of its outreach program, regardless of whether it has petitioned for exemption under Part 525 or Part 555.

Importers of vehicles for resale are statutorily treated as ''manufacturers'' for most purposes and required to comply with obligations of fabricating manufacturers. Aside from factory-owned U.S.-based concerns importing certified vehicles, importers of vehicles for resale generally import vehicles originally intended for sale in a country other than the United States and thus not manufactured to conform to Federal requirements. Such importers are treated as ''registered importers'' (RIs) in the agency's authorizing statute and under 49 CFR Part 592. None imports more than 10,000 units a year. The agency is well aware of the problems faced by RIs in qualifying nonconforming vehicles for entry and modifying them after entry. However, these problems are of a different nature than those faced by small manufacturers actually involved in fabrication. For this reason, the agency does not intend to include non-fabricating small-volume manufacturers in the agenda for this meeting.

The following paragraphs briefly describe the existing statutory provisions regarding the establishing of standards and the NHTSA regulations implementing those provisions.

Corporate Average Fuel Economy (CAFE)

The CAFE standards originate in 49 U.S.C. Chapter 329—*Automobile Fuel Economy*. This chapter requires passenger automobiles to meet a CAFE standard of 27.5 miles per gallon for each model year. Under 49 U.S.C. 32902(d)(1), a manufacturer may apply for a CAFE exemption if it produced less than 10,000 passenger automobiles in the model year 2 years before the model year for which application is made. An exemption for the model year may be granted if the agency finds that the applicable CAFE standard is more stringent than the maximum feasible average fuel economy level that the manufacturer can achieve, and then prescribes an alternative standard that is based upon the finding.

The exemption provisions of Chapter 329 have been implemented by 49 C.F.R. Part 525 *Exemptions From Average Fuel Economy Standards*. This regulation sets out the contents of applications and the application procedures. Exempted manufacturers and their individual CAFE standards are listed at 49 C.F.R. 531.5(b).

Theft Prevention Standard

The agency's efforts to reduce the theft of motor vehicles are governed by 49 U.S.C. Chapter 331—*Theft Prevention*. Under Sec. 33102, NHTSA is required to issue a theft prevention standard that applies to parts of vehicles that have been designated high theft lines. Sec. 33103 requires NHTSA to extend the standard to vehicle lines that have not been designated high theft. Sec. 33106 allows manufacturers to apply for exemption for passenger motor vehicles equipped with antitheft

devices. However, the right to apply is independent of the quantity of vehicles produced by the applicant. Sec. 33114 prohibits the importation of either a motor vehicle or replacement part covered by a theft standard unless it conforms to the standard. The prohibition is absolute and does not provide for importing noncomplying vehicles or parts and subsequently bringing them into compliance with the theft prevention standard.

Chapter 331 has been implemented in pertinent part by 49 C.F.R. Part 541 *Federal Motor Vehicle Theft Prevention Standard* and Part 543 *Exemption From Vehicle Theft Prevention Standard*. Part 541 requires the marking of parts in the manner prescribed. Part 543 contains the procedures for applying for theft prevention standard exemptions. Vehicles with antitheft devices that are exempted in their entirety from the standard are listed in Appendix A of Part 541. Some of them are produced by small-volume manufacturers within the meaning of this notice.

Federal Motor Vehicle Safety Standards

49 U.S.C. Chapter 301—*Motor Vehicle Safety* is the authority for the regulations published under 49 C.F.R. Part 571 *Federal Motor Vehicle Safety Standards*. Every motor vehicle must meet all applicable Federal motor vehicle safety standards by virtue of Sec. 30112(a), except as provided elsewhere in Sec. 30112, and in Secs. 30113 and 30114. Sec. 30113(d) provides that a manufacturer whose annual motor vehicle production is 10,000 units or less is eligible to apply for an exemption under Sec. 30113(b)(3)(B)(i), on the basis that compliance would cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith.

Some small-volume manufacturers have petitioned for temporary exemption from the safety standards on grounds other than substantial economic hardship, principally electric vehicle manufacturers who argue that an exemption would facilitate the development and field evaluation of a low-emission vehicle, a basis allowed by Sec. 30113(b)(3)(B)(iii). Eligibility to apply is not predicated upon limited production volume. This and the remaining categories of exemptions (innovative safety devices, equivalent overall level of safety) are available to all manufacturers regardless of production (though only 2,500 vehicles per year can be exempted). Nevertheless, the agency intends to include all four categories of statutory exemption in this review, even though they affect all manufacturers and not just those whose volume is limited.

Sec. 30113 *General exemptions* has been implemented by 49 C.F.R. Part 555 *Temporary Exemption From Motor Vehicle Safety Standards*. Under the authority of this regulation, in effect since 1973, over 100 applications have been considered, and the greater part of them granted.

Sec. 30114 *Special exemptions* provides NHTSA with the authority to exempt a motor vehicle or an item of motor vehicle equipment on terms that the agency decides are necessary ''for research, investigations, demonstrations, training, or competitive racing events.'' Since its original enactment in P.L. 100–562, *The Imported Vehicle Safety Act of 1988*, Sec. 30114 has been implemented solely with respect to the importation of vehicles and equipment, in 49 C.F.R. Sec. 591.5(j)(i). However, that statutory provision appears to have other applications as well, such as permitting manufacturers to operate non-conforming prototype vehicles on the public roads.

Bumper Standards

Reduction of damage from motor vehicle accidents is the purpose of 49 U.S.C. Chapter 325—*Bumper Standards*. Sec. 32502 requires NHTSA to promulgate bumper standards for passenger motor vehicles as defined by the statute. A limited exemption authority is provided to NHTSA by Sec. 32502(c) to exempt from any part of a standard a multipurpose passenger vehicle or a make, model, or class of a passenger motor vehicle manufactured for a special use, if the standard would interfere unreasonably with the special use of the vehicle. However, this exemption authority is silent as to the right of a manufacturer to petition for relief. At the most, a manufacturer could petition only for relief of a class and not for relief on an individual basis, no matter what the volume of the manufacturer's production.

The statutory requirement for a standard has been implemented by 49 C.F.R. Part 581—*Bumper Standard*. The regulation is silent on exemption procedures.

Comments

The agency believes that it would be helpful to have comments on the following topics, with respect to the statutory authority and regulations discussed above—

- Expansion or addition of exemption authority.
- Administrative/compliance burdens.
- Deferred compliance until end of phase-in period for phased-in regulations.
- Cost effectiveness.
- Costs to consumers of the existing regulation and the changes suggested by the commenter.
- Costs to regulated parties of testing or certification.
- Effects on fuel economy, theft prevention, safety, or property damage.
- Effects on small business.
- Enforceability.
- Whether the statute or regulation reflects a ''common sense'' approach to solving the problem.

Written statements should be arranged by the CFR Part numbers addressed, be as specific as possible and provide the best available supporting information. Suggestions should be accompanied by a rationale for the suggested action and a forecast of the expected consequences of that action. Statements also should specify whether any change recommended in the regulatory process would require a legislative change in NHTSA's authority.

Procedural Matters

The agency intends to conduct the meeting informally so as to allow for maximum participation by all who attend. Interested persons may ask questions or provide comments during any period after a person has completed his or her presentation on a time allowed basis, as determined by the presiding official. If time permits, persons who did not ask prior to the meeting for an opportunity to speak, but would like to make a statement, will be afforded an opportunity to do so.

Those speaking at the public meeting should limit their presentations to 20 minutes. If the presentation will include slides, motion pictures, or other visual aids, please so inform the contact person identified above so that the proper equipment may be made available. Presenters should bring at least one copy of their presentation to the meeting so that NHTSA can readily include the material in the public record.

A schedule of participants making oral presentations will be available in the designated meeting room before the beginning of the meeting. NHTSA will place a copy of any written statement in Docket No. 95–95; Notice 1. The public may inspect the Docket for comments and statements which may be received before or after the meeting. A verbatim transcript of the meeting will be prepared and also placed in the NHTSA docket as soon as possible after the meeting.

Participation in the meeting is not a prerequisite for the submission of written comments. NHTSA invites written comments from all interested parties. It is requested but not required that 10 copies be submitted.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, Room 5219, at the street address given above, and copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512.)

All comments received before the close of business on March 21, 1996, will be considered in formulating a decision on the issues raised. After the closing date, NHTSA will continue to file relevant comments and information in the docket as it becomes available. It is therefore recommended that interested persons continue to examine the docket for new material.

Issued: January 30, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–2330 Filed 2–2–96; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 61, No. 24
Monday, February 5, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Modification of Total Amount of Tariff-rate Quota for Imported Raw Cane Sugar

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: This notice modifies the aggregate quantity of raw cane sugar that may be entered under subheading 1701.11.10 of the Harmonized Tariff Schedule of the United States (HTS) during fiscal year 1996 (FY 96). As modified, such aggregate quantity is 1,817,195 metric tons, raw value.

EFFECTIVE DATE: January 17, 1996.

ADDRESSES: Inquiries may be mailed or delivered to the Sugar Team Leader, Import Policy and Programs Division, Foreign Agricultural Service, Room 5531, South Building, U.S. Department of Agriculture, Washington, D.C. 20250–1000.

FOR FURTHER INFORMATION CONTACT: Stephen Hammond (Sugar Team Leader); telephone: 202–720–1061.

SUPPLEMENTARY INFORMATION: Paragraph (a)(i) of additional U.S. note 5 to chapter 17 of the HTS provides, in part that ''* * * the aggregate quantity of raw cane sugar entered, or withdrawn from warehouse for consumption, under subheading 1701.11.10, during any fiscal year, shall not exceed in the aggregate an amount (expressed in terms of raw value), not less than, 1,117,195 metric tons, as shall be established by the Secretary of Agriculture (hereinafter referred to as ''the Secretary''), and the aggregate quantity of sugars, syrups and molasses entered, or withdrawn from warehouse for consumption, under subheadings 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10 and 2106.90.44, during any fiscal year, shall not exceed in the aggregate an amount (expressed in terms of raw value), not less than 22,000 metric tons, as shall be established by the Secretary.'' On August 3, 1995, the Secretary established the aggregate quantity of 1,117,195 metric tons, raw value, of raw cane sugar that may be entered under subheading 1701.11.10 of the HTS and the aggregate quantity of 22,000 metric tons (raw value basis) for certain sugars, syrups and molasses that may be entered under subheadings 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10, and 2106.90.44 of the HTS during FY 96 (60 FR 42142). On November 9, 1995, the Secretary increased the aggregate quantity of raw cane sugar that may be entered under subheadings 1701.11.10 to 1,417,195 metric tons.

Paragraph (a)(ii) of additional U.S. note 5 to chapter 17 of the HTS provides that ''[w]henever the Secretary believes that domestic supplies of sugars may be inadequate to meet domestic demand at reasonable prices, the Secretary may modify any quantitative limitations which have previously been established * * *.'' The U.S. sugar production forecast for FY 96 released on January 16, 1995, in the World Agricultural Supply and Demand Estimates (WASDE) was reduced by 90,000 short tons raw value (STRV) to 7.510 million STRV from the WASDE production forecast released on November 9, 1995. The domestic wholesale refined sugar prices in the midwest market have been increasing since the tariff-rate quota increase was announced by the Secretary. During the first week of November 1995 the refined sugar price was 26.50 cents per pound. The refined sugar price during the first week of January 1996 was 28.75–29.25 cents per pound, which represents a 2.25 cent per pound increase.

Paragraph (b)(1) of U.S. additional note 5 provides that ''[t]he quota amounts established [by the Secretary] may be allocated among supplying countries and areas by the United States Trade Representative.''

Notice

Notice is hereby given that I have determined, in accordance with paragraph (a)(ii) of additional U.S. note 5 to chapter 17 of the HTS, that an aggregate quantity of up to 1,817,195 metric tons, raw value, of raw cane sugar described in subheading 1701.11.10 of the HTS may be entered or withdrawn from warehouse for consumption during the current tariff-rate quota entry period through September 30, 1996.

This modified quota quantity will be allocated among supplying countries and areas by the United States Trade Representative.

Signed at Washington, D.C. on January 25, 1996.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 96–2350 Filed 2–2–96; 8:45 am]

BILLING CODE 3410–10–M

Natural Resources Conservation Service

Fall River Water Users System—South Unit, Fall River County, South Dakota

AGENCY: Natural Resources Conservation Service, Agriculture.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Regulations (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an Environmental Impact Statement is not being prepared for the Fall River Water Users System—South Unit Project, Fall River County, South Dakota.

FOR FURTHER INFORMATION CONTACT: Mr. Dean Fisher, State Conservationist, USDA, Natural Resources Conservation Service, Federal Building, Room 203, 200 4th Street SW., Huron, South Dakota, 57350–2475. Telephone (605) 352–1200.

SUPPLEMENTARY INFORMATION: The Environmental Assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Dean Fisher, State Conservationist, has determined that the preparation and review of an Environmental Impact Statement is not needed for this project.

The project purpose is the establishment of a dependable livestock water supply to provide water of good quality in adequate quantity for livestock. The installation of this project

will improve the health of the watershed through the implementation of better range management practices, reduced soil erosion, and improved wildlife habitat.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency, and to various federal, state, and local agencies, and interested parties. A limited number of copies of the FONSI are available to fill single-copy requests at the above address. Basic data developed during the environmental assessment is on file and may be reviewed by contacting Mr. Dean Fisher, State Conservationist.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(This activity is listed in the Catalog of Federal Domestic Assistance Program No. 10904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials)

Dated: January 26, 1996.

Dean Fisher,

State Conservationist.

[FR Doc. 96–2357 Filed 2–2–96; 8:45 am]

BILLING CODE 3410–16–M

Fall River Water Users System—North Unit, Fall River County, South Dakota

AGENCY: Natural Resources Conservation Service, Agriculture.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the Natural Resources Conservation Service Regulations (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an Environmental Impact Statement is not being prepared for the Fall River Water Users System—North Unit Project, Fall River County, South Dakota.

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No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(This activity is listed in the Catalog of Federal Domestic Assistance Program No. 10904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials.)

Dated: January 26, 1996.

Dean Fisher,

State Conservationist.

[FR Doc. 96–2356 Filed 2–2–96; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket A(32b1)–2–96]

Foreign-Trade Zone 9—Honolulu, Hawaii; Request for Manufacturing Authority, NIC Americas Inc. (Medical Devices)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Department of Business, Economic Development & Tourism of the State of Hawaii, grantee of FTZ 9, pursuant to § 400.32(b)(1) of the Board's regulations (15 CFR Part 400), requesting authority on behalf of NIC Americas Inc. (NIC) (wholly-owned subsidiary of Needle Incinerator Company Ltd. (UK)) to manufacture for export a certain medical device under zone procedures within FTZ 9. It was formally filed on January 25, 1996.

NIC is planning to establish manufacturing and distribution facilities within FTZ 9 at sites in Hilo and Honolulu (Pier 2), Hawaii. The facilities (100–150 employees) would be used to produce a device that incinerates used hypodermic needles and seals them in a disposable cartridge (HTSUS 8419.89.9085). At the outset, the majority of the materials would be sourced from abroad, including: printed circuit board assemblies, electromagnets/solenoids, transformers, fuses, switches, piezo electric crystals, plastic parts, diaphragm and fasteners (duty rates: zero to 6.6%).

Zone procedures would exempt NIC from Customs duty payments on the foreign materials used in export manufacture. The application indicates that zone procedures for this activity would contribute to the company's export competitiveness.

Public comments on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period of their receipt is April 6, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to April 22, 1996.

A copy of the application and the accompanying exhibits will be available for public inspection at the following location: 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: January 25, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–2319 Filed 2–2–96; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of issuance of an amended Export Trade Certificate of Review, Application No. 86–3A011.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to the Millers National Federation (''MNF'') on October 18, 1995. Notice of the original Certificate was published in the Federal Register on July 8, 1987 (52 FR 25621).

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export

Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of l982 (l5 U.S.C. Sections 400l–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (1993).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the Federal Register. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Millers National Federation's (MNF) original Certificate was issued on June 30, 1987 (52 FR 25621). Previous amendments to the Certificate were issued on October 31, 1988 (53 FR 44639, November 4, 1988) and February 21, 1990 (55 FR 21766, May 29, 1990.

MNF's Export Trade Certificate of Review has been amended to:

1. Add one company, Fisher Mills Inc. of Seattle, Washington as a new ''Member'' of the Certificate within the meaning of section 325.21 of the Regulations (15 C.F.R. 325.2(1)):

2. Delete The Pillsbury Company as a ''Member'' of the Certificate.

A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

Dated: January 30, 1996.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 96–2318 Filed 2–2–96; 8:45 am]

BILLING CODE 3510–DR–P

Export Trade Certificate of Review

ACTION: Notice of Issuance of an amended Export Trade Certificate of Review, Application No. 94–A0007.

SUMMARY: On January 16, 1996, the Department of Commerce issued an amendment to the Export Trade Certificate of Review granted to Florida Citrus Exports, L.C. The originial Certiciate was issued on February 23, 1995 and notice of issuance was published in the Federal Register on March 8, 1995 (60 FR 12735).

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of l982 (l5 U.S.C. Sections 400l-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (1993).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the Federal Register. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Florida Citrus Exports, L.C.'s Export Trade Certificate of Review has been amended to:

Add A. Duda & Sons, Inc. of Ft. Pierce, Florida as a new ''member'' of the Certificate within the meaning of section 325.21 of the Regulations (l5 C.F.R. 325.2(1)):

A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Dated: January 30, 1996.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 96–2317 Filed 2–2–96; 8:45 am]

BILLING CODE 3510–DR–P

Environmental Technologies Trade Advisory Committee (ETTAC); Meeting

AGENCY: International Trade Administration, U. S. Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The Environmental Technologies Trade Advisory Committee will hold its sixth plenary meeting. The ETTAC was created on May 31, 1994, to promote a close working- relationship between government and industry and to expand export growth in priority and emerging markets for environmental products and services.

Dates and Place: February 13, 1996, from 8:30 a.m to 5:00 p.m. and February 14, 1996, from 8:30 a.m. to 12:00 noon. The meeting will take place in Room 6808 of the Department of Commerce, 14th Street and Constitution Avenue NW., Washington DC 20230.

The Committee will discuss and vote on four Interim Recommendations: Finance, Privatization, Interagency Coordination and Communication. In addition, there will also be two brief presentations starting at 11:30 on February 13, one on the Environmental Industry Classification System now being developed by the Department of Commerce and the other on a new Center for Environmental Technology Cooperation.

This program is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Jane Siegel, Department of Commerce, Room 1002, Washington DC 20230. Seating is limited and will be on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: The Office of Environmental Technologies Exports, Room 1003, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230, phone (202) 482–5225, facsimile (202) 482–5665 TDD 1–800–833–8723.

Date: January 29, 1996.

Anne Alonzo,

Deputy Assistant Secretary for Environmental Technologies Exports.

[FR Doc. 96–2316 Filed 2–2–96; 8:45 am]

BILLING CODE 3510–DR–P

National Institute of Standards and Technology

Announcement of the American Petroleum Institute's Standards Activities

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of intent to develop or revise standards and request for public comment and participation in standards development.

SUMMARY: The American Petroleum Institute, with the assistance of other interested parties, continues to develop standards, both national and international, in several areas. This notice lists the standardization efforts currently being conducted. The publication of this notice by the National Institute of Standards and

Technology (NIST) on behalf of API is being undertaken as a public service. NIST does not necessarily endorse, approve, or recommend the standards referenced in this notice.

SUPPLEMENTARY INFORMATION:

Background

The American Petroleum Institute develops and publishes voluntary standards for equipment, operations, and processes. These standards are used by both private industry and by governmental agencies. All interested persons should contact in writing the appropriate source as listed for further information. Currently the following efforts are being conducted:

• *General Committee on Pipelines*

Risk Management for Pipelines

500 Classification of Locations for Electrical Installations at Petroleum Facilities, Recommended Practice for
1110 Pressure Testing of Liquid Petroleum Pipelines
1117 Lowering In-Service Pipelines
1123 Development of Public Education Programs by Hazardous Liquid Pipeline Operators
1129 Pipeline Integrity Standard

For Further Information Contact

Douglas Read, Manufacturing, Distribution, and Marketing, American Petroleum Institute, 1220 L Street NW., Washington, DC 20005

• *General Committee on Marketing*

Pipeline Meter Provers

Recommended Practice for Installation of Service Station CNG Equipment
1509 Engine Oil Licensing and Certification System
1529 Aviation Fueling Hose
1542 Airport Equipment Marking for Fuel Identification
1581 Specifications and Qualifications Procedures for Aviation Jet Fuel/Separators
1632 Cathodic Protection of Underground Storage Tanks and Piping Systems

For Further Information Contact

Douglas Read, Manufacturing, Distribution, and Marketing, American Petroleum Institute, 1220 L Street NW., Washington, DC 20005

• *General Committee on Refining*

Technical Data Book, Petroleum Refining

500 Classification of Locations for Electrical Installations at Petroleum Facilities
510 Pressure Vessel Inspection Code
530 Calculation of Heater Tube Thickness in Petroleum Refineries
536 Post Combustion NO_X Control for Fired Heaters
546 Form-Wound Brushless Synchronous Motors—500 Horsepower and Larger
553 Control Valve Applications
556 Fired Heaters and Steam Generators
571 Recognition of Conditions Causing Deterioration or Failure
572 Inspection of Pressure Vessels
574 Inspection of Piping, Tubing, Valves, and Fittings
576 Inspection of Pressure-Relieving Devices
577 Inspection of Welding
578 Construction Material Quality Assurance
579 Fitness-for-Service
580 Risk-Based Inspection
591 User Acceptance of Refinery Valves
594 Water and Wafer-Lug Check Valves
598 Valve Inspection and Testing
600 Steel Gate Valves—Flanged and Butt-Welding Ends
602 Compact Steel Gate Valves
607 Fire Test for Soft-Seated Quarter-Turn Valves
609 Butterfly Valves: Double Flanged, Lug and Wafer-Type
611 General Purpose Steam Turbines
614 Lubrication, Shaft-Sealing and Control-Oil Systems for Special Applications
616 Gas Turbines for Refinery Services
619 Rotary-Type Positive Displacement Compressors for General Refinery Services
620 Design and Construction of Large, Welded, Low-Pressure Storage Tanks
650 Welded, Steel Tanks for Oil Storage
653 Tank Inspection, Repair, Alt. & Reconstruction
660 Shell and Tube Heat Exchangers
661 Air-Cooled Heat Exchangers
671 Special Purpose Couplings
673 Special Purpose Fans
685 Sealless Centrifugal Pumps
938 Inspection and Testing Monolithic Refractory Linings and Materials
941 Steels for Hydrogen Service at Elevated Temperatures and Pressures in Petroleum Refineries and Petrochemical Plants
945 Avoiding Environmental Cracking in Amine Units
1200 Federally Mandated Training and Information
2000 Venting Atmospheric and Low-Pressure Storage Tanks: Nonrefrigerated and Refrigerated

For further Information Contact

Douglas Read or Prentiss Searles, Manufacturing, Distribution, and Marketing, American Petroleum Institute, 1220 L Street NW., Washington, DC 20005

• *General Committee on Marine Transportation*

1139 Training Guidelines for Tank Ship Personnel
1140 Guidelines for Developing Bridge Management Teams

For Further Information Contact

Douglas Read, Manufacturing, Distribution, and Marketing, American Petroleum Institute, 1220 L Street NW., Washington, DC 20005

• *Safety and Fire Protection Subcommittee*

2021 Fire Fighting in and around Flammable and Combustible Liquid Atmospheric Storage Tanks
2023 Guide for Safe Storage and Handling of Heated Petroleum Derived Asphalt Products and Crude Oil Residue
2202 Dismantling and Disposing of Steel From Above-Ground Leaded Gasoline Storage Tanks
2207 Preparing Tank Bottoms for Hot Work
2218 Fire Proofing in Refineries
2219 Safe Operating Guidelines for Vacuum Trucks in Petroleum Service

For Further Information Contact

Andrew Jaques or Ken Leonard, Health and Environmental Affairs, Safety and Fire Protection, American Petroleum Institute, 1220 L Street NW., Washington, DC 20005

• *Committee on Petroleum Measurement*

MPMS Chapter 4.2—Conventional Pipe Provers
MPMS Chapter 4.3—Small Volume Provers
MPMS Chapter 4.4—Tank Provers
MPMS Chapter 4.5—Master-Meter Provers
MPMS Chapter 4.6—Pulse Interpolation
MPMS Chapter 3.X—Guidelines for Level Measurement of LPG
MPMS Chapter 5.1—General Consideration for Measurement by Meters
MPMS Chapter 5.3—Measurement of Liquid Hydrocarbons by Turbine Meters
MPMS Chapter 5.4—Accessory Equipment for Liquid Meters
MPMS Chapter 10.4—Determination of Sediment and Water in Crude Oil by the Centrifuge Method (Field Procedure)
MPMS Chapter 12.2 (Parts 3–5)—Calculation of Petroleum Quantities Using Dynamic Measurement Methods and Volumetric Correction Factors

MPMS Chapter 12.3—Volumetric Shrinkage Resulting from Blending Light Hydrocarbons with Crude Oils
MPMS Chapter 14.3 Part 2—Specification and Installation Requirements for Orifice Plates, Meter Tubes and Associated Fittings
MPMS Chapter 17.X—Marine Vessel Preloading Tank Inspection Guidelines
MPMS Chapter 17.2—Measurement of Cargoes on Board Tank Vessels
MPMS Chapter 21.2—Liquid Flow Measurements Using Electronic Metering Systems

For Further Information Contact

J.C. Beckstrom or Steve Chamberlain, Exploration & Production Department, American Petroleum Institute, 1220 L Street NW., Washington, DC 20005

• *General Committee on Exploration and Production*

Central Committee on Training and Development

T–1 Orientation Programs for Personnel Going Offshore for the First Time
T–2 Training of Offshore Personnel in nonoperating Emergencies
T–7 Training of Personnel in Rescue of Persons in Water
10F Performance Testing of Cementing Float Equipment

Oilfield Equipment and Materials Standards

1B Oil Field V-Belting
2T Planning, Designing and Constructing Tension Leg Platforms
4F Drilling and Well Servicing Structures
5A5 Field Inspection of New Casing, Tubing, and Plain End Drill Pipe
5B Threading, Gaging, and Thread Inspection of Casing, Tubing, and Line Pipe Threads
5C6 Welding Connectors to Pipe (under development)
5C7 Recommended Practice for Coiled Tubing Operations in Oil & Gas Well Service (under development)
5D Drill Pipe
5L Line Pipe
5LC CRA Line Pipe
5LD CRA Clad or Lined Steel Pipe
5L9 Unprimed External Fusion Bonded Epoxy Coating of Line Pipe (under development)
6A Valves and Wellhead Equipment
6D Pipeline Valves (Steel Gate, Plug, Ball and Check Valves)
7 Rotary Drill Stem Elements
7A1 Testing of Thread Compound for Rotary Shouldered Connections
7G Drill Stem Design and Operating Limits
8A Drilling and Production Hoisting Equipment
8B Procedures for Inspection, Maintenance Repair, and Remanufacture of Hoisting Equipment
8C Drilling and Production Hoisting Equipment (PSL 1 and PSL 2)
9B Application, Care, and Use of Wire Rope for Oil Field Services
10B Cement Testing (under development)
11AR Care and Use of Subsurface Pumps
11B Sucker Rods
11BR Care and Handling of Sucker Rods
11IW Independent Wellhead Equipment (underdevelopment)
11E Pumping Units
11S3 Electric Submersible Pump Installations
11S4 Sizing and Selection of Electric Submersible Pump Installations
11S9 Rating and Testing Electrical Submersible Pump Motors (under development)
11V1 Gas Lift Valves, Orifices, Reverse Flow Valves and Dummy Valves
11V2 Gas lift Performance
11V5 Operation, Maintenance and Trouble Shooting of Gas Lift Installations
500 Classification of Locations for Electrical Installations at Petroleum Facilities
xxx Inspection and Maintenance of Production Piping (under development)
13B–1 Standard Procedure for Field Testing Water-Based Drilling Fluids
13B–2 Standard Procedure for Field Testing Oil-Based Drilling Fluids
13C Drilling Fluid Processing Equipment (under development)
13I Standard Procedure for Laboratory Testing Drilling Fluids
14F Design and Installation of Electrical Systems for Offshore Production Platforms
15TR Fiberglass Tubing (under development)
16A Specification for Drill Through Equipment
16F Marine Drilling Riser Equipment (under development)
16R Design, Rating and Testing Marine Drilling Riser Couplings (under development)
17F Subsea Control Systems (under development)
17H ROV Interface with Subsea Equipment (under development)
17J Specification for Flexible Pipe (under development)

Drilling and Production Practices

27 Determining Permeability of Porous Media (to be combined with API 40)
31 Standard Format for Electromagnetic logs
33 Standard Calibration & Format for Gamma Ray & Neutron Logs
40 Core Analysis Procedures (to be combined with API 27)
43 Evaluation of Well Perforator Systems
44 Sampling Petroleum Reservoir Fluids
45 Analysis of Oilfield Waters
49 Drilling & Drill Stem Testing of Wells Containing Hydrogen Sulfide
53 Blowout Prevention Equipment Systems for Drilling Wells
59 Well Control Operations
64 Diverter System Equipment and Operations
65 Standard Calibration of Gamma Ray Spectroscopy Logging Instruments and Format for K–U–Th Logs
66 Exploration and Production Data Digital Interchange

D12A API Well Number & Standard State, County, Offshore Area Codes

xx Well Servicing/Workover Operations Involving Hydrogen Sulfide (under development)
xx Rheology of Cross Linked Fracturing Fluids (under development)
xx Cargo Handling at Offshore Facilities (under development)
xx Long Term Conductivity Testing of Proppants (under development)

For Further Information Contact

David Miller/Tim Sampson, Exploration & Production Department, American Petroleum Institute, 1220 L Street, NW., Washington, DC 20005.

Authority: 15 U.S.C. 272.

Dated: January 30, 1996.

Samuel Kramer,

Associate Director.

[FR Doc. 96–2339 Filed 2–2–96; 8:45 am]

BILLING CODE 3510–13–M

Announcement of a Meeting To Discuss an Opportunity To Join a Cooperative Research and Development Consortium on Fire-Retardant and Environmentally-Safe Materials

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of public meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) invites interested parties to attend a meeting on February 23, 1996 to discuss the possibility of setting up a cooperative research consortium on new Environmentally Safe Fire Retardant technology. The Consortium is dedicated to further research on the basic science of the technology as applied to specific applications.

Any program undertaken will be within the scope and confines of The

Federal Technology Transfer Act of 1986 (Pub. L. 99–502, 15 U.S.C. 3710a), which provides federal laboratories including NIST, with the authority to enter into cooperative research agreements with qualified parties. Under this law, NIST may provide ''personnel, service, facilities, equipment or other resources with or without reimbursement (but not funds to non-federal parties)''—to the cooperative research program.

The meeting will be held on Friday February 23, 1996 from 9:00 a.m. to 3:00 p.m., Room A149, Building 224, at NIST in Gaithersburg, MD, for interested parties. The meeting will discuss the possible formation of a research consortium including NIST and manufacturing industry to conduct research in this area. This is not a grant program.

DATES: The meeting will be held on February 23, 1996. Interested parties should contact NIST to confirm their attendance at the address, telephone number or FAX number shown below no later than February 16, 1996.

ADDRESSES: The meeting will be held at 9:00 a.m., Room A149, Building 224, National Institute of Standards and Technology, Gaithersburg MD.

FOR FURTHER INFORMATION CONTACT: Dr. Takashi Kashiwagi, Building 224, Room B–258, National Institute of Standards and Technology, Gaithersburg, MD 20899. Telephone: 301–975–6699; FAX: 301–975–4052; e-mail: tkfire@enh.nist.gov.

Dated: January 30, 1996.

Samuel Kramer,

Associate Director.

[FR Doc. 96–2340 Filed 2–2–96; 8:45 am]

BILLING CODE 3510–13–M

Announcement of a Meeting To Discuss an Opportunity To Join a Cooperative Research and Development Consortium for the NIST–EPRI Ultrasonic Flow Meter Test Program

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of public meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) invites interested parties to attend a meeting on March 22, 1996 to discuss the possibility of setting up a cooperative research consortium with the purpose of evaluating clamp-on time-of-travel ultrasonic flow meters. Parties interested in participating in the consortium should be prepared to invest adequate resources in the collaboration and be firmly committed to the goal of developing performance evaluation.

Any program undertaken will be within the scope and confines of The Federal Technology Transfer Act of 1986 (Public Law 99–502, 15 U.S.C. 3710a), which provides federal laboratories including NIST, with the authority to enter into cooperative research agreements with qualified parties. Under this law, NIST may provide ''personnel, service, facilities, equipment or other resources with or without reimbursement (but not funds to non-federal parties)''—to the cooperative research program.

The meeting will be held on March 22, 1996 at 9 a.m., lecture room D, Building 101, at NIST in Gaithersburg, MD, for interested parties. The meeting will discuss the possible formation of a research consortium including NIST and industry to conduct research in this area. This is not a grant program.

DATES: The meeting will be held on March 22, 1996. Interested parties should contact NIST to confirm their attendance at the address, telephone number or FAX number shown below no later than February 22, 1996.

ADDRESSES: The meeting will be held at 9 a.m., lecture room D, Building 101, National Institute of Standards and Technology, Gaithersburg, MD.

FOR FURTHER INFORMATION CONTACT: Dr. George Mattingly, Fluid Mechanics Building, room 105, National Institute of Standards and Technology, Gaithersburg, MD 20899. Telephone: 301–975–5939; FAX: 301–258–9201.

Dated: January 30, 1996.

Samuel Kramer,

Associate Director.

[FR Doc. 96–2338 Filed 2–2–96; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 13 & 14 February 1996.

Time of Meeting: 0800–1600, 13 & 14 February 1996.

Place: Pentagon—Washington, DC.

Agenda

The Army Science Board (ASB) C4I Issue Group Study on ''The Impact of Information Warfare on Army Command, Control, Communications, Computers and Intelligence (C4I) Systems'' will meet for two days to hear selected briefings on the study subject. These meetings will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 96–2388 Filed 2–2–96; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 15 & 16 February 1996.

Time of Meeting: 0900–1700, 15 February 1996. 1000–1700, 16 February 1996.

Place: Pentagon—Washington, DC.

Agenda

The Army Science Board (ASB) Summer Study on ''Technical Architecture on Army Command, Control, Communications, Computers and Intelligence (C4I) Systems'' will meet for two days to hear selected briefings on the study subject. These meetings will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 96–2399 Filed 2–2–96; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 7 & 8 February 1996.

Time of Meeting: 0900–1700, 7 February 1996; 0930–1700, 8 February 1996.

Place: Pentagon—Washington, DC.

Agenda

The Army Science Board (ASB) Ad Hoc Study on ''Army Digitization Information Systems Vulnerabilities and Security'' will meet for two days to hear selected briefings on the study subject. These meetings will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

FR Doc. 96–2398 Filed 2–2–96; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Notice of Restricted Eligibility Support of Fossil Resource Utilization by Historically Black Colleges and Universities

AGENCY: U.S. Department of Energy (DOE), Pittsburgh Energy Technology Center (PETC).

ACTION: Notice of Restricted Eligibility.

SUMMARY: The Department of Energy announces that it intends to conduct a competitive Program Solicitation and award financial assistance (grants) to U.S. Historically Black Colleges and Universities who can show evidence of a collaborative effort with industry, in support of innovative research and development of advanced concepts pertinent to fossil resource conversion and utilization. Applications will be subjected to a technical merit review by a DOE technical panel, and awards will be made to a limited number of applicants on the basis of the scientific merit of the application, application of relevant program policy factors, and the availability of funds.

FOR FURTHER INFORMATION CONTACT: Mr. John R. Columbia, U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–143, Pittsburgh, PA 15236–0940, Telephone: (412) 892–6219, FAX: (412) 892–6216. The solicitation will be provided on a 3.5'', double sided/high density diskette, using Word Perfect 5.1 for DOS, and the solicitation will also be made available on DOE's PETC World Wide Web Server Internet System (http://www.petc.doe.gov/business). If the diskette version of the solicitation is incompatible with the applicant's computer system, or if applicants are unable to access the Internet System, a paper copy of the solicitation will be available, upon receipt of a written request submitted via facsimile (fax) at (412) 892–6216.

SUPPLEMENTARY INFORMATION:

Title of Solicitation

''Support of Fossil Resource Utilization by Historically Black Colleges and Universities''

Objectives

Through Program Solicitation No. DE–PS22–96PC96201, the Department of Energy seeks applications from Historically Black Colleges and Universities (HBCUs) and HBCU-affiliated research institutes in collaboration with the private sector for innovative research and development of advanced concepts pertinent to fossil resource conversion and utilization. The resultant grants are intended to maintain and upgrade educational, training, and research capabilities of our HBCUs in the fields of science and technology related to fossil energy resources; to foster private sector participation, collaboration, and interaction with HBCUs; and to provide for the exchange of technical information and to raise the overall level of HBCU competitiveness with other institutions in the field of fossil energy research and development. Thus, the establishment of linkages between the HBCU and private sector fossil energy community is critical to the success of this program, and consistent with the Nation's goal of ensuring a future supply of fossil fuel scientists and engineers from a previously under-utilized resource.

Eligibility

Eligibility for participation in this Program Solicitation is restricted to Historically Black Colleges and Universities (HBCUs) and HBCU-affiliated research institutes, and only those that meet all of the following criteria may submit applications in response to this solicitation: The Principal Investigator or a Co-Principal Investigator must be a teaching professor at the submitting university listed in the application; and at least one student registered at the university is to be compensated for work performed in the conduct of research proposed in the application; and each HBCU applicant must reflect collaboration with industry, i.e., the private sector. Applications from HBCU-affiliated research institutes must be submitted through the college or university with which they are affiliated. The university (not the university-affiliated research institute) will be the recipient of any resultant DOE grant award. A small or large business enterprise will qualify as a ''private'' sector entity; however, the following are specifically excluded from recognition as private sector collaborators: Federal, state and/or local government agencies and non-HBCU colleges and universities. Collaboration by the private sector with the HBCU may be in the form of cash cost sharing, consultation, HBCU access to industrial facilities or equipment, experimental data and/or equipment not available at the university, or as a subgrantee/subcontractor to the HBCU.

Areas of Interest

In order to develop and sustain a national program of HBCU research in advanced and fundamental fossil fuels studies, the Department is interested in innovative research and development of advance concepts pertinent to fossil fuel conversion and utilization limited to the following eight (8) technical topics:

Topic 1—Advanced Environmental Control Technology for Coal
Topic 2—Advanced Coal Utilization
Topic 3—Coal Liquefaction Technology
Topic 4—Heavy Oil Upgrading and Processing
Topic 5—Advanced Environmental and Recovery Technologies for Oil
Topic 6—Advanced Environmental and Recovery Technologies for Natural Gas
Topic 7—Environmental Issues Related to Oil and Gas Exploration and the Disappearance of the Wetlands
Topic 8—Faculty/Student Exploratory Grants

Note: This is the only topic (Topic eight (8)) under this Program Solicitation that does not require initial private sector collaboration for an application to be considered for selection.

Awards

DOE anticipates issuing financial assistance (grants) for each project. DOE reserves the right to support or not support any or all applications received in whole or in part, and to determine how many awards may be made through the solicitation subject to funds available in this fiscal year. The limitation on the maximum DOE funding for each selected grant to be awarded under this Program Solicitation is as follows:

	Maximum award
Topics 1–7:	
To 12 months grant duration	$80,000.00

	Maximum award
13–24 months grant duration	140,000.00
25–60 months grant duration	200,000.00
Topic 8: To 12 months grant duration	10,000.00

Approximately $860,000.00 is planned for this solicitation; however, at the present time, in the absence of a signed approved Appropriations Bill, funds are not yet available. The total should provide support for approximately four to six R&D application selections (Topics 1–7), and approximately two to four facility/student exploratory application selections (Topic 8).

Solicitation Release Date

The Program Solicitation is expected to be ready for release on or about February 7, 1996. Applications must be prepared and submitted in accordance with the instructions and forms contained in the Program Solicitation. To be eligible, applications must be submitted to the designated DOE office by the closing date specified in the Program Solicitation (anticipated to be on or about March 22, 1996).

Dale A. Siciliano,

Contracting Officer, Acquisition and Assistance Division.

[FR Doc. 96–2346 Filed 2–2–96; 8:45 am]

BILLING CODE 6450–01–P

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of request submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted energy information collections to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995.

DATES: Comments must be filed within 30 days of publication of this notice. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION: Requests for additional information or copies of the forms and instructions should be directed to Herbert Miller, Office of Statistical Standards, (EI–73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585–0670. Mr. Miller may be telephoned at (202) 426–1103; e-mail: hmiller@eia.doe.gov; (FAX 202–426–1081).

SUPPLEMENTARY INFORMATION: The Energy Information Administration (EIA) has submitted the energy information collections listed below to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3507(d)(1)(A) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) Collection number and title; (2) summary of the collection of information (includes sponsor; i.e., the DOE component), current OMB document number (if applicable), response obligation (mandatory, voluntary, or required to obtain or retain benefits), and type of request (new, revision, extension, or reinstatement); (3) a description of the need and proposed uses of the information; (4) a description of the likely respondents; and (5) an estimate of the total annual reporting and recordkeeping burden (number of respondents per year times the average number of responses per respondent annually times the average burden per response).

The energy information collections submitted to OMB for review were:

1. Forms EIA–1, 3, 3A, 4, 5, 5A, 6, 7A, and 20, ''Coal Program Package''

2. Energy Information Administration; Docket Number 1905—0167; Response Obligation—Mandatory; and Revision—Significant changes in the Coal Program Package since the EIA requested comments earlier this year are: The frequency of the EIA–6 will be reduced from quarterly to annual. Additionally, a supplemental schedule, designated Schedule Q, will collect quarterly data on coal production and stocks from coal-producing companies that produce more than 30,000 short tons annually, and coal stocks from non-producing coal distributors that maintain coal stocks averaging more than 10,000 short tons per quarter. It is anticipated that these revisions to the EIA–6 will reduce respondent reporting burden by 5,900 hours, while maintaining the quarterly coal production and stock data.

3. The Coal Program Package surveys collect data on coal production, consumption, stocks, prices, imports and exports. EIA coal data and analyses are used by Congress, Federal agencies, and State and local governments to reach decisions on national and local policies and a variety of important coal-related issues. These include energy development and use, environmental protection, domestic welfare, and the health of the coal industry. Respondents are manufacturing plants, producers of coke, purchasers and distributors of coal, coal mining operators, and coal-consuming electric utilities.

4. Business or other for-profit; Federal Government, and State, Local, or Tribal Government

5. 12,492 total annual burden hours (6,733 respondents × 1.73 responses per respondent × 1.06 hours per response).

Statutory Authority: Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

Issued in Washington, DC, January 30, 1996.

John Gross,

Acting Director, Office of Statistical Standards, Energy Information Administration.

[FR Doc. 96–2348 Filed 2–2–96; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. CP96–154–000]

K N Interstate Gas Transmission Co.; Notice of Request Under Blanket Authorization

January 30, 1996.

Take notice that on January 24, 1996, K N Interstate Gas Transmission Co. (K N Interstate), P.O. Box 281304, Lakewood, Colorado, 80228, filed, in the above docket a request pursuant to Sections 157.205(b) and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205(b) and 157.212), for authorization to install and operate a new delivery tap located in Yuma County, Colorado. The proposed tap will be added as a new delivery point under an existing transportation

agreement between K N Interstate and K N Energy, Inc. (K N) and will be used by K N to provide natural gas to a new rural distribution lateral which will be used to provide natural gas service to new direct retail customers, all as more fully set for in the application which is on file with the Commission and open to public inspection.

Specifically, K N Interstate indicates that K N, as a local distribution company, has requested the addition of a new delivery point under its existing transportation service agreement with K N Interstate. This proposed delivery point would be located on K N Interstate's main transportation system in the northwest quarter of Section 32 or the northeast quarter of Section 31, Township 2 North, Range 47 West in Yuma County, Colorado. The exact location has not yet been determined and is dependent upon the acquisition of right-of-way for the tap site. The proposed delivery point will facilitate the delivery of natural gas by K N Interstate to K N for sale to new direct retail customers located along a new rural distribution lateral to be constructed by K N.

K N Interstate further indicates that the quantities of gas to be delivered through this proposed point will be approximately 3,400 Mcf on a peak day and 105 MMcf annually. K N Interstate states that (1) the volumes of gas which will be delivered at this proposed delivery point will be within the current maximum transportation quantities set forth in its transportation service agreement with K N; (2) the addition of the proposed delivery point is not prohibited by its existing FERC Gas Tariff; and (3) the addition of the proposed delivery point will not have any adverse impact, on a daily or annual basis, upon its existing customers.

The cost of the facilities installed by K N Interstate will be reimbursed by K N.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity is deemed to be authorized effective on the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2305 Filed 2–2–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–159–000]

Shell Gas Pipeline Company; Notice of Application

January 30, 1996.

Take notice that on January 29, 1996, Shell Gas Pipeline Company (Shell), 200 North Dairy Ashford, Houston, Texas 77079, filed an application with the Commission in Docket No. CP96–159–000 pursuant to Section 7(c) of the Natural Gas Act (NGA) for authorization to construct and operate a natural gas pipeline and appurtenant facilities, offshore Louisiana, and for a blanket transportation certificate pursuant to Part 284 of the Commission's Regulations, all as more fully set forth in the application which is open to the public for inspection.

Shell proposes to construct and operate approximately 45 miles of 30-inch diameter pipe and related facilities which would deliver natural gas from a West Delta Block 143 to the Venice Gas Processing Plant in Plaquemines Parish, Louisiana. Shell states that the gas and condensate would be separated at Venice, where the gas would then be delivered either as processed or unprocessed gas to one or more interstate pipelines downstream of the Venice Plant. Shell also states that the proposed facilities would cost approximately $75,000,000 to construct.

Shell asserts that it has filed the instant proposal under protest and requests that the Commission affirm that neither issuance of the requested certificate nor the operations described in the proposal would subject any of Shell's other facilities or operations to the Commission's jurisdiction under the NGA. Shell also asserts that it has requested authorization conditioned upon the ultimate resolution of Shell's petition for a declaratory order in Docket No. CP96–9–000, wherein Shell has requested that the proposed pipeline be declared a nonjurisdictional gathering line.[1]

Any person desiring to be heard or to make any protest with reference to said application should on or before February 6, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the NGA 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 is 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 Shell to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2306 Filed 2–2–96; 8:45 am]

BILLING CODE 6717–01–M

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[1] This application does not cover the pipeline facilities extending from the Mars Field to West Delta Block 143 and the related interconnection facilities with Texas Eastern Transmission Corporation at West Delta Block 143 because those facilities were previously determined to be nonjurisdictional gathering facilities. [*Shell Gas Pipeline Co.*, 69 FERC ¶ 61,271 (1994)]

Notice of Amendment of License

January 30, 1996.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application: Amendment of License.*

b. *Project No.:* 2114–044, 045.

c. *Date Filed:* January 11, 1996.

d. *Applicant:* Public Utility District No. 2 of Grant, County, Washington.

e. *Name of Project:* Priest Rapids Project.

f. *Location:* On the Columbia River in Grant County, Washington.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Mr. Don Godard, Public Utility District No. 2 of Grant County, P.O. Box 878, Ephrata, WA 98823, (509) 754–3451.

i. *FERC Contact:* Timonthy Welch, (202) 219–2666.

j. *Comment Date:* February 26, 1996.

k. *Description of Amendment:* Grant County Public Utility District No. 2 (Licensee) requests authorization to modify and test an attraction flow prototype designed to facilitate downstream fish passage at the Wanapum Development. Currently, the prototype consists of a rectangular steel channel placed in the forebay and attached to the dam in front of Units 7, 8, 9 and a portion of Unit 10. The licensee wishes to extend the channel another 300 feet in front of Units 4, 5, and 6. The licensee also proposes to construct an overflow gate at spillway 12 for the development of a method of passing fish through the spillway that more effectively uses water. The overflow gate would be a bulkhead type steel structure approximately 57 feet wide by 79 feet tall. Finally, the licensee wishes to construct a deflector at spillway 2 for the development of such a device to reduce the level of dissolved gasses in the spilled water. The deflector would consist of a triangular structural steel section with concrete ballast, 32 feet below the spillway crest. The deflector's horizontal surface would be approximately 12 feet and would run the full width of the spillway slot, approximately 50 feet.

1. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2307 Filed 2–2–96; 8:45 am]

BILLING CODE 6717–01–M

Office of Energy Efficiency and Renewable Energy

[Case No. F–082]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the Furnace Test Procedure to Consolidated Industries

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and Order.

SUMMARY: Notice is given of the Decision and Order (Case No. F–082) granting a Waiver to Consolidated Industries (Consolidated) from the existing Department of Energy (DOE or Department) test procedure for furnaces. The Department is granting Consolidated's Petition for Waiver regarding blower time delay in calculation of Annual Fuel Utilization Efficiency (AFUE) for its USA and UCA series furnaces.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–9138

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585–0103, (202) 586–9507

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(j), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, Consolidated has been granted a Waiver for its USA and UCA series furnaces permitting the company to use an alternate test method in determining AFUE.

Issued in Washington, DC, on January 30, 1996.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

DECISION AND ORDER

In The Matter of: Consolidated Industries. (Case No. F–082)

BACKGROUND

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act, Public Law 94–163, 89 Stat. 917, as amended (EPCA), which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

The Department amended the prescribed test procedures by adding 10 CFR 430.27 to create a waiver process. 45 FR 64108, September 26, 1980. Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

Consolidated filed a ''Petition for Waiver,'' dated April 26, 1995, in accordance with section 430.27 of 10 CFR Part 430. The Department published in the Federal Register on November 22, 1995, Consolidated's Petition and solicited comments, data and information respecting the Petition. 60 FR 57854, November 22, 1995. Consolidated also filed an ''Application for Interim Waiver'' under section 430.27(b)(2), which DOE granted on November 13, 1995. 60 FR 57854, November 22, 1995.

No comments were received concerning either the ''Petition for Waiver'' or the ''Application for Interim Waiver.'' The Department consulted with The Federal Trade Commission (FTC) concerning the Consolidated Petition. The FTC did not have any objections to the issuance of the waiver to Consolidated.

Assertions and Determinations

Consolidated's Petition seeks a waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and the starting of the circulating air blower. Consolidated requests the allowance to test using a 30-second blower time delay when testing its USA and UCA series furnaces. Consolidated states that since the 30-second delay is indicative of how these models actually operate, and since such a delay results in an average furnace AFUE improvement of 1.0 percent, the Petition should be granted.

Under specific circumstances, the DOE test procedure contains exceptions which allow testing with blower delay times of less than the prescribed 1.5-minute delay. Consolidated indicates that it is unable to take advantage of any of these exceptions for its USA and UCA series furnaces.

Since the blower controls incorporated on the Consolidated furnaces are designed to impose a 30-second blower delay in every instance of start up, and since the current test procedure provisions do not specifically address this type of control, DOE agrees that a waiver should be granted to allow the 30-second blower time delay when testing the Consolidated USA and UCA series furnaces. Accordingly, with regard to testing the USA and UCA series furnaces, today's Decision and Order exempts Consolidated from the existing test procedure provisions regarding blower controls and allows testing with the 30-second delay.

It is, therefore, ordered That:

(1) The ''Petition for Waiver'' filed by Consolidated Industries. (Case No. F–082) is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4), and (5).

(2) Notwithstanding any contrary provisions of Appendix N of 10 CFR Part 430, Subpart B, Consolidated Industries, shall be permitted to test its USA and UCA series furnaces on the basis of the test procedure specified in 10 CFR Part 430, with modifications set forth below:

(i) Section 3.0 of Appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE Standard 103–82 with the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 to Appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. The following paragraph is in lieu of the requirement specified in section 9.3.1 of ANSI/ASHRAE Standard 103–82. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t-), unless: (1) The furnace employs a single motor to drive the power burner and the indoor air circulating blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t-), using a stopwatch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft.

(iii) With the exception of the modifications set forth above, Consolidated Industries shall comply in all respects with the test procedures specified in Appendix N of 10 CFR Part 430, Subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to the USA and UCA series furnaces manufactured by Consolidated Industries.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the Petition is incorrect.

(5) Effective 1/30/96, this Waiver supersedes the Interim Waiver granted Consolidated Industries on November 13, 1995. 60 FR 57854, November 22, 1995 (Case No. F–082).

Issued In Washington, DC, on January 30, 1996.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 96–2349 Filed 2–2–96; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Research

High Energy Physics Advisory Panel; Notice of Open Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is given of a meeting of the High Energy Physics Advisory Panel.

DATES: Tuesday, February 27, 1996; 9 a.m. to 6 p.m.; and Wednesday, February 28, 1996; 9 a.m.–4 p.m.

ADDRESSES: Radisson Barcelo Hotel, 2121 P Street, NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Dr. P. K. Williams, Executive Secretary, High Energy Physics Advisory Panel, U.S. Department of Energy, ER–221, GTN, Germantown, Maryland 20874, Telephone: (301) 903–4829.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda:

Tuesday, February 27, 1996 and Wednesday, February 28, 1996:

Discussion of Department of Energy High Energy Physics Programs and FY 1997 Presidential Budget Request

Discussion of National Science Foundation Elementary Particle Physics Programs and FY 1997 Presidential Budget Request

Presentation of Report on Composite Subpanel for the Assessment of the Status of Accelerator Physics and Technology

Discussion of Status of Large Hadron Collider Project and U.S. Participation
Discussion of Technology R&D Program
Discussion of University-based High Energy Physics Programs
Reports on and Discussions of Topics of General Interest in High Energy Physics
Public Comment (10 minute rule)

Public Participation: The two-day meeting is open to the public. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to agenda items should contact the Executive Secretary at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes: Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on January 29, 1996.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–2347 Filed 2–2 –96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. RP90–137–027]

Williston Basin Interstate Pipeline Company; Notice of Refund Report

January 24, 1996.

Take notice that on September 15, 1995, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing with the Commission, under protest, its Refund Report made in compliance with Ordering Paragraph (C) of the Commission's ''Order on Technical Conference'' issued August 2, 1995 in the above-referenced docket.

Williston Basin states that on September 1, 1995, a total refund of $391,628.19 was sent to Western Gas Resources, Inc. (Western) for the take-or-pay volumetric surcharge amounts previously collected through transportation rates charged for the gas placed in storage in accordance with a Rate Schedule S–2 Service Agreement between Williston Basin and Chevron U.S.A. Inc. with Western acting as its agent. This refund, for the period January 1, 1991 through September 1, 1995, also includes interest in accordance with Section 154.67(c) of the Commission's Regulations.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed on or before January 31, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2445 Filed 2–2–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP90–137–029]

Williston Basin Interstate Pipeline Company; Notice of Refund Report

January 24, 1996.

Take notice that on January 5, 1996, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing with the Commission, under protest, its Refund Report made in compliance with ordering Paragraph (D) of the Commission's ''Order Denying Rehearing, Granting Requests for Exemptions and Ordering Refunds'' issued December 6, 1995 in Docket Nos. RP90–137–020, RP90–137–021, RP90–137–022, RP90–137–023, RP90–137–025 and RP90–137–026.

Williston Basin states that on December 22, 1995, refunds were sent to applicable shippers for the take-or-pay volumetric surcharge amounts previously collected through transportation rates charged for the gas placed in storage in accordance with Rate Schedule S–2 Service Agreements between Williston Basin and such applicable shippers. These refunds, for the period November 1, 1990 through August 31, 1995, also include interest through December 22, 1995, in accordance with Section 154.501 of the Commission's Regulations.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before January 31, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2446 Filed 2–2–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5417–1]

Agency Information Collection Activities Under OMB Review; Information Requirements for Petitions To Modify the List of Regulated Substances Under Section 112(r) of the Clean Air Act, as Amended (EPA # 1606.02)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) for ''Information Requirements for Petitions to Modify the List of Regulated Substances Under Section 112(r) of the Clean Air Act, as Amended'' described below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 6, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1606.02.

SUPPLEMENTARY INFORMATION:

Title: Information Requirements for Petitions to Modify the List of Regulated Substances Under Section 112(r) of the Clean Air Act, as Amended (OMB Control No. 2050–0127; EPA ICR No. 1606.02). This is a request for extension of a currently approved collection.

Abstract: This information collection addresses the requirements for submitting petitions to modify the list of regulated substances under section 112(r) of the CAA. CAA section 112(r) requires EPA to promulgate a list of a least 100 substances (''regulated substances'') that are known to cause, or may be reasonable anticipated to cause,

death, injury, or serious adverse effects to human health or the environment. EPA is also required to set threshold quantities for each list substance. The list and threshold quantities will determine the need for owners and operators of facilities to comply with subsequent regulations addressing the prevention and detection of accidental releases. The act also requires the Agency to develop procedures for the addition and deletion of substances from the list. Accordingly, EPA has published a list of regulated substances and threshold quantities and also the requirements for the petition process that will be use to add or delete chemicals from the final list.

The listing rule requires the petitioner to submit information in support of a petition to modify the list of regulated substances. The petitioner must provide EPA with sufficient information to specifically support the request to add or delete a substance from the list of regulated substances. The Agency will use this information in making the decision to grant or deny a petition. The information collection addresses the burden of collecting and submitting supporting information in accordance with EPA's proposed petition process. Information will be collected on a voluntary basis, and all the information collected requesting modification of the substance listings will be stored in a docket created for that purpose.

This information collection is authorized under CAA section 112(r), 42 U.S.C. 7412(r). CAA section 112(r)(3) states, in relevant part, ''The Administrator shall establish procedures for the addition and deletion of substances from the list established under this paragraph consistent with those applicable to the list in subsection (b).'' The information collected during the petition process will provide the primary basis for EPA to determine if it is appropriate to add or delete the substance from the list. To be consistent with the petition process under CAA section 112(b), EPA is required to consider and respond to petitions to modify the list of regulated substances for accidental release prevention within 18 months of submission of the petition; complete data supporting the petition are necessary to allow EPA to complete its review within that time period. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 9/29/95 (60 FR 50574).

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 138 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Voluntary.

Estimated Number of Respondents: 11/year.

Frequency of Response: Voluntary/Once per petition.

Estimated Total Annual Hour Burden: 1,518 hours.

Estimated Total Annualized Cost Burden: $67,624.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1606.02 and OMB Control No. 2050-0127 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460.

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA 725 17th Street, NW, Washington, DC 20503.

Dated: January 29, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–2355 Filed 2–2–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5417–2]

Proposed Settlement Agreement, Clean Air Act Petition for Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement; request for public.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''Act''), notice is hereby given of a proposed settlement agreement in the following cases: *National Tank Truck Carriers, Inc.* versus *U.S. Environmental Protection Agency,* No. 94–1323 (D.C. Cir.). This petition for review was filed under § 307(b) of the Act, 42 U.S.C. 7607(b), contesting various aspects of the regulations issued by EPA on December 15, 1993 for reformulated and conventional gasoline.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement agreement from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed agreement if the comments disclose facts or circumstances that indicate that such agreement is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

A copy of the proposed settlement agreement is available from Phyllis J. Cochran, Air and Radiation Division (2344), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–7606. Written comments should be sent to Susmita Dubey, Esq. at the above address and must be submitted on or before March 6, 1996.

Dated: January 30, 1996.

Scott Fulton,

Principal Deputy General Counsel.

[FR Doc. 96–2352 Filed 2–2–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5412–4]

The Pribilof Seafood Processors General NPDES Permit (General NPDES Permit No. AK–G52–P000)

AGENCY: Environmental Protection Agency, Region 10.

ACTION: Notice of Final General NPDES Permit.

SUMMARY: The Director, Office of Water, EPA Region 10, is issuing General National Pollutant Discharge Elimination System (NPDES) permit no.

AK-G52–P000 for seafood processors discharging within three nautical miles of the Pribilof Islands, Alaska, pursuant to the provisions of the Clean Water Act, 33 U.S.C. § 1251 et seq. The final Pribilof seafood processors general NPDES permit authorizes discharges from facilities discharging through stationary outfalls on St. Paul and St. George Islands, and from mobile vessel discharging within the three nautical mile coastal zone of the Pribilof Islands. These facilities are engaged in the process of fresh, frozen canned, smoked, salted and pickled seafoods. Discharges authorized by the proposed permit include seafood processing wastes, process disinfectants, sanitary wastewater and other wastewaters, including domestic wastewater, cooling water, gray water (vessels only) freshwater pressure relief water, refrigeration condensate, water used to transfer seafood to a facility, and live tank water. The permit will authorize discharges to waters of the United States in and contiguous to the State of Alaska within three nautical miles of the Pribilof Islands.

The permit does not authorize the discharge of processing wastes and wastewaters from the production of surimi or fish paste that is washed repeatedly in water then pressed to remove residual water or the processing of finfish wastes into fish or bone meal. The permit does not authorize discharges of petroleum hydrocarbons, toxic pollutants, or other pollutants not specified in the permit. The permit does not authorize discharges to waters with poor flushing or areas of special concern. The areas of special concern include: within three nautical miles of Walrus Island year-round, a designated rookery and critical habitat of the Steller sea lion; within one-half nautical mile of land owned and managed by the U.S. Fish and Wildlife Service (USFWS) for the protection of birds and bird nesting areas during the period May 1 through September 30; within one-half nautical mile of land owned and managed by the National Marine Fisheries Service (NMFS) for the protection of the northern fur seal rookeries and haulout areas during the period May 1 through December 1; and within one-half nautical mile of designated Steller sea lion haulouts areas year-round (Seal Lion Rock and Northeast Point on St. Paul and Dalnoi Point and South Rookery on St. George; and within one-half nautical mile of the Alaska Maritime National Wildlife Refuge, Bering Sea Unit.

This final Pribilof seafood processors general NPDES permit is an ''interim '' period for two years to provide time to collect field data and conduct an effluent monitoring program to determine the impact of seafood processing wastes on the marine environment. EPA has determined that, on the basis of available information, there will be no unreasonable degradation during the two year interim period. Facilities authorized to discharge under this final permit will participate in the data collection and monitoring program as well as being required to comply with all conditions of the permit.

Notice of the draft Pribilof seafood processors general NPDES permit was published October 10, 1995 in the Federal Register [60 FR 52677] and the Anchorage Daily News and the Dutch Harbor Fisherman.

The final permit is printed below and establishes effluent limitations, standards, prohibitions, monitoring requirements and other conditions on discharges from seafood processors in the area of coverage. The conditions are based on material contained in the administrative record, including an ocean discharge criteria evaluation, an environmental assessment, a finding of no significant impact, and a biological evaluation of potential effects on threatened and endangered species. Changes made in response to public comments are addressed in full in a document entitled ''Responses to Public Comments on the Proposed Issuance of the Pribilof Seafood Processors General NPDES Permit.'' This document is being sent to all commenters, current permittees and applicants and is available to other parties from the address below upon request.

ADDRESSES: Unless otherwise noted in the permit, correspondence regarding this permit should be sent to Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Florence Carroll of EPA Region 10, at the address listed above or telephone (206) 553–1760. Copies of the final Pribilof Seafood Processors General NPDES Permit will be provided upon request to the Region 10 Public Information Center at (206) 552–1200 or 1–800–424–4372 (available only from the states of Oregon, Washington, Idaho, and Alaska).

SUPPLEMENTARY INFORMATION: EPA issues this Pribilof seafood processors general NPDES permit pursuant to its authority under Sections 301(b), 304, 306, 307, 308, 401, 403 and 501 of the Clean Water Act. The fact sheet for the draft permit, the response to comments document, the ocean discharge criteria evaluation, the biological evaluation, the environmental assess, the 401 certification issued by the State of Alaska, and the coastal zone management plan consistency determination issued by the State of Alaska set forth the principal facts and the significant factual, legal and policy questions considered in the development of the terms and conditions of the final permit presented below.

The state of Alaska, Department of Environmental Conservation, has issued a Certificate of Reasonable Assurance that the subject discharges comply with the Alaska State Water Quality Standards.

The State of Alaska, Office of Management and Budget, Division of Governmental Coordination, has certified that the Pribilof seafood processors general NPDES permit is consistent with the approved Alaska Coastal Management Program.

Changes have been made from draft permit to the final permit in response to public comments received on the draft permit and the final coastal management plan consistency determination from the State of Alaska.

The following identifies several specific areas of change, among others, which have been embodied in the final permit: applicants for new shore-based facilities may apply for a waiver to discharge within the one-half mile exclusion zone during the period of May 1 through December 1; the limit of production to 1995 levels was changed to Notice of Intent projection production levels; the four-hour restriction on processing within the exclusion zone was changed to allowing mobile vessels to enter the exclusion zone during the period of May 1 through December 1 only for safety reasons and to make all efforts to avoid any discharges of any pollutants while in the exclusion zone; permittees may participate in joint monitoring programs as appropriate; and include video or photographic documentation of seafloor, sea surface and shoreline monitoring.

Appeal of Permit

Within 120 days following this service of notice of EPA's final permit decision under 40 CFR 124.15, any interested person may appeal the Pribilof seafood processors general NPDES in the Federal Court of Appeals in accordance with Section 509(b)(1) of the Clean Water Act. Persons affected by a general NPDES permit may not challenge the conditions of the permit as a right of further EPA proceedings. Instead, they may either challenge this permit in court or apply for an

individual NPDES permit and then request a formal hearing on the issuance or denial of an individual permit.

Dated: January 23, 1996.

Philip G. Millam,

Acting Director, Office of Water.

Authorizations To Discharge Under the National Pollutant Discharge Elimination System for Seafood Processors Within Three Nautical Miles of the Pribilof Islands

[General Permit No. AK–G52–P000]

In compliance with the provisions of the Clean Water Act, 33 U.S.C. § 1251 et seq. (hereafter, CWA or the Act), the owners and operators of seafood processing facilities engaged in the processing of seafood, both mobile vessels and shore-based facilities are authorized to discharge seafood processing wastes and other designated wastewaters within three nautical miles of St. Paul and St. George Islands, in accordance with effluent limitations, monitoring requirements, and other conditions set forth herein.

Upon the effective date of this Permit, it is the controlling document for regulation of seafood processing wastes and other designated wastewaters discharged within three nautical miles of the Pribilof Islands. The General NPDES Permit for Seafood Processors in Alaska (AK-G52–0000) which became effective August 4, 1995, is the controlling document for applicable waste discharges to waters of the United States which surround Alaska and are further than three nautical miles from the Pribilof Islands. The former administratively continued general permit which expired on October 31, 1994, is no longer valid for facilities discharging within three nautical miles of the Pribilof Islands as of the effective date of this general permit and receipt of authorization to discharge.

A copy of this General Permit must be kept at the Plant or on the vessel where discharges occur.

This permit becomes effective 30 days after issuance.

This permit and the authorization to discharge shall expire at midnight two years from the effective date of the permit.

Signed this 23rd day of January, 1996.

Philip G. Millam,

Acting Director, Office of Water, Region 10, U.S. Environmental Protection Agency.

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1.0. Basis for Issuing This Permit

1.1. Ocean Discharge Criteria

The Ocean Discharge Criteria establishes guidelines for issuance of NPDES permits for the discharge of pollutants from a point source into the territorial seas, the contiguous zone, and the oceans (40 CFR 125 Subpart M).

EPA must determine whether a discharge will cause unreasonable degradation of the marine environment based on various considerations including bioaccumulation or persistence of pollutants to be discharged; the potential transport of such pollutants by biological, physical, or chemical processes; the composition and vulnerability of the biological communities which may be exposed to such pollutants; the importance of the receiving water area to the surrounding biological community; the existence of special aquatic sites * * * any applicable requirements of an approved Coastal Zone Management plan. * * *

1.2. Permit Issuance

If EPA has insufficient information to determine prior to permit issuance that there will be no unreasonable degradation of the marine environment, there shall be no discharge of pollutants to the marine environment unless, on the basis of available information, EPA determines that:

Such discharge will not cause irreparable harm to the marine environment during the period in which monitoring is undertaken, and

There are no reasonable alternatives to on-site disposal of materials, and

The discharge will be in compliance with all permit conditions.

In addition, all permits which authorize the discharge of pollutants into the marine environment shall:

Require that a discharge of pollutants will be in compliance at the edge of any mixing zone and not exceed the Ocean Dumping Criteria;

Specify a monitoring program which is sufficient to assess the impact of the discharge on water, sediment and biological quality;

Contain any other conditions including bioaccumulation tests, seasonal discharge, process modification, or dispersion of pollutants.

1.3. Issuance of this Permit

EPA has determined that this Permit can be issued based on the available information that there will be no unreasonable degradation of the marine environment. The monitoring program, including sea floor, sea surface and shoreline, and effluent sampling in this

Permit will allow for data to be gathered and the Permit conditions will protect the marine environment during the two years this Permit will be in effect.

1.4. Special Condition for Modifying or Revoking this Permit

This Permit shall be modified or revoked at any time if, on the basis of any new data, EPA determines that continued discharges may cause unreasonable degradation of the marine environment.

2.0. Authorized Facilities, Authorized Discharges, and Excluded Areas

2.1. Authorized Facilities

The following facilities, upon receipt and approval of complete and timely NOIs, are authorized to discharge under this general permit:

.*2.11.* Shore-based. Owners and operators of the seafood processing facilities including moored floating or mobile barges that currently discharge through stationary outfalls on St. Paul and St. George Islands, provided they comply with the requirements of Section 7.2 and all other applicable conditions of this Permit.

2.1.2. Vessels. Owners and operators of mobile seafood processing vessels that operate within three nautical miles of St. Paul, St. George, or Otter Islands (*see* Section 2.4.2.1 for restrictions around Walrus Island), provided they comply with all applicable conditions of this Permit.

2.2. Authorized Discharges

This Permit authorizes the discharge of the following pollutants subject to the limitations and conditions set forth herein:

2.2.1. Seafood processing wastes, except wastes from the production of surimi and/or fish paste that is washed repeatedly in water then pressed to remove residual water or the processing of seafood wastes into fish or bone meal;

2.2.2. Process disinfectants:

2.2.3. Sanitary wastewaters: and

2.2.4. Other wastewaters, including domestic wastewater, cooling water, boiler water, gray water (vessels only), freshwater pressure relief water, refrigeration condensate, water used to transfer seafood to the facility, and live tank water.

2.3. Unauthorized Discharges

The discharges of wastes and pollutants not specifically set out above are not authorized under this Permit.

2.4. Excluded Areas

This Permit does not authorize the discharge of pollutants in the following circumstances and areas:

2.4.1. Poor Flushing. Areas that are likely to have poor flushing (*see* definition in Section 11), including, but not limited, to sheltered water bodies such as bays, harbors, inlets, coves, and lagoons.

2.4.2. Areas of Special Concern. These areas include rookeries, haulout areas and designated critical habitat, including, but not limited to, the following:

2.4.2.1. Within three nautical miles of Walrus Island, a designated rookery and critical habitat of the Steller sea lion;

2.4.2.2. Within one-half nautical mile of the following:

- land owned and managed by the U.S. Fish & Wildlife Service (USFWS) for the protection of birds and bird nesting areas during the period May 1 through September 30;
- land owned and managed by the National Marine Fisheries Service (NMFS)) for the protection of the northern fur seal rookeries and haulout areas during the period May 1 through December 1; and
- designated Steller sea lion haulout areas year-round (Sea Lion Rock and Northeast Point on St. Paul and Dalnoi Point and South Rookery on St. George); and the
- Alaska Maritime National Wildlife Refuge, Bering Sea Unit.

3.0. Application to be Covered Under This General NPDES Permit

In order to be authorized to discharge any of the pollutants set out in Section 2.2 to waters of the St. Paul and St. George coastal zones under this general permit, seafood processors must apply for coverage. This general NPDES permit does not authorize any discharges from facilities that have not applied for and received authorization to discharge within three nautical miles of St. Paul and St. George Islands.

3.1. Submittal of a Notice of Intent

An applicant wishing authorization to discharge under this Permit shall submit a timely and complete Notice of Intent (NOI) to EPA and ADEC in accordance with the requirements listed below. A qualified applicant will be authorized to discharge under this Permit upon written notification from EPA and the returned receipt of the signed U.S. Postal Certified Mail card. EPA's written notification will include assignment of an NPDES permit number designating coverage under the Pribilof Seafood General Permit.

Coverage under the Alaska Seafood General Permit No. AK–G52–0000, effective August 4, 1995, does not extend to operations and discharges within three nautical miles of the Pribilof Islands.

In compliance with the Paperwork Reduction Act, 44 U.S.C. § 1501 et. seq., the Office of Management and Budget has approved the information in a Notice of Intent for permit application (OMB 2040–008).

3.1.1. Timely NOI. Permittees previously permitted under the Seafood General Permit AK–G52–0000 must submit a timely and complete NOI for coverage under the Pribilof Seafood General Permit within 30 days after the issuance date of this Permit.

3.1.2. New Applicant. A new applicant must submit an NOI at least 60 days prior to commencement of operating and discharging within the coastal zones of St. Paul and St. George Islands. (See also Section 7.4.)

3.1.3. NOI Update. A permittee authorized to discharge under this Permit shall submit to EPA and ADEC an updated NOI when there is any material change in the information submitted in the original NOI including a proposed increase in the amount of production, additional species of seafood to be processed, and additional types of finished product. Any changes to the original NOI requires a 60 day prior notice period to EPA and ADEC. After consultation with ADEC and the Coastal Zone Management Program EPA will notify the permittee of approval or disapproval.

3.1.4. Individual Permit Requirement. EPA may require any discharger applying for coverage under this general NPDES permit to apply for and obtain an individual NPDES permit in accordance with the 40 CFR 122.28(b)(3).

3.1.5. Submittal. An applicant shall submit the NOI to:

U.S. Environmental Protection Agency, Region 10, NPDES Compliance Unit OW–135, 1200 Sixth Avenue, Seattle, Washington 98101, and

Alaska Department of Environmental Conservation,Attn: Water Permits,555 Cordova Street,Anchorage, Alaska 99501

3.2. Information to be Submitted in the Notice of Intent

3.2.1. Previous NPDES Number. The NOI shall include any previous NPDES number(s) assigned to the facility or vessel and the ADEC seafood processor license number.

3.2.2. Owner Information. The NOI shall include the name and the complete address and telephone number of the owner of the facility or vessel and the name of its duly authorized representative. If a FAX machine is

available at this address, it is useful to provide a FAX number.

3.2.3. Managing Company. The NOI shall include the name and the complete address and telephone number of the managing company of the facility or vessel and the name of its duly authorized representative. If a FAX machine is available at this address, it is useful to provide a FAX number.

3.2.4. Facility or Vessel Information. The NOI shall include the name, address, and telephone number of the facility or vessel. If the name of the facility or vessel has changed during the last five years, the NOI shall include the previous name(s) of the facility and the date(s) of these changes. If a FAX machine is available at this address, it is useful to provide a FAX number.

3.2.4.1. For a shore-based facility, the NOI shall include a description of the physical location of the facility, the location of the outfall terminus using the Global Positioning System (GPS), and the length of the outfall from shoreline to terminus.

3.2.4.2. For a mobile facility, the NOI shall include the U.S. Coast Guard (USCG) vessel number, the type, length and date of purchase of the vessel.

3.2.4.3. The NOI shall include and estimate of the number of seasonal and annual employees of the facility or on the vessel.

3.2.5. Projected Production. The NOI shall include projected production data based upon historical operations and design capacity on a daily and annual basis. Production data includes an identification of the process applied to the product, the name and quantity of the raw product(s) by species, the type of the finished product(s), the amount of the finished product(s), and the maximum quantity of each raw product which can be processed in a 24-hour day. The NOI shall also include the projected number of operating days by month for the facility or vessel.

3.2.6. Discharge Information. The NOI shall include information concerning all the discharges from the facility or vessel.

3.2.6.1. The NOI shall identify the type and capacity (by gallons) of the sanitary wastewater treatment system (other than a municipal system) on site or on the vessel.

3.2.6.2. The NOI shall include a list of the number, type, waste solids weights, and wastewater volumes of each discharge and the maximum quantity of process wastes which can be produced in a 24-hour day.

3.2.6.3. The NOI shall include specific information on type and amounts of process disinfectants, domestic wastewater cooling water, boiler water, refrigeration condensate, transfer water, gray water, live tank water, and freshwater pressure relief water.

3.2.7. Signatory Requirement. All NOIs shall be signed by a principal corporate officer or duly appointed representative according to Section 10.5.

4.0. Effluent Requirements

4.1. Seafood Wastes and Wastewater Limitations

4.1.1. Amount of Seafood Waste Discharged. The volume or weight of seafood process wastes discharged on a daily or annual basis shall not exceed the amount reported in the Notice of Intent to be Covered under this Permit.

4.1.2. Treatment and Limitation of Seafood Wastes. All seafood process wastes shall be routed through a waste-handling system which prevents the discharge of waste solids of greater than one-half (0.5) inch in any dimension.

4.1.2.1. Incidental discharges from scuppers or floor drains must be routed through the waste-handling system or screened to 0.5 inch in any dimension.

4.1.2.2. Each permittee shall conduct a daily visual inspection of the waste-handling system, including a close observation of the sump or other place of observation for, and removal of, gloves, earplugs, rubber bands, or other equipment used in processing seafood that may be discharged through the outfall. Discharge of such items is prohibited. Logs of this daily inspection are to be kept at the facility or on board the vessel. Summaries of positive reports shall be submitted with the quarterly report.

4.1.2.3. There shall be no discharge of oily water or oily wastes that may or may not produce a sheen on the water surface, grease, foam, or floating solids.

4.1.2.4. No wastes shall accumulate on the shoreline nor float on the receiving water surface.

4.2. Sanitary Wastes

All sanitary wastes shall be routed through a sanitary waste treatment system. Sanitary wastes must be either:

4.2.1. Discharged to a shore-based septic system or a municipal wastewater treatment system, provided that the system is designed and capable of properly treating and handling the type and volume of sanitary wastes generated by seafood processing operations; or

4.2.2. If a USCG-licensed vessel, routed through a sanitary waste system that meets the applicable Coast Guard pollution control standards then in effect [33 CFR 159: ''Marine sanitary devices''] and discharged in accordance with Coast Guard regulations. Malfunctioning and undersized systems are prohibited.

4.3. Other Wastewaters

There shall be no discharge of any other such wastewaters that contain foam, floating solids, grease, or oily wastes which may or may not produce a sheen on the water surface, no wastes which deposit residues which accumulate on the shoreline or seafloor. Wastewaters that have not had contact with seafood processing wastes are not required to be discharged through the seafood processing waste-handling system. However, all discharges of transfer water, refrigerated sea water, and live tank water shall be discharged below the surface of any receiving waters.

4.4. State Water Quality Standards

Discharges shall not violate Alaska Water Quality Standards [18 ACC Part 70] including, but not limited to, floating or suspended residues, dissolved oxygen, oil and grease, fecal coliform, pH, temperature, color, turbidity, and total residual chlorine.

4.5. Vessel Wastes

Vessels must comply with 33 CFR 151 (''Vessels carrying oil, noxious liquid substances, garbage, municipal or commercial wastes, and ballast water'').

4.6. Discharge Pipe Location and Condition

4.6.1. Process wastes from shore-based facilities or vessels discharging through stationary outfalls shall be discharged at least twenty (20) feet at MLLW below the sea surface.

4.6.2. Process wastes from mobile vessels shall be discharged at least three (3) feet below the sea surface at MLLW (except for mobile vessels that have through-the-hull discharge points).

4.6.3. There shall be no discharge if the outfall line is severed, fails, leaks, or is displaced from designed specifications or location.

5.0. Monitoring

5.1. Reporting

5.1.2. Purpose. Discharges shall be monitored to the extent necessary to develop and submit timely and accurate quarterly reports. (*See* Section 6.1.)

5.2. Seafloor Monitoring

5.2.1. Purpose. The seafloor monitoring program is to determine compliance with the Alaska water quality standards for settleable residues in marine waters. Alaska Administrative Code Part 18—70.020 states that ''(settleable residues) shall not * * * cause a sludge, solids, or emulsion to be deposited * * * on the bottom.''

5.2.2. Objective. The seafloor monitoring program shall determine the

areal extent (in square feet) of the continuous deposit of sludge, solids, or emulsion from seafood processing wastes on the seafloor bottom that persists through a year.

5.2.3. Applicability. All permittees covered under this Permit shall participate in a seafloor survey at least once during the period this Permit is in effect.

5.2.4. Method. The seafloor survey shall include the following elements:

5.2.4.1. Areal extent in square feet of any accumulation of seafood wastes;

5.2.4.2. Description of the size of particles making up the waste pile, the percentage of particles exceeding 0.5 inch in any dimension, and kind of wastes;

5.2.4.3. Description of the methodology used by the surveyor including transects and location devices;

5.2.4.4. Description of marine fauna and flora near the survey area;

5.2.4.5. Dates, time, tidal movements, weather conditions, name and signature of surveyor, name of company, the name of the mobile vessel, and NPDES permit number(s); and

5.2.4.6. Video and/or other photographic documentation of any findings.

5.2.5. Stationary Outfalls. Shore-based facilities or vessels discharging through stationary outfalls shall conduct an annual survey after April 1 but no later than May 15.

5.2.6. Mobile Vessels. Within 18 months from the effective date of this Permit, mobile vessels that have anchored and operated in the following areas shall conduct a survey after April 1 but no later than May 15:

5.2.6.1. The survey shall include the following areas on St. Paul: approximately 0.5 nautical mile from shoreline of Lukanin Bay from Stony Point to Reef Point, Zolotoi Bay, Village Cove, English Bay from Tolstoi Point to Zapadni Point, and southwestward on the northern side of Northeast Point. Identification of where mobile vessels have been anchored for processing shall be done during the survey design to focus on the specific areas of discharge.

5.2.6.2. This requirement for mobile vessels to conduct a seafloor survey may be satisfied by arranging with others to participate in a joint survey.

5.2.6.3. If no wastes have accumulated in the designated survey areas (*see* Section 5.2.6.1), EPA in consultation with ADEC and the Coastal Zone Management Program may consider whether subsequent surveys by the mobile vessels will be necessary.

5.2.7. Submittal. The seafloor survey report signed by the diver and company representative shall be submitted 30 days following the completion of the survey but no later than June 30 of each year.

5.3. Sea Surface and Shoreline Monitoring

5.3.1. Purpose. The sea surface and shoreline monitoring program is to determine compliance with the Alaska water quality standards for floating residues in marine waters. Alaska Administrative Code Part 18—70.020 states that ''(floating solids, debris, foam and scum) shall not * * * cause a film, sheen, or discoloration on the surface of the water * * * or cause a sludge, solid or emulsion to be deposited * * * upon adjoining shorelines.

5.3.2. Objective. The sea surface and shoreline monitoring program is to provide daily assessment during periods of operation and discharge: for the sea surface monitoring an estimate of the areal extent of continuous films, sheens, or persistent mats of foam; for the shoreline an estimate of the areal extent of deposits of seafood waste solids on the adjacent shore.

5.3.3. Applicability. All permittees covered under this Permit shall participate in a sea surface and shoreline monitoring program during all periods of operation and discharge.

5.3.3.1. Shore-based facilities shall include the harbor areas that are adjacent to their facilities as well as observations of the shorelines nearest to outfall location.

5.3.3.2. Mobile vessels shall conduct sea surface monitoring around and adjacent to their individual vessels.

5.3.3.3. Shore-based facilities and mobile vessels may participate in a joint survey of appropriate shoreline areas adjacent to where mobile vessels are anchored.

5.3.4. Method. This monitoring program shall include a description of the observation method and equipment used, the name of the surveyor, and points of observation. The report of positive observations shall include the date and time of observation, an estimate of the area of scum, sheen, film or foam on the sea surface, and/or the area of sludge, solids, emulsion or scum deposited on the shoreline. Photographs, video, or other visual documentation of positive observations are required.

5.3.5. Submittal. The report of any positive observations shall be submitted to EPA and ADEC with the quarterly report described in Section 6 and also reported as noncompliance according to Section 8.3.

5.3.6. Waiver. Individual monitoring days may be waived upon notification by FAX to EPA and ADEC (*see* Section 6.4 below) due to conditions (e.g., weather or sea conditions) which make this monitoring hazardous to human health and safety.

6.0. Quarterly Reporting Requirements

6.1. Schedule

Reporting shall be on a calendar quarter basis; reports are due by the end of the month following any quarter processing occurs in the Pribilof Islands (e.g., January–March report due no later than the 30th of April).

6.1.1. No Processing. Permittee shall notify EPA and ADEC when no processing occurs during any quarter in the Pribilof Islands, either with the most recent quarterly report or at the end of each quarter.

6.2. Facility Reporting

6.2.1. Mobile vessels shall report the following:

6.2.1.1. Daily GPS log of anchored location or locations while processing; this log to be submitted in both map-charted and written form;

6.2.1.2. Processing data including number of pounds of raw product processed per day, number of pounds of finished product, and number of pounds of unused seafood returned to the waters or otherwise disposed of (i.e., ocean disposal); and

6.2.1.3. Positive observations of the sea surface and shoreline monitoring program as described in Section 5.3. above.

6.2.2. Shore-based facilities or vessels discharging through stationary outfalls shall report the following:

6.2.2.1. Processing data including number of pounds of raw product processed per day, number of pounds of finished product, and number of pounds of unused seafood and by-catch discharged through the outfall;

6.2.2.2. Positive observations of the sea surface and shoreline monitoring program as described in Section 4.3.2 above; and

6.2.2.3. Amount, type, and location of wastes disposed of by ocean dumping as described in Section 7.2.3.

6.3. Signatory Requirement

A permittee shall ensure that the quarterly report is signed by a principal officer or a duly appointed company representative according to Section 10.5.

6.4. Submittal

The quarterly reports shall be submitted to EPA and ADEC. Reports may sent via FAX or mailed to the locations below:

Environmental Protection Agency,
Region 10, NPDES Compliance Unit

OW–135, 1200 Sixth Avenue, Seattle, Washington 98101, FAX 206–553–1280, Attn: NPDES Compliance Unit and

Alaska Department of Environmental Conservation, Attn: Major Facilities, 555 Cordova Street, Anchorage, Alaska 99501, FAX 907–269–7652, Attn: Water Permits

7.0. Special Conditions and Requirements

7.1. Discharges from Mobile Vessels

During the period of May 1 to December 1, no discharge of seafood wastes or any other wastewaters authorized by this Permit shall occur within the one-half nautical mile of the exclusion zone described in Section 2.4.2.2 except as provided by Section 7.1.1.

7.1.1. Safety Exception. Notwithstanding the provisions of Section 2.4.2.2, mobile processing vessels may anchor within the one-half nautical mile exclusion zone when conditions exist that would threaten the safety of the vessel or there is no other location that is reachable for safety of the vessel.

7.1.2. Processing and Transit in the Exclusion Zone. Mobile vessels shall make all efforts to halt discharge of seafood wastes, wastewaters including sewage, gray water, deck or processing area wash down, net washing, bilge water, and other unnecessary materials to avoid unwanted or accidental discharges. Mobile vessels shall also avoid refueling within the exclusion zone except for emergency conditions.

7.1.3. Location Reporting. When any processing vessel enters the one-half nautical mile exclusion zone, the permittee must report their location by GPS and the reason for being in the exclusion zone to each of the following: EPA—FAX (206) 553–1280 or telephone (206) 553–1846; ADEC—FAX (907) 269–7652 or telephone (907) 269–7500; St. Paul—FAX (907) 546–3194 or telephone (907) 546–3179; or St. George—FAX (907) 829–2212 or telephone (907) 859–2263; and Local harbor master/public safety office by radio.

7.1.4. Excluded Area Discharge. Mobile vessels must notify EPA and ADEC within 24 hours, either by telephone (206) 553–1846 or (907) 269–7500, respectively) or by FAX (see Section 7.1.3 above) if any discharge of seafood wastes or any other discharge authorized or not, occurs during the period of May 1 through December 1 within the one-half nautical mile exclusion zone. Any such report must conform to the requirements in Section 8.3 below, and include an official Bering Sea weather report.

7.2. Discharges from Stationary Outfalls

Notwithstanding the provisions of Section 2.4.2.2, the facilities previously permitted (under the Alaska Seafood General Permit AK-G52–0000 issued October 1989) to discharge from the three existing stationary outfalls on St. Paul and the one existing stationary outfall on St. George will be allowed, provided that each facility submit a complete and timely NOI and receive approval from EPA for the continuing discharge and comply with the following conditions:

7.2.1. Sea Surface and Shoreline Monitoring. There shall be no evidence of wastes on the sea surface or shoreline and that the sea surface and shoreline monitoring program is conducted according to Section 5.3 during the period of May 1 though December 1.

7.2.2. Exceedance of Discharge Levels. Discharges resulting from processing of wastes through the stationary outfalls during the period of May 1 and December 1 shall not exceed the daily projected production levels submitted in the NOI and authorized by EPA. Processing waste solids exceeding this limitation shall be barged to an acceptable ocean dumping area.

7.2.3. Ocean Disposal. Finfish and crab wastes ground to 0.5 inch and unground snail wastes and shells may be disposed of by dumping the wastes into depths of at least 45–50 fathoms and at least 7 nautical miles west of St. Paul and at least 3 miles west of St. George.

7.2.3.1. Disposal must be done while the vessel is underway. No disposal shall occur if marine mammals are observed in the disposal area.

7.2.3.2. A log shall be kept of the disposal operations and include the following information:

- dates and start/stop time of each disposal occurrence,
- description and approximate volume of the material being dumped,
- the location (GPS) where dumped, and
- notation of weather and wind conditions in the area and Beaufort Sea state.

7.2.3.3. A copy of the log is to be submitted to EPA with the quarterly report.

7.3. New Shore-Based Facilities

Any new applicants seeking authorization under this Permit to discharge seafood wastes and other designated wastewaters from a shore-based facility must meet the requirements of Section 2.4 or submit the following information in a request for a waiver of Section 2.4:

7.3.1. Submit a Notice of Intent to be covered under this Permit in accordance with Section 3, including a detailed map showing the proposed facility's precise location of the outfall, engineering design of the outfall, receiving water bathymetry, any tidal or current information, surrounding upland topography and any protected water resources and special habitats.

7.3.2. Describe in detail the circumstances requiring discharges to the exclusion zone; the alternatives to discharging within the exclusion zone; and a detailed description of the nature, magnitude and duration of the seafood processing operation and its discharges.

7.3.3. Complete the Inventory of Waste Streams.

7.3.4. Develop a pollution prevention plan covering all aspects of pollution potential of the facility.

7.3.5. Develop and commit to best management practices for seafood waste minimization, water usage reduction, and pollution control.

7.3.6. Prepare a proposed seafloor, sea surface and shoreline monitoring program and an effluent sampling plan.

7.3.7. Consult (in writing) with NMFS and USFWS about areas of concerns and critical habitats.

A waiver to Section 2.4 will not be granted until after EPA consults with ADEC and other appropriate government offices to determine that the proposed discharge will comply with applicable state and federal laws and regulations and the State-approved Coastal Zone Management Plan.

7.4. Inventory of Waste Streams

7.4.1. Purpose. The inventory is to determine all of the waste streams generated by operating and maintaining a seafood processing facility or processing vessel that could potentially be discharged within the coastal zone of the Pribilof Islands.

7.4.2. Objective. The inventory shall identify the waste streams, which are a result of receiving and processing seafood, providing dormitory and galley services, and also the products used in the maintaining facility or the vessel. These products may include, but not be limited to, sanitizing chemicals, general cleaning detergents (including laundry and kitchen) and solvents, engine room chemicals, painting wastes, hazardous materials, machine shop solvents, and stormwater runoff. Waste reduction and pollution prevention are the ultimate objectives of this activity. The inventory shall also include the identification of environmentally safe products that

could be substituted for those that may pose a threat to the environment.

7.4.3. Applicability. All permittees covered under this Permit shall participate in the inventory of waste streams. This requirement is on a facility by facility or vessel by vessel basis.

7.4.4. Schedule. The inventory of waste streams shall be completed 90 days after this Permit is effective.

7.4.5. Submittal. A permittee shall submit to EPA a written summary of the waste streams examined, a list of products found in each waste stream along with any identified hazardous substance used in the facility or on the vessel, and the substitution of environmentally safe products for those identified as potentially detrimental products. This summary shall be accompanied by written certification, signed by the principal officer or a duly appointed representative of the permittee, of the completion of the inventory and the substitution or changes to more environmentally safe products.

7.5. Pollution Prevention Plan and Implementation

7.5.1. Purpose. Pollution prevention is to minimize any and all of the undesirable effects a processing facility or vessel may have on the environment of the water and air and the birds and animals sharing the marine and terrestrial habitats within the coastal zone of the Pribilof Islands.

7.5.2. Objective. Pollution prevention is for maximum reduction of waste streams including reduction of processing wastes through recycling, responsible disposal, and use and substitution of environmentally safe products when and where ever possible.

7.5.3. Applicability. All permittees covered under this Permit shall participate in preparing and implementing a pollution prevention plan. Companies with multiple facilities or vessels operating in the Pribilof Islands may fulfill this requirement by preparing one plan to cover their Pribilof facilities or vessels; but must certify that each facility or vessel has implemented the plan. Records of pollution prevention must be kept at each facility or on board each vessel.

7.5.4. Schedule. The pollution prevention plan shall be completed 120 days after this Permit is effective and implemented 180 days after this Permit is effective.

7.5.5. Documentation. Each facility or vessel shall have a copy of the pollution prevention plan at each facility or on board each vessel. Implementation records shall be available to EPA and ADEC upon request.

7.5.6. Submittal. A permittee shall submit to EPA written certification, signed by principal officer or a duly appointed representative of the permittee, of the completion and implementation of the pollution prevention plan.

7.6. Discharge Effluent Sampling

All facilities that are authorized to discharge under this Permit shall be required to sample their discharge effluent at least once during the effective period of this Permit,

Selection of what will be sampled will be based on pollutants that may be identified through the inventory of waste streams, the known pollutants found in seafood processing and associated wastewaters, and other identified pollutants of concern. Protocols, procedures, and methods for sampling, analysis, and submittal of results will be relayed to each permittee under the requirements of 33 U.S.C. § 1318 (Request for Information).

8.0. Reporting and Recording Requirements

8.1. Records Contents

8.1.1. Effluent Monitoring Records. All effluent monitoring records shall bear the hand-written signature of the person who prepared them. In addition, all records of monitoring information shall include:

8.1.1.1. The date, exact place, and time of sampling or measurements;

8.1.1.2. The names of the individual(s) who performed the sampling or measurements;

8.1.1.3. The date(s) analyses were performed;

8.1.1.4. The names of the individual(s) who performed the analyses;

8.1.1.5. The analytical techniques or methods used; and

8.1.1.6. The results of such analyses.

8.2. Retention of Records

8.2.1. Monitoring Information. A permittee shall retain records of all monitoring information, including but not limited to, all calibration and maintenance records, copies of all reports required by this Permit, a copy of the NPDES Permit, and records of all data used to complete the application for this Permit, for a period of at least five years from the date of the sample, measurement, report or application, or for the term of this Permit, whichever is longer. This period may be extended by request of the Director or ADEC at any time.

8.3. Twenty-four Hour Notice of Noncompliance Reporting

8.3.1. Telephone or FAX. A permittee shall report the following occurrences of noncompliance to the NPDES Compliance Unit by telephone (206) 553–1846 or FAX (206) 553–1280 within 24 hours from the time a permittee becomes aware of the circumstances:

8.3.1.1. Any noncompliance that may endanger health or the environment;

8.3.1.2. Any unanticipated bypass that results in or contributes to an exceedance of any effluent limitation in this Permit;

8.3.1.3. Any upset that results in or contributes to an exceedance of any effluent limitation in this Permit; or

8.3.1.4. Any violation of a maximum daily discharge limitation for any of the pollutants listed in this Permit.

8.3.2. Written Report. A permittee shall also provide a written submission within five days of the time that a permittee becomes aware of any event required to be reported under Section 8.3.1. above. The written submission shall contain:

8.3.2.1. A description of the noncompliance and its cause;

8.3.2.2. The period of noncompliance, including exact dates and times;

8.3.2.3. The estimated time noncompliance is expected to continue if it has not been corrected; and

8.3.2.4. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

8.3.3. Written Report Waiver. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the NPDES Compliance Unit in Seattle, Washington, by telephone or FAX.

8.3.4. Submittal. Written reports shall be submitted to:

U.S. Environmental Protection Agency, Region 10, NPDES Compliance Unit OW–135, 1200 Sixth Avenue, Seattle, Washington 98101 and

Alaska Department of Environmental Conservation, Attn: Water Permits, 555 Cordova Street, Anchorage, Alaska 99503

8.4. Other Noncompliance Reporting

A permittee shall document all instances of noncompliance, other than those specified in Section 8.3.1, and submit a written report with the quarterly report.

9.0. Compliance Responsibilities

9.1. Duty To Comply

A permittee shall comply with all conditions of this Permit. Any permit noncompliance constitutes a violation

of the Act and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification, or for denial of a permit renewal application. A permittee shall give reasonable advance notice to the Director and ADEC of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

9.2. Penalties for Violations of Permit Conditions

9.2.1. Civil and Administrative Penalty. Sections 309(d) and 309(g) of the Act provide that any person who violates a permit condition implementing CWA §§ 301, 302, 306, 307, 308, 318, or 405 shall be subject to a civil or administrative penalty, not to exceed $25,000 per day for each violation.

9.2.2. Criminal Penalties:

9.2.2.1. Negligent violations. Section 309(c)(1) of the Act provides that any person who negligently violates a permit condition implementing CWA §§ 301, 302, 306, 307, 308, 318, or 405 shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or by both.

9.2.2.2. Knowing violations. Section 309(c)(2) of the Act provides that any person who knowingly violates a permit condition implementing CWA §§ 301, 302, 306, 307, 308, 318, or 405 shall be punished by a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or by both.

9.2.2.3. Knowing endangerment. Section 309(c)(3) of the Act provides that any person who knowingly violates a permit condition implementing CWA §§ 301, 302, 303, 306, 307, 308, 318, or 405, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. A person that is an organization shall be subject to a fine of not more than $1,000,000.

9.2.2.4. False statements. Section 309(c)(4) of the Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or by both.

Except as provided in Permit conditions in Section 8.6 (''Bypass of Treatment Facilities'') and Section 8.7 (''Upset Conditions''), nothing in this Permit shall be construed to relieve a permittee of the civil or criminal penalties for noncompliance.

9.3. Need To Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Permit.

9.4. Duty To Mitigate

A permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this Permit that has a reasonable likelihood of adversely affecting human health or the environment.

9.5. Proper Operation and Maintenance

A permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by a permittee to achieve compliance with the conditions of this Permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when the operation is necessary to achieve compliance with the conditions of this Permit.

9.6. Bypass of Treatment Facilities

9.6.1. Bypass not exceeding limitations. A permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of the following sections.

9.6.2. Notice.

9.6.2.1. Anticipated bypass. If a permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass.

9.6.2.2. Unanticipated bypass. A permittee shall submit notice of an unanticipated bypass as required under Section 8.3 (''Twenty-four hour notice of noncompliance reporting'').

9.6.3. Prohibition of bypass.

9.6.3.1. Bypass is prohibited, and the Director or ADEC may take enforcement action against a permittee for a bypass, unless:

- The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and
- A permittee shall submit notices as required under Section 9.6.2.

9.6.3.2. The Director and ADEC may approve an anticipated bypass, after considering its adverse effects, if the Director and ADEC determine that it will meet the three conditions listed above in this Section.

9.7. Upset Conditions

9.7.1. Effect of an Upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if a permittee meets the requirements of Section 9.7.2. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

9.7.2. Conditions Necessary for a Demonstration of Upset. To establish the affirmative defense of upset, a permittee shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

9.7.2.1. An upset occurred and that a permittee can identify the cause(s) of the upset;

9.7.2.2. The permitted facility was at the time being properly operated;

9.7.2.3. A permittee submitted notice of the upset as required under Section 8.3 (''Twenty-four hour notice of noncompliance reporting); and

9.7.2.4. A permittee complied with any remedial measures required under Section 9.4 (''Duty to Mitigate'').

9.7.3. Burden of Proof. In any enforcement proceeding, a permittee seeking to establish the occurrence of an upset has the burden of proof.

9.8. Planned Changes

A permittee shall give notice to the Director and ADEC as soon as possible of any planned physical alterations or

additions to the permitted facility whenever:

9.8.1. Alteration or Addition. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR 122.29(b); or

The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in this Permit.

A permittee shall give notice to the Director and ADEC as soon as possible of any planned changes in process or chemical use whenever such change could significantly change the nature or increase the quantity of pollutants discharged.

9.9. Anticipated Noncompliance

A permittee shall also give advance notice to the Director and ADEC of any planned changes in the permitted facility or activity that may result in noncompliance with this Permit.

10.0. General Provisions

10.1. Permit Actions

This Permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by a permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

10.2. Duty To Reapply

If a permittee intends to continue an activity regulated by this Permit after the expiration date of this Permit, a permittee must apply for and obtain a new permit.

10.3. Duty to Provide Information

A permittee shall furnish to the Director and ADEC, within the time specified in the request, any information that the Director or ADEC may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Permit, or to determine compliance with this Permit. A permittee shall also furnish to the Director or ADEC, upon request, copies of records required to be kept by this Permit.

10.4. Other Information

When a permittee becomes aware that it failed to submit any relevant facts in a permit application, or that it submitted incorrect information in a permit application or any report to the Director or ADEC, it shall promptly submit the omitted facts or corrected information.

10.5. Signatory Requirements

All NOIs, reports or information submitted to the Director and ADEC shall be signed and certified as follows:

10.5.1. NOIs. All NOIs shall be signed as follows:

10.5.1.1. For a corporation: by a principal corporate officer.

10.5.1.2. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.

10.5.1.3. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.

10.5.2. Required Reports. All reports required by this Permit and other information requested by the Director or ADEC shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

10.5.2.1. The authorization is made in writing by a person described above and submitted to the Director and ADEC, and

10.5.2.2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

'*10.5.3.* Changes to Authorization. If an authorization under Section 10.5.2.2 above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Section 10.5.2.2 above must be submitted to EPA and ADEC prior to or together with any reports, information, or applications to be signed by an authorized representative.

10.5.4. Certification. Any person signing a document under this Part shall make the following certification:

''I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.''

10.6. Availability of Reports

Except for data determined to be confidential under 40 CFR 2, all reports prepared in accordance with this Permit shall be available for public inspection at the offices of the Director and ADEC. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.

10.7. Inspection and Entry

A permittee shall allow the Director, ADEC, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon the presentation of credentials and other documents as may be required by law, to:

10.7.1. Enter upon a permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Permit;

10.7.2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;

10.7.3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and

10.7.4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

10.8. Oil and Hazardous Substance Liability

Nothing in this Permit shall be construed to preclude the institution of any legal action or relieve a permittee from any responsibilities, liabilities, or penalties to which a permittee is or may be subject under Section 311 of the Act.

10.9. Property Rights

The issuance of this Permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

10.10. Severability

The provisions of this Permit are severable. If any provision of this Permit, or the application of any provision of this Permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of

this Permit, shall not be affected thereby.

10.11. Transfers

This Permit may be automatically transferred to a new permittee if:

10.11.1. The current permittee notifies the Director at least 60 days in advance of the proposed transfer date;

10.11.2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

10.11.3. The Director does not notify the existing permittee and the proposed new permittee of any intent to modify, or revoke and reissue the permit.

10.11.4. If the notification from the Director (Section 10.11.3.) is not received, the transfer is effective on the date specified in the agreement between the existing and new permittee (Section 10.11.2).

10.12. State Laws

Nothing in this Permit shall be construed to preclude the institution of any legal action or relieve a permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Act.

10.13. Reopener Clause

10.13.1. This Permit shall be modified, or alternatively, revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under §§ 301(b)(2)(C) and (D), 304(b)(2), and 307(a)(2) of the Act, as amended, if the effluent standard, limitation, or requirement so issued or approved:

10.13.1.1. Contains different conditions or is otherwise more stringent than any condition in this Permit; or

10.13.1.2. Controls any pollutant or disposal method not addressed in this Permit.

10.13.2. This Permit as modified or reissued under this paragraph shall also contain any other requirements of the Act then applicable. This Permit may be reopened to adjust any effluent limitations if future water quality studies, waste load allocation determinations, or changes in water quality standards show the need for different requirements.

11.0. Definitions and Acronyms

AAC means Alaska Administrative Code.

ADEC means Alaska Department of Environmental Conservation.

Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

CFR means the Code of Federal Regulations.

Coastal zone means the waters within three nautical miles of the Pribilof Islands.

Cooling water means once-through non-contact cooling water.

CWA means the Clean Water Act.

Discharge of a pollutant means any addition of any ''pollutant'' or combination of pollutants to ''waters of the United States'' from any ''point source''.

Domestic wastes means materials discharged from showers, sinks, safety showers, eye-wash stations, hand-wash stations, galleys, and laundries.

EPA means the United States Environmental Protection Agency.

Exclusion zone means within one-half nautical mile of areas of special concerns.

Garbage means all kinds of victual, domestic, and operational waste, excluding fresh fish and part thereof, generated during the normal operation and liable to be disposed of continuously or periodically except dishwater, gray water, and those substances that are defined or listed in other Annexes to MARPOL 73/78.

GPS means Global Positioning System.

Gray water means galley, bath and shower wastewater.

Irreparable harm means significant undesirable effects occurring after the date of permit issuance which will not be reversed after cessation or modification of the discharge.

Marine environment means that territorial seas, the contiguous zone and the oceans.

Marine sanitation device includes any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, or any process to treat such sewage.

MLLW means mean lower low water.

MSD means marine sanitation device.

NMFS means United States National Marine Fisheries Service.

NOI means a ''Notice of Intent,'' that is, an application, to be authorized to discharge under a general NPDES permit.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

Poor flushing means average currents or turbulence of less than one-third (0.33) of a knot at any point in the receiving water within 300 feet of the outfall.

Sanitary wastes means human body waste discharged from toilets and urinals.

Seafood means the raw material, including freshwater and saltwater fish and shellfish, to be processed, in the form in which it is received at the processing plant.

Seafood process waste means the waste fluids, organs, flesh, bones, woody fiber and chitinous shells produced in the conversion of aquatic animals and plants from a raw form to a marketable form.

Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Sewage means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes.

Unreasonable degradation of the marine environment means: (1) Significant adverse changes in ecosystem diversity, productivity and stability of the biological community within the area of discharge and surrounding biological communities, (2) Threat to human health through direct exposiure to pollutants or through consumption of exposed aquatic organisms, or (3) Loss of esthetic, recreational, scientific or economic values which is unreasonable in relation to the benefit derived from the discharge.

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

U.S.C. means United States Code.

USFWS means United States Fish and Wildlife Service.

Water depth means the depth of the water between the surface and the seafloor as measured at mean lower low water (0.0).

[FR Doc. 96–2224 Filed 2–2–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Beulah Bancorporation, Inc., et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 20, 1996.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Beulah Bancorporation, Inc., Sioux Falls, South Dakota; to engage *de novo* in making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

2. Lake Benton Bancorporation, Inc., Sioux Falls, South Dakota; to engage *de novo* in making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 30, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–2310 Filed 2–2–96; 8:45 am]

BILLING CODE 6210–01–F

Prairieland Employee Stock Ownership Plan; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company also has given notice under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal to acquire the non-banking subsidiaries can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 26, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Prairieland Employee Stock Ownership Plan, Bushnell, Illinois; to become a bank holding company by acquiring 30 percent of the voting shares of Prairieland Bancorp, Inc., Bushnell, Illinois, and thereby indirectly acquire Farmers & Merchants State Bank, Waunakee, Wisconsin.

In connection wit this application, Prairieland Employee Stock Ownership Plan, Bushnell, Illinois, and Prairieland Bancorp, Inc., Bushnell, Illinois, also have applied to engage in the activities of (i) making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y, and (ii) in providing tax services, pursuant to § 225.25(b)(21) of the Board's Regulation Y.The Geographic scope for these activities is Bushnell, Illinois.

Board of Governors of the Federal Reserve System, January 30, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–2311 Filed 2–2–96; 8:45 am]

BILLING CODE 6210–01–F

Miles Jeffrey Qvale, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 15, 1996.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Miles Jeffrey and Paige Qvale, to acquire an additional 10.69 percent, for a total of 34.36 percent, of the voting shares of Marin National Bancorp, San Rafael, California, and thereby indirectly acquire First National Bank of Marin, San Rafaell, California.

In connection with this application, Bruce Hammond and Kathryn Qvale, have also applied to acquire an additional 10.68 percent, for a total of 32.17 percent, of the voting shares of Marin National Bancorp, San Rafael, California.

Board of Governors of the Federal Reserve System, January 30, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–2312 Filed 2–2–96; 8:45 am]

BILLING CODE 6210–01–F

United Bankshares, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has given notice under § 225.23(a)(2) or (e) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (e)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received not later than February 20, 1996.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. United Bankshares, Inc., Charleston, West Virginia; to acquire Eagle Bancorp, Inc., Charleston, West Virginia, and thereby indirectly acquire First Empire Federal Savings and Loan Association, Charleston, West Virginia, and thereby engage in the operation of a savings and loan association, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 30, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–2313 Filed 2–2–96; 8:45 am]

BILLING CODE 6210–01–F

Westwood Financial Corporation; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than February 26, 1996.

A. Federal Reserve Bank of New York (Christopher J. McCurdy, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. Westwood Financial Corporation, Westwood, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of Westwood Savings Bank, Westwood, New Jersey.

Board of Governors of the Federal Reserve System, January 30, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–2314 Filed 2–2–96; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Advisory Committee on Immunization Practices (ACIP).

Times and Dates: 8:30 a.m.–6 p.m., February 21, 1996; 8:30 a.m.–2:45 p.m., February 22, 1996.

Place: CDC, Auditorium A, Building 2, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents.

Matters To Be Discussed: The Committee will discuss issues regarding use of a cellular pertussis vaccines in infants; polio vaccination recommendation and schedule; approval of pneumococcal vaccination recommendation; harmonization schedule; update on the Vaccine Injury Compensation Program; update on the National Vaccine Program Office; vaccination of HIV-infected persons; update on the influenza season; influenza vaccination in HIV-infected persons; influenza vaccine strain selection for 1996–1997; proposed modifications in the ACIP influenza statement; timing of vaccination campaigns: influenza vaccine and pregnancy; review of measles, mumps, rubella policy statement; programmatic strategies to increase immunization coverage; varicella update; update on progress towards disease elimination goals; CDC working group on new vaccines; update on the National Immunization Survey; and new rabies vaccine: modification of guidelines for treatment of bat rabies. Other matters of relevance among the Committee's objectives may be discussed.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Gloria A. Kovach, Committee Management Specialist, CDC, 1600 Clifton Road, NE., Mailstop A20, Atlanta, Georgia 30333, telephone 404/639–3851.

Dated: January 31, 1996.

Carolyn J. Russell,

Director, Management Analysis and Services Office Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–2423 Filed 2–2–96; 8:45 am]

BILLING CODE 4163–18–M

National Center for Environmental Health Strategic Directions; Public Meeting

The National Center for Environmental Health (NCEH) and the Centers for Disease Control and Prevention (CDC), announces the following meeting.

Name: National Center for Environmental Health (NCEH) Strategic Directions—Public Meeting.

Time and Date: 8 a.m.–5 p.m., February 13, 1996.

Place: CDC, 4770 Buford Highway, NE, Building 101, Rooms 1301A and 1301B, Chamblee, Georgia 30341–3724, telephone 770/488–7020.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50.

Purpose: The purpose of this meeting is to provide a forum for individuals and organizations interested in NCEH's activities to provide feedback on the future direction of NCEH programs.

Matters To Be Discussed: NCEH is embarking on a planning effort to determine priorities and set the direction for future activities. Current NCEH program activities include the broad categories of birth defects and developmental disabilities surveillance and prevention; disabilities prevention; emergency response; environmental epidemiology; and environmental health laboratory sciences.

This individual feedback will be used by NCEH in its strategic planning efforts as dictated by the Government Performance and Results Act and as requested by Congress in fiscal year 1996 appropriations language.

Contact Person for Additional Information: Alison E. Kelly, Public Health Analyst, Office of Planning, Evaluation and Legislation (F29), NCEH, CDC, 4770 Buford Highway NE., Chamblee, Georgia 30341–3724, telephone 770/488–7250, fax 770/488–7024.

Dated: January 30, 1996.

John C. Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–2362 Filed 2–2–96; 8:45 am]

BILLING CODE 4163–18–M

National Committee on Vital and Health Statistics: Meeting

Pursuant to Pub. L. 92–463, The National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS).

Times and Dates: 9 a.m.–5 p.m., March 12, 1996; 9 a.m.–5 p.m., March 13, 1996.

Place: Room 503A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201

Status: Open.

Purpose: The purpose of this meeting is for the Committee to discuss its draft recommendations for core health data elements and definitions for enrollment and encounters, and its plans to submit them to the field for comment; to discuss the Committee's work plan for the coming year; to consider reports from each NCVHS subcommittee; to receive reports form offices of the Department of Health and Human Services and department-wide Data Council; and to address new business as appropriate.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a government identification card should plan to arrive at the building each day either between 8:30 and 9:00 a.m. or 12:30 and 1:00 p.m. so they can be escorted to the meeting. Entrance to the meeting at other times during the day cannot be assured.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belecrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

Dated: January 30, 1996.

John C. Burchkhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–2361 Filed 2–2–96; 8:45 am]

BILLING CODE 4163–18–M

Health Care Financing Administration

Public Information Collection Requirements Submitted for Public Comment and Recommendations

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services (HHS), has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New; *Title of Information Collection:* National Provider System (NPS); *Form No.:* HCFA–R–187; *Use:* HHS is consolidating provider enumeration across programs. The NPS will be used in program operations and management to assign provider identification numbers; i.e., billing numbers for claims processing and payment. It will replace the current Medicare Physician and Eligibility System and Unique Physician Identifier Number; it will replace the enumeration functions of the Medicare Online Survey, Certification and Reporting System, Clinical Laboratories Improvement Amendments of 1988, and National Supplier Clearing House provider numbering systems. *Frequency:* On occasion; *Affected Public:* Business or other for-profit, not-for-profit institutions, Federal Government, and State, local or tribal government; *Number of Respondents:* 45,000; *Total Annual Hours Requested:* 23,000. To request copies of the proposed paperwork collection referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: January 30, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–2289 Filed 2–2–96; 8:45 am]

BILLING CODE 4120–03–P

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of a Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart,

Lung, and Blood Special Emphasis Panel (SEP) meeting:

Name of SEP: Demonstration and Education Research Applications.

Date: February 27–28, 1996.

Time: 9:00 a.m.

Place: Washington National Airport Hilton (formerly Stouffer Concourse Hotel) Arlington, VA.

Contact Person: Louise P. Corman, Ph.D., Two Rockledge Center, Room 7180, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0270.

Purpose/Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in secs 552b(c)(4) and 552b(c)(6, Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: January 26, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2303 Filed 2–2–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

Purpose: To review grant applications.

Committee Name: National Institute of General Medical Sciences Special Emphasis Panel—Trauma and Burn.

Date: February 1, 1996.

Time: 10:30 a.m.–12 p.m. (TELECONFERENCE).

Place: 45 Center Drive, Conference Room 1AS–19K, Bethesda, Maryland 20892–6200.

Contact Person: Dr. Bruce Wetzel, Scientific Review Administrator, NIGMS, 45 Center Drive, Room 1AS–19K, Bethesda, MD 20892–6200.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the above meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93;880, Minority Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS]).

Dated: January 29, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2304 Filed 2–2–96; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration; Proposed Data Collection Available for Public Comment

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 to provide the opportunity for public comment on proposed data collection projects, the Substance Abuse and Mental Health Services Administration publishes periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the SAMHSA Reports Clearance Officer on (301) 443–0525.

Revised Notice

On Wednesday, November 29, 1995 SAMHSA published a notice in the Federal Register inviting public comment on the FY 1997 Substance Abuse Prevention and Treatment (SAPT) Block Grant Application Format. The Public Health Service Act (42 U.S.C. 300x 21–35 & 51–64) authorizes block grants to States for the purpose of providing substance abuse prevention and treatment services. Under the provisions of the law, States may receive allotments only after an application is submitted and approved by the Secretary, DHHS. The notice of November 29 stated that the block grant application format SAMHSA proposed to distribute to States for FY 1997 would be the same as the FY 1996 format. (The FY 1996 SAPT Block Grant Application Format was approved under OMB No. 0930–0080.) This notice amends the earlier notice. On Friday, January 19, the Tobacco Regulation for Substance Abuse Prevention and Treatment Block Grant (45 CFR Part 96) was issued as a final rule. (See Federal Register Vol. 61, No. 13.) This final rule requires States applying for a block grant to report annually on their activities and plans related to enforcing State laws prohibiting the sale or distribution of tobacco products to minors. The report is to be submitted as part of the block grant application. The addition of the forms and narrative implementing this reporting requirement is the only substantive change that SAMHSA plans to make to the FY 1997 block grant application format. It is estimated that the additional response burden will average 24 hours per State. The total annual burden estimate is shown below:

No. of Respondents	No. of responses per respondent	Avg. burden per response	Total annual burden
60	1	554 hours	33,240 hours.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Deborah Trunzo, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: January 30, 1996.

Richard Kopanda,

Acting Executive Officer, SAMHSA.

[FR Doc. 96–2333 Filed 2–2–96; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq*.).

PRT–810396

Applicant: Dr. Patrick Redig, The Raptor Center, University of Minnesota, St. Paul, Minnesota.

The applicant requests a permit to take (capture and release, handle, temporarily hold) Peregrine Falcons (*Falco peregrinus*) in Indiana, Iowa, Illinois, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. The permit is sought for activities proposed to aid sick and injured specimens, study effects of contaminant exposure, monitor behavior and population dynamics, rear Peregrine Falcons and release them into the wild. Activities will aid in recovery of the species.

PRT–810469

Applicant: Dr. James R. Curry, Franklin College, Franklin, Indiana.

The applicant requests a permit to take (capture and release, collect to document species' presence) Hine's Emerald Dragonflies (*Somatochlora hineana*) throughout the State of Indiana. The permit is sought for the purpose of documenting presence/absence of the species within Indiana, which is in its historic range. The species is believed to be extirpated.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review 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, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/725–3536 x 250); FAX: (612/725–3526).

Dated: January 30, 1996.

John A. Blankenship,

Assistant Regional Director, Ecological Services, Region 3, Fish and Wildlife Service, Fort Snelling, Minnesota.

FR Doc. 96–2336 Filed 2–2–96; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[OR–015–96–3809–00: GP6–0051]

Tucker Hill Perlite Mining Plan of Operations Final Environmental Impact Statement

AGENCY: Bureau of Land Management.

ACTION: Notice of Availability, Tucker Hill Perlite Mining Plan of Operations Final Environmental Impact Statement (FEIS).

SUMMARY: In accordance with section 102(c) of the National Environmental Policy Act, the Lakeview District has prepared an abbreviated FEIS analyzing the environmental impacts of a perlite quarry in Lake County, Oregon, which outlines the BLM's intent to adopt alternative C as the preferred alternative. The FEIS is expected to be available for review on or about February 9, 1996.

Atlas Perlite, Inc. proposes to develop a 15–20 acre perlite quarry and associated temporary waste rock dump on Tucker Hill located approximately 35 miles northwest of the town of Lakeview, Oregon. The total area of disturbance is estimated to be about 32 acres. The ore would be hauled from Tucker Hill to Lakeview where it would be crushed and transported via truck or rail to markets mainly in the northwest.

DATES: This notice announces the beginning of the public review period which officially closes 30 days from the date the U.S. Environmental Protection Agency publishes its notice of availability of the FEIS in the Federal Register.

SUPPLEMENTARY INFORMATION: Those individuals, organizations, native American tribes, agencies, and other governments with a known interest in the proposal were sent a copy of the DEIS. Comments received on the DEIS have been addressed within the FEIS. These same individuals, groups, tribes, and agencies were sent a copy of the FEIS. Reading copies of the document are available at the Lake, Klamath, and Harney County, Oregon, libraries and at the Public Room, Oregon State Office, 1515 SW 5th, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Copies of the FEIS may be requested and/or comments directed to Ted Davis or Paul Whitman at Lakeview District, BLM, P.O. Box 151, Lakeview, OR 97630 or by telephone at (541) 947–2177.

Edwin J. Singleton,

District Manager.

[FR Doc. 96–2293 Filed 2–2–96; 8:45 am]

BILLING CODE 4310–33–P

[NV–040–1020–001]

Northeastern Great Basin Resource Advisory Council; Notice of Meeting Locations and Times

AGENCY: Bureau of Land Management, DOI.

ACTION: Resource Advisory Council Meeting Location and Time.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. the Department of the Interior, Bureau of Land Management (BLM) Council meeting will be held as indicated below. The agenda for the meeting includes approval of minutes of the previous meeting, continuation of Council orientation, initial discussion of Standards and Guidelines for management of the public lands within the jurisdiction of the Council, and determination of the subject for future meetings.

This meeting is open to the public. The public may present written comments to the Council. The Council meeting will also have time allocated for hearing public comments. The public comment period for the meeting is listed below. Depending on the number of persons wishing to comment and time available, the time for individual comments may be limited. Individuals who plan to attend and need information about the meetings, or need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Public Affairs at the Ely District Office, 702 North Industrial Way, Ely, NV 89301, telephone 702–289–1920.

The time and location of the meeting is as follows: Northeastern Great Basin Resource Advisory Council, Holiday Inn Prospector Casino, 1501 Ave. F, Ely, NV 89301; February 21–22, 1996, start time 8:30 a.m.; public comment period February 22 at 1:00 p.m.

FOR FURTHER INFORMATION CONTACT: Bill Dunn HC 33 Box 33500, Ely, Nevada, 702–289–1920.

SUPPLEMENTARY INFORMATION: The purpose of the Council is to advise the Secretary of the Interior, through the BLM on a variety of planning and

management issues associated with the management of the public lands.

Gene Kolkman,

District Manager.

[FR Doc. 96–2166 Filed 2–2–96; 8:45 am]

BILLING CODE 4310–HC–M

Bureau of Reclamation

Quarterly Status Report of Water Service and Repayment Contract Negotiations

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given of proposed contractual actions pending through December 31, 1996, and contract actions that have been completed or discontinued since the last publication of this notice on September 29, 1995. From the date of this publication, future quarterly notices during this calendar year will be limited to modified, new, completed or discontinued contract actions. This annual notice should be used as a point of reference to identify changes in future notices. This notice is one of a variety of means used to inform the public about proposed contractual actions for capital recovery and management of project resources and facilities. Additional Bureau of Reclamation (Reclamation) announcements of individual contract actions may be published in the Federal Register and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation procedures do not apply to proposed contracts for sale of surplus or interim irrigation water for a term of 1 year or less. Either of the contracting parties may invite the public to observe contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act.

ADDRESSES: The identify of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the supplementary information.

FOR FURTHER INFORMATION CONTACT: Alonzo Knapp, Manager, Reclamation Law, Contracts, and Repayment Office, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225–0007; telephone 303–236–1061 extension 224.

SUPPLEMENTARY INFORMATION: Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273) and 43 CFR 426.20 of the rules and regulations published in *52 FR 11954*, Apr. 13, 1987, Reclamation will publish notice of the proposed or amendatory contract actions for any contract for the delivery of project water for authorized uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Pursuant to the ''Final Revised Public Participation Procedures'' for water resource-related contract negotiations, published in *47 FR 7763*, Feb. 22, 1982, a tabulation is provided of all proposed contractual actions in each of the five Reclamation regions. Each proposed action is, or is expected to be, in some stage of the contract negotiation process in 1996. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary of the Interior, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the regional directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation.

3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

4. Written comments on a proposed contract or contract action must be submitted to the appropriate regional officials at the locations and within the time limits set forth in the advance public notices.

5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate regional director or his designated public contact as they become available for review and comment.

7. In the event modifications are made in the form of a proposed contract, the appropriate regional director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to: (i) The significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. As a minimum, the regional director shall furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Acronym Definitions Used Herein

(BCP)	Boulder Canyon Project
(CAP)	Central Arizona Project
(CUP)	Central Utah Project
(CVP)	Central Valley Project
(CRSP)	Colorado River Storage Project
(D&MC)	Drainage and Minor Construction
(FR)	Federal Register
(IDD)	Irrigation and Drainage District
(ID)	Irrigation District
(M&I)	Municipal and Industrial
(O&M)	Operation and Maintenance
(P–SMBP)	Pick-Sloan Missouri Basin Program
(R&B)	Rehabilitation and Betterment
(PPR)	Present Perfected Right
(RRA)	Reclamation Reform Act
(NEPA)	National Environmental Policy Act
(SRPA)	Small Reclamation Projects Act
(WCUA)	Water Conservation and Utilization Act
(WD)	Water District

Pacific Northwest Region

Bureau of Reclamation, 1150 North Curtis Road, Boise, Idaho 83706–1234, telephone 208–378–5346.

1. Irrigation, M&I, and Miscellaneous Water Users; Columbia Basin, Crooked River, Deschutes, Minidoka, Rathdrum Prairie, Rogue River Basin, and Umatilla Projects; Idaho, Oregon, and Washington: Temporary or interim repayment and water service contracts for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. Rogue River Basin Water Users, Rogue River Basin Project, Oregon: Water service contracts; $8 per acre-foot per annum.

3. Willamette Basin Water Users, Willamette Basin Project, Oregon: Water service contracts; $8 per acre-foot per annum.

4. American Falls Reservoir District Number 2, Burgess Canal Company, Clark and Edwards Canal and Irrigation Company, Craig-Mattson Canal Company, Danskin Ditch Company, Enterprise Canal Company, Ltd., Farmers Friend Irrigation Company, Ltd., Lenroot Canal Company, Liberty Park Canal Company, Long Island Irrigation Company, Parks and Lewisville Irrigation Company, Ltd., Parsons Ditch Company, Peoples Canal and Irrigation Company, Poplar ID, Rigby Canal and Irrigating Company, Rudy Irrigation Canal Company, Ltd., Wearyrick Ditch Company, all in the Minidoka Project, Idaho; Juniper Flat ID, Wapinitia Project, Oregon; Roza ID, Yakima Project, Washington: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

5. Willow Creek Water Users, Willow Creek Project, Oregon: Repayment or water service contracts for a total of up to 3,500 acre-feet of storage space in Willow Creek Reservoir.

6. Bridgeport ID, Chief Joseph Dam Project, Washington: Warren Act contract for the use of an irrigation outlet in Chief Joseph Dam.

7. Ochoco ID and Various Individual Spaceholders, Crooked River Project, Oregon: Repayment contract for reimbursable cost of dam safety repairs to Arthur R. Bowman and Ochoco Dams.

8. Sidney Irrigation Cooperative, Willamette Basin Project, Oregon: Irrigation water service contract for approximately 2,300 acre-feet.

9. Douglas County, Milltown Hill Project, Oregon: SRPA loan repayment contract; proposed combination loan and grant obligation of approximately $31 million.

10. Palmer Creek Water District Improvement Company, Willamette Basin Project, Oregon: Irrigation water service contract for approximately 13,000 acre-feet.

11. U.S. Fish and Wildlife Service, Boise Project, Idaho: Irrigation water service contract for the use of approximately 200 acre-feet of storage space annually in Anderson Ranch Reservoir. Water to be used on crops for wildlife mitigation purposes.

12. City of Madras, Deschutes Project, Oregon: Renewal or replacement of municipal water service contract for approximately 125 acre-feet annually from the project water supply.

13. Willamette Basin water users, Willamette Basin Project, Oregon: Two water service contracts for the exchange of up to 225 acre-feet of water for diversion above project reservoirs.

14. Lewiston Orchards ID, Lewiston Orchards Project, Idaho: Repayment contract for reimbursable cost of dam safety repairs to Reservoir ''A.''

15. North Unit ID, Deschutes Project, Oregon: Repayment contract for reimbursable cost of dam safety repairs to Wickiup Dam.

16. Stanfield and Westland Irrigation Districts, Umatilla Project, Oregon: Repayment contracts for reimbursable cost of dam safety repairs to McKay Dam.

17. Fremont-Madison Irrigation District, Minidoka Project, Idaho-Wyoming: Supplemental and amendatory contract providing for the transfer of operation and maintenance for the remaining reserved works of the Upper Snake Storage Division (including Cascade Creek Diversion Dam, Grassy Lake Dam and Reservoir, and Island Park Dam and Reservoir).

18. North Unit Irrigation District, Deschutes Project, Oregon: Warren Act contract with cost of service charge to allow for use of project facilities to convey nonproject water.

19. Hermiston, Stanfield, Westland, and West Extension Irrigation Districts, Umatilla Project, Oregon: Temporary contracts to provide water service for 1996 to lands lying outside of their boundaries.

Mid-Pacific Region

Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone 916–979–2401.

1. Tuolumne Utility District (formerly Tuolumne Regional WD), CVP, California: Water service contract for up to 9,000 acre-feet from New Melones Reservoir.

2. Irrigation water districts, individual irrigators, M&I and miscellaneous water users, Mid-Pacific Region projects other than CVP: Temporary (interim) water service contracts for available project water for irrigation, M&I, or fish and wildlife purposes providing up to 10,000 acre-feet of water annually for terms up to 5 years; temporary Warren Act contracts for use of project facilities for terms up to 1 year; long-term contracts for similar service for up to 1,000 acre-feet annually. Note. Copies of the standard forms of temporary water service contracts for the various types of service are available upon written request from the Regional Director at the address shown above.

3. Contractors from the American River Division, Buchanan Division, Cross Valley Canal, Delta Division, Friant Division, Hidden Division, Sacramento River Division, Shasta Division, and Trinity River Division, CVP, California: Renewal of existing long-term water service contracts with contractors whose contracts expire between 1995 and 1998; water quantities for these contracts total in excess of 1.7M acre-feet. These contract actions will be accomplished through interim renewal contracts pursuant to Pub. L. 102–575.

4. Redwood Valley County WD, SRPA, California: District is considering restructuring the repayment schedule pursuant to Pub. L. 100–516 or initiating new legislation to prepay the loan at a discounted rate. Prepayment option under Pub. L. 102–575 has expired.

5. Truckee Carson ID, Newlands Project, Nevada: New contract for the operation and maintenance of Newlands Project facilities and the collection of the unpaid construction costs for the original contract. The United States terminated the original contract, and this was upheld by the U.S. District Court in Nevada on August 17, 1983.

6. Sacramento River water rights contractors, CVP, California: Contract amendment for assignment under voluntary land ownership transfers to provide for the current CVP water rates and update standard contract articles.

7. Naval Air Station and Truckee Carson ID, Newlands Project, Nevada: Amend water service Agreement No. 14–06–400–1024 for the use of project water on Naval Air Station land.

8. El Dorado County Water Agency, San Juan WD, and Sacramento County Water Agency, CVP, California: M&I water service contract aid supplement existing water supply: 15,000 acre-feet for El Dorado County Water Agency 13,000 acre-feet for San Juan WD, and 22,000 acre-feet for Sacramento County Water Agency, authorized by Pub. L. 101–514.

9. U.S. Fish and Wildlife Service, California Department of Fish and Game, Grassland WD, CVP, California: Water service contracts to provide water supplies for refuges within the CVP pursuant to Federal Reclamation Laws; exchange agreements and wheeling contracts to deliver some of the increased refuge water supplies; quantity to be contracted for is approximately 450,000 acre-feet.

10. San Juan Water District, CVP, California: Execute Warren Act contract to replace expiring long-term wheeling contract with San Juan WD and the Placer County Water Agency allowing the Agency to use CVP facilities to deliver its water to the District for use on District land within Placer County.

11. Mountain Gate CSD, CVP, California: Amendment of existing long-term water service contract to include right to renew. This amendment will also conform the contract to current Reclamation law, including Pub. L. 102–575.

12. Pershing County Water Conservation District, Nevada: Repayment contract for Safety of Dams work on Rye Patch Dam.

13. Santa Barbara County Water Agency: Repayment contract for Safety of Dams work on Bradbury Dam.

14. Central Valley Project Service Area, California: Temporary water purchase agreements for acquisition of 20,000 to 200,000 acre-feet of water for fish and wildlife purposes as authorized by the Central Valley Project Improvement Act for terms of up to 3 years.

15. City of Folsom, CVP, California: Amendment of existing water rights conveyance contract to allow delivery of an additional 5,000 acre-feet of water from Folsom Reservoir that has been acquired from the Southern California Water Company.

16. Napa County Flood Control and Water Conservation District, Solano Project, California: Amend water service contract to decrease quantity.

17. City of Roseville, CVP, California: Execution of long-term Warren Act contract for conveyance of non-project water provided from the Placer County Water Agency. This contract will allow CVP facilities to be used to deliver non-project water to the City of Roseville for use within their service area.

18. Sacramento Municipal Utility District, CVP, California: Amendment of existing water service contract to allow for additional points of diversion, and assignment of up to 15,000 acre-feet of project water to the Sacramento County Water Agency. The amended contract will conform to current Reclamation law.

Lower Colorado Region:

Bureau of Reclamation, P.O. Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone 702–293–8536.

1. Milton and Jean Phillips, Kenneth or Ann Easterday, Robert E. Harp, Cameron Brothers Construction Co., Ogram Farms, Bruce Church, Inc., Sturges Farms, Inc., Sunkist Growers, Inc., Clayton Farms, BCP, Arizona: Water service contracts, as recommended by Arizona Department of Water Resources, with agricultural entities located near the Colorado River for up to an additional 15,557 acre-feet per year total.

2. Arizona State Land Department, State of Arizona, BCP, Arizona: Contract for 6,607 acre-feet per year of Colorado River water for agricultural use and related purposes on State-owned land. This contract action reflects an increase in prior contract recommendation in the amount of 6,292 acre-feet per year.

3. Armon Curtis, Arlin Dulin, Jacy Rayner, Glen Curtis, Jamar Produce Corporation, and Ansel T. Hall, BCP, Arizona: Water service contracts; purpose is to amend their contracts to exempt them from the Reclamation Reform Act of 1982 (Pub. L. 97–293).

4. Cibola Valley IDD, BCP, Arizona: Cibola Valley IDD is looking at the possibility of transferring, leasing, selling, or banking its entitlement of 22,560 acre-feet, for use in Arizona, California, or Nevada.

5. Consolidated Water Co., Havasu Water Co., Quartzsite, McAllister Subdivision, City of Parker, and Arizona State Land Department, BCP, Arizona: Contracts for additional M&I allocations of Colorado River water to entities located along the Colorado River in Arizona for up to 3,759 acre-feet per year as recommended by the Arizona Department of Water Resources.

6. National Park Service for Lake Mead National Recreation Area, Supreme Court Decree in *Arizona* v. *California*, and BCP in Arizona and Nevada: Memorandum of Understanding for delivery of Colorado River water for the National Park Service's Federal Establishment (PPR) of 500 acre-feet of diversions annually, and the National Park Service's Federal Establishment perfected right pursuant to Executive Order No. 5125 (April 25, 1930).

7. Mohave Valley ID, BCP, Arizona: Amendment of current contract for additional Colorado River water, change in service areas, diversion points, and RRA exemption.

8. Kent Sea Farms, Yuma, AZ: Contract to divert and return 32,000 acre-feet of water per year from and to, respectively, the Main Outlet Drain Extension for one or more fish farms.

9. Miscellaneous PPR entitlement holders, BCP, Arizona and California: New contracts for entitlements to Colorado River water as decreed by the U.S. Supreme Court in *Arizona* v. *California*, as supplemented or amended, and as required by Section 5 of the BCPA. Miscellaneous PPR holders are listed in the *Arizona* v. *California* settlement. Also, conversion of PPR entitlements for irrigation water to M&I water entitlements.

10. W.F. West, BCP, California: Miscellaneous PPR contract for 0.8774 acre-feet of domestic water.

11. Julia Soto Zozaya and Steve M. Zozaya, Mohave County, BCP, Arizona: Miscellaneous PPR contract for 720 acre-feet of irrigation water.

12. Holpal Miscellaneous PPR, BCP, AZ: Assign a portion of the PPR to Mr. McNutly.

13. Atchison, Topeka and Santa Fe Railway Company, BCP, California: The company intends to transfer its miscellaneous PPR for the diversion of 1,260 acre-feet and consumptive use of 273 acre-feet of Colorado River water to the City of Needles.

14. Federal Establishment PPR entitlement holders, BCP; Individual contracts for administration of Colorado River water entitlements of the Colorado River, Fort Mojave, Quechan, Chemehuevi, and Cocopah Indian Tribes.

15. United States facilities, BCP, Arizona, California, and Nevada: Reservation of Colorado River Water for use at Federal facilities and lands administered by Reclamation.

16. Windsor Beach State Park, Lake Havasu City, AZ: Contract for 130 acre-feet entitlement to Colorado River domestic water.

17. Crystal Beach Water Conservation District, BCP, Arizona: Contract for delivery of 132 acre-feet per year of Colorado River water for domestic use, as recommended by the Arizona Department of Water Resources.

18. Bureau of Land Management, BCP, Arizona: Contract for 1,176 acre-feet per year, for irrigation use, of Arizona's Colorado River water that is not used by higher priority Arizona entitlement holders.

19. Curtis Family Trust et al., BCP, Arizona: Contract for 2,100 acre-feet per year of Colorado River water for agricultural water.

20. Beattie Farms SW, BCP, Arizona: Contract for 1,890 acre-feet per year of unused Arizona entitlement for agricultural use.

21. Section 10 Backwater, BCP, Arizona: Contract for 250 acre-feet per year of unused Arizona entitlement for environmental use until a permanent water supply can be obtained.

22. U.S. Fish and Wildlife Service, Lower Colorado River Refuge Complex, BCP, Yuma, Arizona: Proposed agreement to pool existing Arizona refuge water rights, resolve water rights coordination issues, and to provide for nonconsumptive use flow through water.

23. Yuma County Water Users' Association, Yuma Project, Arizona: Supplementary contract to convert irrigation use water to domestic use water within the Valley Division of the Yuma Project.

24. Yuma Mesa Irrigation and Drainage District, Gila Project, Arizona: Amendment to provide for increase in domestic water allocation (from 10,000 to 20,000 acre-feet) within its overall use in the district.

25. Hilander C Irrigation District, Colorado River Basin Salinity Control Project, AZ: Water delivery contract for 4,500 acre-feet.

26. Kent Sea Farms, Yuma, Arizona: Contract to divert and return 32,000 acre-feet of water per year from and to, respectively, the Main Outlet Drain Extension for one or more fish farms.

27. Central Arizona Water Conservation District, CAP, Arizona: Amend or supplement the master repayment contract between the United States to reflect a pending settlement of certain CAP financial and ancillary issues.

28. Maricopa-Stanfield Irrigation & Drainage District, Stanfield, AZ: District has requested the United States to defer payments and restructure its $78 million distribution system repayment obligation.

29. Agricultural and M&I water users, CAP, Arizona: Water service subcontracts for percentages of available supply reallocated in 1992 for irrigation entities and up to 640,000 acre-feet per year allocated in 1983 for M&I use.

30. Indian and non-Indian agricultural and M&I water users, CAP, AZ: New and amendatory contracts for repayment of Federal expenditures for construction of distribution systems.

31. Gila River Indian Community, CAP, AZ: Master repayment/O&M contract for distribution system to serve up to 77,000 acres.

32. McMicken ID/City of Surprise, AZ: Amend McMicken's CAP subcontract to reduce its entitlement by 4,500 acre-feet and execute a CAP water service subcontract with the City of Surprise for 4,500 acre-feet of CAP water.

33. McMicken ID/Avondale, AZ: Amend McMicken's CAP subcontract to reduce its entitlement by 647 acre-feet and amend Avondale's CAP water service subcontract to increase its entitlement by 647 acre-feet of CAP water.

34. City of Scottsdale and other M&I water subcontractors, CAP, AZ: Subcontract amendments associated with assignment of M&I water service subcontracts from Camp Verde Water System, Inc., Cottonwood Water Works, Inc., Mayer Domestic Water Improvement District, City of Prescott, City of Nogales, Rio Rico Utilities', Inc., and the Yavapai-Prescott Indian Tribe to provide the City of Scottsdale with an additional 17,823 acre-feet of CAP water.

35. Tohono O'odham Nation, SRPA, AZ: Repayment contract for a $7.3 million loan for the Schuk Toak District.

36. San Tan Irrigation District, Chandler Heights, AZ, CAP: Amend distribution system repayment Contract No. 6–07–30–W0120 to increase the repayment obligation approximately $168,000.

37. Chandler Heights Citrus Irrigation District, Chandler Heights, AZ, CAP: Amend distribution system repayment Contract No. 6–07–30–W0119 to increase the repayment obligation approximately $114,000.

38. Central Arizona Drainage and Irrigation District, Phoenix, Arizona, CAP, Amend distribution system repayment Contract No. 4–07–30–W0048 to reschedule repayment terms pursuant to U.S. Bankruptcy Court, District of Arizona.

39. Arizona Sierra Utility Company, Phoenix, AZ, CAP: Assignment to the Town of Florence of 407 acre-feet of CAP municipal and industrial water allocation under subcontract from the Central Arizona Water Conservation District.

40. San Diego County Water Authority, San Diego, California, San Diego Project: Title transfer to the Second Barrel, San Diego Aqueduct composed of over 70 miles of pipeline 4.5 to 8 feet in diameter and related facilities and rights of way.

41. Lower Colorado Water Supply Project, California: Water service and repayment contracts with nonagricultural water users in California adjacent to the Colorado River for an aggregate consumptive use of up to 10,000 acre-feet of Colorado River water per year in exchange for an equivalent amount of water to be pumped into the All-American Canal from a well field to be constructed adjacent to the canal.

42. The Southern California Gas Company, BCP, California: Short-term water delivery contract for 125 acre-feet of surplus Colorado River water for domestic and industrial water users near the City of Needles, California.

43. County of San Bernardino, San Sevaine Creek Water Project, SRPA, California: Project and loan repayment contracts are under reformulation.

44. Imperial ID/Coachella Valley WD and/or The Metropolitan WD of Southern California, BCP, California: Contract to fund the Department of the Interior's expenses to conserve All-American Canal seepage water in accordance with Title II of the San Luis Rey Indian Water Rights Settlement Act, dated November 17, 1988.

45. Coachella Valley WD and/or The Metropolitan WD of Southern California, BCP, California: Contract to fund the Department of the Interior's expenses to conserve seepage water from the Coachella Branch of the All-American Canal in accordance with Title II of the San Luis Rey Indian Water Rights Settlement Act, dated November 17, 1988.

46. United States Navy, BCP, Niland, California: Contract for 22 acre-feet of surplus Colorado River water for domestic use delivered through the Coachella Canal.

47. Southern Nevada Water Authority, BCP, Nevada: Contract to use Federal facilities and land to divert water from Lake Mead at non-Federal expense.

48. Colorado River Commissioner of Nevada, Robert B. Griffith Water Project, BCP, Nevada: Amend the repayment contract to provide for funding of additional facilities by Southern Nevada Water Authority to divert, treat, and convey water out of Lake Mead.

Contract Actions Completed

1. Fort Yuma Indian Reservation (Quechan Indian Reservation), Yuma Project, AZ and CA: Surplus water contract to receive Colorado River Water in the states of AZ and CA. The contract may include surplus and unused apportionment entitlements (51,616 acre-feet or 7,743 acres, whichever is less) and wheeling arrangements with Bard ID. Completed by letter dated May 18, 1995.

2. Imperial ID, Lower Colorado Water Supply Project, CA: Contract providing for administration, operation, maintenance, and replacement of the project well field was executed October 13, 1995.

3. Lake Havasu City and Marble Canyon from item 12 above. Lake Havasu City contract was executed October 4, 1995. Execution of the Marble Canyon contract is in progress.

4. Elsinore Valley Municipal WD, Temescal Valley Project, SRPA, CA: Repayment contract for a $22.3 million loan was executed April 24, 1995.

5. Imperial ID and The Metropolitan WD of Southern California, BCP, California: Temporary contract to store approximately 200,000 acre-feet of water that is expected to be saved over a 2-year period under a test water savings program that involves land fallowing and a modified irrigation plan for alfalfa. Inactive for the foreseeable future.

6. Santa Ana Watershed Project Authority, SRPA, CA: Chino Basin Desalination Program, environmental cleanup to remove salt from

groundwater, $32 million loan. Contract executed May 1, 1995.

7. Gila River Indian Community/Gila River Farms, CAP, Arizona: Repayment/deferment/O&M contract for distribution system not to exceed $4 million. Execution of this contract on September 15, 1995 facilitates construction under Pub. L. 93–638 funding and work performance contract.

8. Gila River Farms, SRPA, AZ: Amendatory contract to reschedule payments due in 1991, 1992, and subsequent years in line with payment capacity. Execution is in progress and is expected to be completed by the end of February 1996.

9. Mohave County, BCP, AZ: Assignment, transfer, or reallocation of 18,500 acre-feet of water from the City of Kingman to a new water authority being formed to serve Mohave County. Assignment accomplished and new contract executed with newly formed Mohave County Water Authority on December 8, 1995.

10. Central Arizona Water Conservation District and the Metropolitan Water District of Southern California, CAP/BCP, Arizona/California: Amendatory Agreement for a demonstration project on underground storage of Colorado River Water in Arizona to increase the project from up to 100,000 acre-feet to 300,000 acre-feet. Action approved May 18, 1995.

11. New Magma Irrigation and Drainage District, Phoenix, Arizona, CENTRAL ARIZONA PROJECT: Amend and Supplement distribution system repayment Contract No. 4–07–30–W0049 to reschedule repayment terms pursuant to U.S. Bankruptcy Court, District of Arizona, Judgement No. B–94–00211–TUC-JMM, June 20, 1995. Execution of restructured repayment contract is in progress.

Upper Colorado Region

Bureau of Reclamation, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1102, telephone 801–524–4419.

1. Individual irrigators, M&I, and miscellaneous water users, Utah, Wyoming, Colorado, and New Mexico: Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 10 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

(a) The Benevolent and Protective Order of the Elks, Lodge No. 1747, Farmington, New Mexico: Navajo Reservoir water service contract; 20 acre-feet per year for municipal use.

2. Southern Ute Indian Tribe, Animas-La Plata Project, Colorado: Repayment contract for 26,500 acre-feet per year for M&I use and 2,600 acre-feet per year for irrigation use in Phase One and 700 acre-feet in Phase Two; contract terms to be consistent with binding cost sharing agreement and water rights settlement agreement.

3. Ute Mountain Ute Tribe, Animas-Law Plata Project, Colorado and New Mexico: Repayment contract; 6,000 acre-feet per year for M&I use in Colorado; 26,400 acre-feet per year for irrigation use in Colorado; 900 acre-feet per year for irrigation use in New Mexico; contract terms to be consistent with binding cost sharing agreement and water rights settlement agreement.

4. Navajo Indian Tribe, Animas-La Plata Project, New Mexico: Repayment contract for 7,600 acre-feet per year for M&I use.

5. La Plata Conservancy District, Animas-La Plata Project, New Mexico: Repayment contract for 9,900 acre-feet per year for irrigation use.

6. Vermejo Conservancy District, Vermejo Project, New Mexico: Amend contract pursuant to Pub. L. 96–550 to relieve the district of the requirement to make annual payments until the Secretary of the Interior determines that further payments are feasible; the current obligation exceeds $2 million.

7. San Juan Pueblo, San Juan-Chama Project, New Mexico: Repayment contract for up to 2,000 acre-feet of project water for irrigation purposes.

8. City of El Paso, Rio Grande Project, Texas and New Mexico: Amendment to aid the 1941 and 1962 contracts to expand acreage owned by the City to 3,000 acres; extend terms of water rights assignments; and allow assignments outside City limits under authority of the Public Service Board.

9. The National Park Service, Bureau of Land Management, Colorado Water Conservation Board, Wayne N. Aspinall Unit, CRSP, Colorado; Contract for between 180,000 to 740,000 acre-feet of project water to provide specific river flow patterns in the Gunnison River through the Black Canyon of the Gunnison National Monument.

10. Upper Gunnison River Water Conservancy District, Wayne N. Aspinall Unit, CRSP, Colorado: Water service contract for 500 acre-feet for 1 year for municipal and domestic use.

11. Upper Gunnison River Water Conservancy District, Wayne N. Aspinall Unit, CRSP, Colorado: Substitute supply plan for the administration of the Gunnison River.

12. Collbran Conservancy District, Collbran Project, Colorado: Amendatory contract defining priority of use of project water.

13. U.S. Fish and Wildlife Service, North Fork Water Conservancy District, Paonia Project, Colorado: Contract for releases to support endangered fish in the Gunnison and Colorado Rivers; water available for releases will come from reserve capacity held by Reclamation as a sediment pool, estimated to be 1,800 acre-feet annually; contract will define the terms and conditions associated with delivery of this water.

14. Rio Grande Water Conservation District, Closed Basin Division, San Luis Valley Project, Colorado: Water service contract for furnishing priority 4 water to third parties; contract will allow District to market priority water, when available, for agricultural, municipal and/or industrial use.

15. Uncompahgre Valley Water Users Association, Upper Gunnison River Water Conservancy District, Colorado River Water Conservation District, Uncompahgre Project, Colorado: Water management agreement for water stored at Taylor Park Reservoir and the Wayne N. Aspinall Storage Units to improve water management.

16. Florida Water Conservancy District, Florida Project, Colorado: Water service contract to market for municipal and industrial use 114 acre-feet of water rights held by the United States.

17. Salt Lake County Water Conservancy District and Central Utah Water Conservancy District, Central Utah Project, Utah. Contract to provide the Bureau of Reclamation with perpetual use of 7,900 acre-feet of water annually for storage in the Jordanelle Reservoir.

18. Grand Valley Water Users Association, Orchard Mesa Irrigation District, and Public Service Company of Colorado, Grand Valley Project, Colorado. Water service contract for the utilization of project water for cooling purposes for a steam electric generation plant.

19. Public Service Company of New Mexico, Colorado River Storage Project, Navajo Unit, New Mexico. Amendatory water service contract for diversion of 20,200 acre-feet, not to exceed a depletion of 16,200 acre-feet of project water for cooling purposes for a steam electric generation plant.

20. Provo Reservoir Water Users Company, Wasatch Irrigation Company, Timpanogas Irrigation Company, Exchange Irrigation Company, Washington Irrigation Company, and the City of Provo; Central Utah Project, Utah: Water exchange contracts, water rights in several mountain lakes and

reservoirs are being exchanged for equivalent contract water rights in Jordanelle Reservoir.

21. Sanpete County Water Conservancy District, Narrows Project, Utah: Application for a Small Reclamation Project Act loan and grant to construct a dam, reservoir and pipeline to annually supply approximately 5,000 acre-feet of water through a transmountain diversion from Upper Gooseberry Creek in the Price River drainage (Colorado River Basin) to the San Pitch—Sever River (Great Basin).

22. Highland Conservation District, Provo River Project, Utah: Water transfer agreement between District and Highland City involving change of use from irrigation to municipal and industrial.

Great Plains Region

Bureau of Reclamation, P.O. Box 36900, Federal Building, 316 North 26th Street, Billings, Montana 59107–6900, telephone 406–247–7730.

1. Individual irrigators, M&I, and miscellaneous water users: Colorado, Kansas, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming: Temporary (interim) water service contracts for the conveyance, storage, and exchange of surplus project water and nonproject water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for a term up to 1 year; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. Green Mountain Reservoir, Colorado-Big Thompson Project, Colorado: Water service contracts for irrigation, municipal, and industrial; contract negotiations for sale of water from the marketable yield to water users within the Colorado River Basin of Western Colorado.

3. Ruedi Reservoir, Fryingpan-Arkansas Project, Colorado: Repayment contracts; second round contract negotiations for municipal, domestic, and industrial water from the regulatory capacity of Ruedi Reservoir.

4. Cedar Bluff Irrigation District No. 6, Cedar Bluff Unit, P–SMBP, Kansas: In accordance with Section 901 of Pub. L. 102–575, 106 Stat. 4600, terminate the Cedar Bluff Irrigation District's repayment contract and transfer use of the District's portion of the reservoir storage capacity to the State of Kansas for fish, wildlife, recreation, and other purposes.

5. Garrison Diversion Unit, P–SMBP, North Dakota: Renegotiation of the master repayment contract with Garrison Diversion Conservancy District to conform with the Garrison Diversion Unit Reformulation Act of 1986; negotiation of repayment contracts with irrigators and M&I users.

6. Corn Creek Irrigation District, Glendo Unit, P–SMBP, Wyoming: Repayment contract for 10,350 acre-feet of supplemental irrigation water from Glendo Reservoir pending completion of NEPA review.

7. Foss Reservoir Master Conservancy District, Washita Basin Project, Oklahoma: Amendatory repayment contract for remedial work.

8. Arbuckle Master Conservancy District, Arbuckle Project, Oklahoma: Contract for the repayment of costs of the construction of the Sulphur, Oklahoma, pipeline and pumping plant (if constructed).

9. Tom Green County Water Control and Improvement District No. 1, San Angelo Project, Texas: Pursuant to Section 501 of Pub. L. 101–434, negotiate amendatory contract to increase irrigable acreage within the project.

10. Lakeview Irrigation District, Shoshone Project, Wyoming: New long-term water service contract for up to 3,200 acre-feet of firm water supply annually and up to 11,800 acre-feet of interim water from Buffalo Bill Reservoir. Pursuant to Section 9(e) of the Reclamation Project Act of 1939 (Pub. L. 260).

11. City of Rapid City and Rapid Valley Water Conservancy District, Rapid Valley Unit, P–SMBP, South Dakota: Contract renewal for up to 55,000 acre-feet of storage capacity in Pactola Reservoir.

12. Belle Fourche Irrigation District, Belle Fourche Unit, P–SMBP, South Dakota: Amendment to Contract No. 5–07–60–WR170. The amendment will initiate the repayment period for the rehabilitation and betterment work to begin June 30, 1996. The amendment will also provide an additional $10.5 million for additional rehabilitation and betterment work.

13. North Platte Project, Pathfinder Irrigation District: Negotiation of contract, Pathfinder Irrigation District: Negotiation of contract regarding Safety of Dams Program modification of Lake Alice Dam.

14. Bostwick Irrigation District in Nebraska and Kansas-Bostwick Irrigation District, Ainsworth Irrigation District, Farwell Irrigation and Sargent Irrigation District, Frenchman-Cambridge Irrigation District, Frenchman Valley Irrigation District, Almena Irrigation District, Webster Irrigation District, and Kirwin Irrigation District, P–SMBP, Kansas and Nebraska: Renewal of existing water service and repayment contracts for irrigation water supplies, pending completion of NEPA review.

15. Mountain Park Master Conservancy District, Mountain park Project, Oklahoma: Pursuant to Title IV of Pub. L. 103–434, amend the District's contract to reallocate the project costs to reflect the environmental activities authorized by Title IV and provide for a discounted prepayment of all or a portion of the reimbursable costs allocated for its M&I water supply.

16. Northern Cheyenne Indian Reservation, Montana: In accordance with Section 9 of the Northern Cheyenne Reserved Water Rights Settlement Act of 1992, the United States and the Northern Cheyenne Indian Tribe are proposing to contract for 30,000 acre-feet per year of stored water from Bighorn Reservoir, Yellowtail Unit, Lower Bighorn Division, P–SMBP, Montana. The Tribe will pay the United States both capital and O&M costs associated with each acre-foot of water the Tribe sells from this storage for M&I purposes.

17. Canadian River Municipal Water Authority, Canadian River Project, Texas: Contract for the United States to pay up to 33 percent of the costs of the salinity control project. These costs are to be used for the design and construction management of the project facilities.

18. Angostura Irrigation District, Angostura Unit, P–SMBP, South Dakota: The District's current contract for water service expired on December 31, 1995. The current contract also provided for the District to operate and maintain the dam and reservoir. The proposed contract would provide a continued water supply for the District and the District's continued operation and maintenance of the facility.

19. Shadehill Water User District, Shadehill Unit, P–SMBP, South Dakota: Water service contract expired June 10, 1995. The proposed contract would provide irrigation water to the District pursuant to terms acceptable to both the United States and the District.

20. Enders Dam, Frenchman-Cambridge Division, Frenchman Unit, Nebraska: Repayment contract for proposed Safety of Dams modifications to Enders Dam for repaid of seeping drainage features. Estimated cost of the repairs is $632,000.

21. Belle Fourche Irrigation District, Belle Fourche Unit, P–SMBP, South Dakota: D&MC contract for rehabilitation work on water control structures, lining additional canals, and rehabilitation of bridges and laterals. Pub. L. 103–434, enacted October 31, 1994, authorized an additional $10.5 million in Federal funds and $4 million

in non-Federal cost share for completion of the minor construction.

22. Cities of Loveland and Berthoud, Colorado, Colorado-Big Thompson Project, Colorado: Long-term contracts for conveyance of nonproject M&I water through Colorado-Big Thompson Project facilities pursuant to the Town Sites and Power Development Act of 1906.

Dated: January 24, 1996.

Wayne O. Deason,

Assistant Director, Program Analysis Office.

[FR Doc. 96–2300 Filed 2–2–96; 8:45 am]

BILLING CODE 4310–49–P

National Park Service

60 Day Notice of Intention to Request Clearance of Information Collection; Opportunity for Public Comment

AGENCY: Guadalupe Mountains National Park, National Park Service (NPS).

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 and 5 CFR 1320, Reporting and Record Keeping Requirements, the NPS invites public comment on a proposed information collection request (ICR).

Comments are invited on: (1) The need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

The primary purpose of the proposed ICR is to compare and contrast any significant differences between park users from three apparently different visitor use seasons of spring, summer, and fall. This proposed collection of information will be accomplished using a mail-back questionnaire focusing on information that is not readily available from registers at visitor centers, trailheads, or camping permits. The range of issues in the questionnaire will assess (1) visitor information sources inside and outside the park, (2) visitor travel flow within the park, (3) visitor evaluation of existing and desired facilities, programs or activities, and (4) visitor perceptions of crowding or solitude in wilderness and developed areas. This data is needed to plan for future management actions that would protect park resources and provide visitor services.

DATES: Written comments will be accepted until April 5, 1996.

SEND COMMENTS TO: Superintendent, Guadalupe Mountains National Park, HC 60 Box 400, Salt Flat, TX 79847–9801.

FOR FURTHER INFORMATION CONTACT: Fred Armstrong, Resource Management Specialist, at (915) 828–3251 extension 132.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record.

SUPPLEMENTARY INFORMATION:

Title: Visitor Use Survey—Guadalupe Mountains National Park.

Form: Not applicable.

OMB Number: To be assigned.

Expiration Date: To be assigned.

Type of Request: Request for new clearance.

Description of Need: To evaluate significant differences in visitor activities and visitor perceptions during three apparently different visitor use seasons of spring, summer and fall. The proposed information to be collected is not available from existing records, sources, or observations.

Description of Respondents: Individuals or groups of park visitors.

Estimated Annual Reporting Burden: 800 hours.

Estimated Average Burden Hours Per Response: 12 minutes.

Estimated Average Number of Respondents: 4,000.

Estimated Frequency of Response: For a 7-day period each during the visitor use seasons of spring, summer, and fall, for a total of 21 days of survey.

Terry N. Tesar,

Information Collection Clearance Officer, Management Services Division, National Park Service.

[FR Doc. 96–2282 Filed 2–2–96; 8:45 am]

BILLING CODE 4310–70–M

Gettysburg National Military Park Advisory Commission; Meeting

AGENCY: National Park Service.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the seventeenth meeting of the Gettysburg National Military Park Advisory Commission.

Date: The Public meeting will be held on February 15, 1996, from 2:00 p.m.–5:00 p.m.

Location: The meeting will be held at Gettysburg Cyclorama Auditorium, 125 Taneytown Road, Gettysburg, Pennsylvania 17325.

Agenda: Sub-Committee Reports, Facilities Development Planning Process, Deer Management, Operational Update on Park Activities, and Election of Officers.

For Further Information Contact: John A. Latschar, Superintendent, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

Supplementary Information: The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning agenda items. The statement should be addressed to the Advisory Commission, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, Pennsylvania 17325. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Gettysburg National Military Park located at 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

Dated: January 24, 1996.

Warren D. Beach,

Field Director, Northeast Field Area.

[FR Doc. 96–2283 Filed 2–2–96; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

Antitrust Division

U.S. v. First Hawaiian, Inc. and First Interstate of Hawaii, Inc.; Proposed Modification of the Final Judgment, Notice

Please take notice that First Hawaiian, Inc. (''First Hawaiian''), defendant in the above-captioned action, has filed a motion for an order modifying the Final Judgment entered on May 29, 1991 in this antitrust action. Plaintiff, the United States of America, has tentatively consented to the entry of such an order, but it has reserved the right to withdraw its consent within 30 days after the last day of publication of this Notice.

The Complaint in this case was filed on December 28, 1990, and alleged that the acquisition of Defendant First Interstate of Hawaii, Inc. (''First Interstate'') by Defendant First Hawaiian would violate Section 7 of the Clayton Act (15 U.S.C. § 18) by substantially lessening competition in business banking services in several geographic markets in the State of Hawaii. After the Complaint was filed, the parties agreed to a stipulated Final Judgment that allowed the acquisition to proceed provided that First Hawaiian, *inter alia,* divested seven branches. The Final Judgment was entered by the Court on May 29, 1991, after an appropriate public notice and comment period under the Tunney Act (15 U.S.C. § 16(b) *et seq.*).

To date, First Hawaiian has divested four branches, but has yet to divest three more: The Kuapa Kai branch located at

377 Keahole Street, Honolulu, Hawaii 96825; the Lahaina—Pakui branch located at 135 Papalaua Street, Lahaina, Hawaii 96761; and the Market branch located at 2005 Main Street, Wailuku, Hawaii 96793 (collectively the ''divestiture branches'').

The proposed modification of the Final Judgment is limited to Section V.A., which requires First Hawaiian to divest the divestiture branches to federally insured financial institution(s) that offer customers, at a minimum, transaction account deposits and commercial loans. Despite its best efforts over a four-year period, First Hawaiian has been unsuccessful in finding a qualified purchaser for the divestiture branches within the meaning of the Final Judgment. Finance Factors, Ltd., a company not authorized to offer transaction account deposits, has now offered to acquire the divestiture branches' outstanding loans and other assets, as well as the non-transaction account deposits. The proposed modification would allow First Hawaiian to satisfy the divestiture requirements of the Final Judgment by allowing First Hawaiian to sell the loans and other assets, and the non-transaction account deposits, of the divestiture branches to Finance Factors, or a similar business, with the prior approval of the Department of Justice.

First Hawaiian and the United States have filed memoranda with the Court setting forth why the proposed modification is in the public interest. Copies of the Complaint, Final Judgment, motion papers, the modification memoranda, all comments submitted and all further papers filed with the Court will be available for inspection at Room 200, Antitrust Division, United States Department of Justice, 325 Seventh Street, N.W., Washington, D.C. 20530 (telephone: 202/514–2481), and at the Office of the Clerk of the United States District Court for the District of Hawaii. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit to the United States comments regarding the proposed modification. Comments must be received on or before February 18, 1996, by sending them to Mr. Ian Simmons, Computers and Finance Section, Antitrust Division, Department of Justice, 555 Fourth Street, N.W., Room 9903, Washington, D.C. 20001 (telephone: 202/307–6164). Copies of, and its responses to, if any, any comments will be filed with the Court by the Government.

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 96–2298 Filed 2–2–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—CAD Framework Initiative, Inc.

Notice is hereby given that, on October 11, 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''), CAD Framework Initiative, Inc. (''CFI'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing certain changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, these changes are as follows: (1) SEMI/Sematech, Austin, TX; IKOS Systems, Inc., Cupertino, CA; Duet Technologies, Inc., Santa Clara, CA; and High Level Design Systems, Inc., Santa Clara, CA; have joined as new Corporate Members; (2) Earl F. Ecklund, Jr., Beaverton, OR, has joined as a new Individual Member; (3) GenRad, Ltd., Fareham, Hampshire, UNITED KINGDOM, is now listed as Veda Design Automation Limited; (4) Harris Corporation; Philips Semiconductor; Racal Redac, Inc.; SGS Thompson; and Telefonaktiebolaget LM Ericsson, have not renewed their Corporate Memberships in CFI; (5) CPQD Telebras; Mayo Foundation; and Nanyang Technological University, have not renewed their Associate Memberships in CFI; and (6) John Chilton; Prem Jain; and Andrew Scott, have not renewed their Individual Memberships in CFI.

On December 30, 1988, CFI filed its original notification pursuant to Section 6(a) of the Act. That filing was amended on February 7, 1989. The Department of Justice published a notice concerning the amended filing in the Federal Register pursuant to Section 6(b) of the Act on March 13, 1989 (54 FR 10456). A correction notice was published on April 20, 1989 (54 FR 16013).

The last notification was filed with the Department on September 1, 1994. A notice was published in the Federal Register pursuant to Section 6(b) of the Act on September 26, 1994 (59 FR 49084).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–2296 Filed 2–2–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Chemical Industry Environmental Technology Projects, L.L.C.

Notice is hereby given that, on June 13, 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''), Chemical Industry Environmental Technology Projects, L.L.C., 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: Air Products and Chemicals, Inc., Allentown, PA; Akzo Nobel Inc., Dobbs Ferry, NY; Battelle Memorial Institute, Columbus, OH; and E.I. du Pont de Nemours and Company, Inc., Wilmington, DE. The nature and purpose of the venture is to develop, promote and conduct cooperative research and development to address environmental issues in the chemical and process technology industries.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–2295 Filed 2–2–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Frame Relay Forum

Notice is hereby given that, on September 15, 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 Frame Relay Forum (''FRF'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identity of the new members of FRF

are: Micom Communications, Simi Valley, CA; Inchcape Testing Services, Lexington, KY; Jupiter Technology Inc., Waltham, MA; Xylan Corporation, Irvine, CA; Level One Communications, Inc., Sacramento, CA; and Presticom Inc., St-Hubert, PQ CANADA. Name changes include: Wiltel to LDDS Worldcom, and Transpac to France Telecom/Transpac.

No other changes have been made in either the membership or planned activities of FRF. Membership remains open, and FRF intends to file additional written notifications disclosing all changes in membership.

On April 10, 1992, FRF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to Section 6(b) of the Act on July 2, 1992 (57 Fed. Reg. 29537).

The last notification was filed with the Department on June 16, 1995. A notice has not yet been published in the Federal Register.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–2297 Filed 2–2–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Semiconductor Research Corporation

Notice is hereby given that, on December 11, 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''), Semiconductor Research Corporation (''SRC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. 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, SRC has added IntelliSense Corporation, Wilmington, MA; Solid State Systems, Inc., Santa Clara, CA; Cadence Designs Systems, San Jose, CA; Dupont, Wilmington, DE; Ford Motor Company, Dearborn, MI; and Novellus Systems, Inc., San Jose, CA. The following companies have been deleted from SRC membership: DTX Corporation, Lancaster, PA; M/A COM, Inc., Lowell, MA; Matrix Integrated Systems, Inc., Richmond, CA; Praxair, Inc., Tarrytown, NY, Prometrix Corporation, Santa Clara, CA; and Sunrise Test Systems, Inc., Santa Clara, CA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and SRC intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, SRC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to Section 6(b) of the Act on January 30, 1985 (50 FR 4281).

The last notification was filed with the Department on March 7, 1995. A notice was published in the Federal Register pursuant to Section 6(b) of the Act on December 5, 1995 (60 FR 62261).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–2294 Filed 2–2–96; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated August 21, 1995, and published in the Federal Register on August 30, 1995, (60 FR 45169), Celgene Corporation, 7 Powder Horn Drive, Warren, New Jersey 07059, 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
2, 5-Dimethoxyamphetamine (7396).	I
Amphetamine (1100)	II

A registered manufacturer filed an objection dated October 16, 1995, to the registration of Celgene Corporation as a bulk manufacturer of amphetamine stating that they do not believe there is need for another manufacturer. They also requested a hearing if DEA would not deny the application. Under Title 21, Code of Federal Regulations, Section 1301.43(b), DEA is not required to limit the number of manufacturers solely because a smaller number is capable of producing an adequate supply provided effective controls against diversion are maintained. DEA has conducted an investigation of Celgene Corporation, and determined that effective controls against diversion will be maintained. The request for a hearing is not valid since it was received after July 20, 1995, the date Title 21, Code of Federal Regulations, Section 1304.43(a) was amended to eliminate the third-party manufacturer hearing requirement for objections to certain bulk manufacturers.

Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, Section 1301.54(e), Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: December 15, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–2315 Filed 2–2–96; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

[Secretary's Order 1–96]

Time Extension of Secretary's Order 6–94, Establishing Pilot Project to Create Concurrent Authorities and Responsibilities for the Assistant Secretary for Occupational Safety and Health and the Assistant Secretary for Employment Standards With Respect to Certain Whistleblower Protection Laws and Certain Laws Establishing Labor Standards Affecting Field Sanitation and Migrant Housing

January 26, 1996.

1. *Purpose.* Secretary's Order 6–94 (published in the Federal Register at 60 F.R. 3655, January 18, 1995) established a pilot program to test the efficacy of a limited exchange of enforcement responsibilities for certain whistleblower and agriculture safety and health programs, by granting to the Assistant Secretary for Occupational Safety and Health and to the Assistant Secretary for Employment Standards limited concurrent authority to enforce the whistleblower protections and agricultural safety and health laws enumerated in sections 4.a. and 4.b. of that Order. Section 7 of Secretary's Order 6–94 provided that the pilot program would commence in the Dallas Region, Southwest Division (excluding New Mexico), and authorized the two Assistant Secretaries to modify the geographic scope of the program by written agreement approved by the Secretary. Section 2 of Secretary's Order 6–94 provided that the delegations of authority and responsibility established by the Order would expire at the end of the calendar year 1995.

The purpose of this Secretary's Order is to amend the latter provision to

provide that the one-year pilot project and the delegations of authority and responsibility established by Secretary's Order 6–94 are hereby extended until further Order of the Secretary.

2. *Directives Affected.* Section 2 of Secretary's Order 6–94 is hereby superseded to the extent that it provides that the authority and responsibilities established by the Order expire at the end of the calendar year 1995. Under the terms of this Order, the pilot project and the delegations of authority and responsibility established by Secretary's Order 6–94 are hereby extended until further Order of the Secretary.

3. *Effective date.* This Order is effective immediately.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 96–2342 Filed 2–2–96; 8:45 am]

BILLING CODE 4510–23–M

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Job Search Assistance Demonstration Followup Survey; Notice

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed new collection of the Job Search Assistance Demonstration Followup Survey. A copy of the proposed information collection request can be obtained by contacting the employee listed below in the addressee section of this notice.

DATES: Written comments must be submitted on or before April 5, 1996. The Department of Labor is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

ADDRESSES: Wayne S. Gordon, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–4231, Washington, DC 20210, (202) 219–5922 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Public Law 102–164, the Emergency Unemployment Compensation Act of 1991, authorized USDOL to carry out a demonstration program to determine the feasibility and effectiveness of implementing job search programs for Unemployment Insurance (UI) claimants. The legislation specified that eligible claimants were to be offered intensive job search services including basic employment services such as orientation, testing, a job-search workshop, and an individual assessment-counseling interview, and additional services such as ongoing contact with program staff, followup assistance, resource centers, and job search materials and equipment. The demonstration is currently being conducted in the District of Columbia and Florida.

The legislation authorizing the demonstration requires USDOL to submit a final evaluation report that examines the impacts of job search services on UI benefit receipt and on UI claimants' labor market outcomes—the duration of unemployment, earnings and hours worked. The legislation also specified that the evaluation was to estimate the net social benefits and costs of the program. The survey of claimants, which is the subject of this Federal Register notice, is intended to support this legislated evaluation.

II. Current Actions

The proposed survey will collect information from a sample of UI claimants who were offered demonstration services and, for comparison purposes, from a sample of claimants who were not offered services. It will collect information on the background characteristics of sample members, including the characteristics of their pre-UI occupation, information on their employment and earnings and job characteristics following receipt of UI, and information on job search services including their satisfaction with the services.

The sample for the survey will be collected from the District of Columbia and Florida state data systems as will administrative records data on UI receipt, job search service receipt, and earnings. Information on job characteristics, the timing of employment and earnings, and claimants satisfaction with the services they receive are unavailable from administrative records, however, and must be collected through a survey of claimants.

The survey will be conducted through a computer-assisted telephone interviewing system with automatic call scheduling. This system is designed to minimize the burden on respondents by minimizing time on the telephone and by providing a mechanism for respondents to schedule calls. Participation is voluntary and confidential.

Type of Review: New.

Agency: United States Department of Labor, Employment and Training Administration.

Title: Job Search Assistance Demonstration Followup Survey.

Agency Number: 1205.

Affected Public: Unemployment Insurance claimants.

Total Respondents: 4,500.

Frequency: One time.

Total Responses: 4,500.

Average Time per Response: 30 minutes.

Estimated Total Burden Hours: 2,250 hours.

Estimated Cost to the Federal Government: $240,340.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: January 30, 1996.

Mary Ann Wyrsch,

Director, Unemployment Insurance Service.

[FR Doc. 96–2341 Filed 2–2–96; 8:45 am]

BILLING CODE 4510–30–M

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Unemployment Insurance Benefits Quality Control Program; Notice

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed revision of the collection of the Unemployment Insurance Benefits Quality Control program data.

A copy of the proposed changes to the information collection Handbook (ETA Handbook 395) can be obtained by contacting the employee listed below in the contact section of this notice.

DATES: Written comments must be submitted on or before April 5, 1996. Written comments should:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

ADDRESSES: Burman H. Skrable, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, Room S–4015, 200 Constitution Avenue, NW., Washington, DC 20210, 202–219–5220 (this is not a toll-free number); FAX, 202–219–8506; Internet: eta.sao.skrableb®doleta.gov.

SUPPLEMENTARY INFORMATION

I. Background

Since 1987, all State Employment Security Agencies (SESAs) except the Virgin Islands have been required by regulation at 20 CFR 602 to operate a Benefits Quality Control (BQC) program to assess the accuracy of their Unemployment Insurance (UI) benefit payments. The Department's authority is found at Sections 303(a)(1) and 303(b)(1) of the Social Security Act. The BQC programs operate as follows. Each State draws a weekly sample of payments; annual samples presently average slightly over 800 cases per State, with a range of 480 to 1800. A specially trained staff reviews agency records and contacts the claimant, employers and third parties to verify all the information pertinent to the benefit amount for the sampled week. Since July 1993, investigators have been able to use a mix of in-person and telephone/fax contacts. Using the verified information, they determine what the benefit payment should have been to accord fully with State law and policy. Any differences between the actual and reconstructed payment are underpayment or overpayment errors and are coded into a specially-provided computer along with their types, causes and responsibilities. This information is used by the State and the Department of Labor to estimate the extent of mispayments to monitor program quality, guide possible future program improvements, inform system stakeholders and perform various policy analyses. The program costs approximately $26 million each year to operate.

The typical investigation requires about 10.5 hours per case and in total the 42,240 cases are estimated to impose a paperwork burden of 133,900 hours. The program is operated under OMB approval number 1205–0245; approval expires 8/31/96.

This fall, as part of a larger effort to put UI performance improvement systems on a consistent basis, a joint workgroup of senior State Employment Security Agency (SESA) managers and Federal staff developed a proposal for modifying BQC to bring it into better balance with other UI performance measurement systems. This proposal also responds to the Department's commitment to the Vice President's National Performance Review (NPR) to ''reexamine . . . the BQC program'' and determine how BQC's resources can ''best be divided between measurement, analysis and direct support for program improvement'' in the context of the larger UI Performance system.

II. Current Actions

This is a request for OMB approval [under the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)] to revise an existing collection of information previously approved and assigned OMB Control No. 1205–0245. The proposed revision would reduce burden hours by 58,581.

The following changes in BQC are proposed:

- Reductions in sample sizes to 360 cases in the 10 smallest SESAs and 480 in the remainder. This change will cut the annual paperwork burden from 133,900 hours to 75,319. It will also reduce precision: standard errors will increase, ranging from about 10 percent in the smallest States to as much as 100 percent in the largest.
- Greater flexibility in how States verify claims data. Instead of being required to investigate certain portions of UI claims in person, they will have the option of using whatever method is appropriate in the circumstances—in-person, mail, phone, or fax. This should reduce average time to complete a case to about 7.5 hours. It is estimated, however, that if States completely cease in-person investigations, BQC will detect up to 14 percent less dollars overpaid compared with the present protocol.

Type of Review: Revision.

Agency: Employment and Training Administration.

Title: Unemployment Insurance Benefits Quality Control Program.

OMB Number: 1205–0245.

Frequency: Weekly.

Recordkeeping: States are required to follow their State laws regarding public record retention in retaining BQC records.

Affected Public: Individuals; Business; other for-profit/Not-for-profit institutions; Farms; Federal, State, Local, or Tribal Governments.

Number of Respondents: 52.

Estimated Time Per Respondent: 3.17 hours.

Total Estimated Cost: $26 million.

Total Burden Hours: 75,319 hours.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: January 30, 1996.

Mary Ann Wyrsch,

Director, Unemployment Insurance Service.

[FR Doc. 96–2343 Filed 2–2–96; 8:45 am]

BILLING CODE 4510–30–M

Employment Standards Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Notice

In the matter of: 1. Payment of Compensation Without Award (LS–206); 2. Certification of Funeral Expenses (LS–265); 3. Notice of Controversion of Right to Compensation (LS–207); 4. Application for Authority to Employ Full-Time Students at Subminimum Wages in Retail or Service Establishments or Agriculture (WH–200–MIS).

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed extension collection of: (1) Payment of Compensation Without Award; (2) Certification of Funeral Expenses; (3) Notice of Controversion of Right to Compensation; (4) Application for Authority to Employ Full-Time Students at Subminimum Wages in Retail or Service Establishments or Agriculture. Copies of the proposed information collection requests can be obtained by contacting the employee listed below in the addressee section of this notice.

DATES: Written comments must be submitted on or before April 8, 1996. The Department of Labor is particularly interested in comments which:

* evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* enhance the quality, utility and clarity of the information to be collected; and

* minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSEE: Ms. Patricia A. Forkel, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 219–7601 (this is not a toll-free number), fax 202–219–6592.

SUPPLEMENTARY INFORMATION:

Payment of Compensation Without Award

I. Background

The Office of Workers' Compensation Programs administers the Longshore and Harbor Workers' Compensation Act, which provides benefits to certain workers injured in maritime employment or the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. Under the Act, a self-insured employer or insurance carrier is required to pay compensation within 14 days after the employer has knowledge of the injury or death. Upon making the first payment, the employer or carrier must immediately notify the deputy commissioner of the payment. This form has been designated as the form on which report of first payment is to be made.

II. Current Actions

The Department of Labor seeks the extension of approval to collect this information in order to carry out its responsibility to monitor the payment status of a given case.

Certification of Funeral Expenses

I. Background

The Office of Workers' Compensation Programs administers the Longshore and Harbor Workers' Compensation Act, which provides benefits to certain workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. The Act provides that reasonable funeral expenses not to exceed $3,000 shall be paid in all compensable death cases. Form LS–265 has been provided for use in submitting the funeral expenses for payment.

II. Current Actions

The Department of Labor seeks the extension of this information collection in order to carry out its responsibility for monitoring and processing death cases. It is used to certify the amount of funeral expenses incurred in the case.

Notice of Controversion of Right to Compensation

I. Background

The Office of Workers' Compensation Programs administers the Longshore and Harbor Workers' Compensation Act, which provides benefits to certain workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. Pursuant to the Act, if an employer controverts the right to compensation he/she shall file with the deputy commissioner in the affected compensation district on or before the fourteenth day after he has knowledge of the alleged injury or death, a notice, in accordance with a form prescribed by the Secretary of Labor, stating that the right to compensation is controverted. This form is used for that purpose.

II. Current Actions

The Department of Labor seeks the extension of approval to collect this information in order to determine the basis for not paying benefits in a case, and to inform the injured claimant of the reason(s) for not paying compensation benefits.

Application for Authority to Employ Full-Time Students at Subminimum Wages in Retail or Service Establishments or Agriculture

I. Background

The Fair Labor Standards Act (FLSA) requires the Secretary of Labor to provide certificates authorizing the employment of full-time students at 65% of the applicable minimum wage in retail or service establishments and in agriculture to the extent necessary to prevent curtailment of opportunities for employment. These provisions set limits on such employment and prescribe safeguards to protect full-time students so employed and full-time employment opportunities of other workers. 29 CFR Part 519 sets forth the application requirements, the terms and conditions for the employment of students at subminimum wages.

This voluntary use form is prepared and signed by an authorized representative of an employer applying for authorization to employ full-time students at subminimum wages. The completed form is reviewed by the Wage and Hour Division of the Department of Labor to determine whether to grant or to deny subminimum wage authority to the applicant.

II. Current Actions

The Department of Labor seeks the extension of approval to collect this information in order to provide employers with the certification necessary to pay students at subminimum wages, to protect full-time students so employed, and to protect the full-time opportunities of other workers.

Type of Review: Extension.
Agency: Employment Standards Administration.
Title: Payment of Compensation Without Award.
OMB Number: 1215–0022.
Agency Number: LS–206.
Affected Public: Businesses or other for-profit.
Total Respondents: 900.
Frequency: On occasion.
Total Responses: 34,200.
Average Time per Response: 15 minutes.
Estimated Total Burden Hours: 8,550.
Estimated Total Burden Cost: $10,944.

Type of Review: Extension.
Agency: Employment Standards Administration.
Title: Certification of Funeral Expenses.
OMB Number: 1215–0027.
Agency Number: LS–265.
Affected Public: Businesses or other for-profit.
Total Respondents: 195.
Frequency: On occasion.
Total Responses: 195.
Average Time per Response: 15 minutes.
Extimated Total Burden Hours: 49.
Estimated Total Burden Cost: $68.00.

Type of Review: Extension.
Agency: Employment Standards Administration.
Title: Notice of controversion of Right to Compensation.
OMB Number: 1215–0023.
Agency Number: LS–207.
Affected Public: Businesses or other for-profit.
Total Respondents: 900.
Frequency: On occasion.
Total Responses: 18,900.
Average Time per Response: 15 minutes.
Estimated Total Burden Hours: 4,725.
Extimated total Burden Cost: $7,040.00.

Type of Review: Extension.
Agency: Employment Standards Administration.
Title: Application for Authority to Employ Full-Time Students at Subminimum Wage in Retail or Service Establishments or Agriculture.
OMB Number: 1215–0032.
Agency Number: WH–200–MIS.
Affected Public: Individuals or households; Businesses or Other For-Profit; Not-for-Profit Institutions; Farms.
Total Respondents: 5,000.
Frequency: Annually.
Total Responses: 5,000.
Average Time per Response: 10–30 minutes.
Estimated Total Burden Hours: 1,100.
Estimated Total Burden Cost: $1,600.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: January 30, 1996.

Cecily A. Rayburn,

Chief, Division of Financial Management, Office of Management, Administration and Planning Employment Standards Administration.

[FR Doc. 96–2344 Filed 2–2–96; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Council on the Arts 127th 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 National Council on the Arts will be held on February 13, 1996, from 9:00 a.m. to 5:15 p.m., in Room M–09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506.

This meeting will be open to the public. Topics for discussion will include a legislative update, a budget discussion, an update on the reinvented agency, American Canvas, guidelines and/or application review for the Partnership Agreements, the Literature, Jazz Masters and National Heritage Fellowships, and the Arts in Education, Challenge, Expansion Arts, Folk and Traditional Arts, Literature, Media Arts, Museum, Music, Opera-Musical Theater, State and Regional, Theater, and Visual Arts Programs.

If, in the course of discussion, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b. Additionally, discussion concerning purely personal information about individuals, submitted with grant applications, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b.

Any interested persons may attend, as observers, Council discussions and reviews which are open to the public. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532 TTY–TDD 292/682–5429, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from the Office of Communications, National Endowment for the Arts, Washington, D.C. 20506, at 202/682–5570.

Dated: January 30, 1996.

Kathy Plowitz-Worden,

Panel Coordinator, Office of Guidelines and Panel Operations.

[FR Doc. 96–2281 Filed 2–2–96; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Chemical and Transport Systems Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemical & Transport Systems (#1190).
Date: February 20, 1996; 8:30 am to 5:00 pm.
Place: Room 580, National Science Foundation 4201 Wilson Boulevard, Arlington, VA 22230.
Type of Meeting: Closed.
Contact Person: Dr. Farley Fisher, Program Director, 4201 Wilson Blvd., Arlington, VA 22230 Telephone: 703/306–1370.
Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Agenda: To review and evaluate Engineering Research Equipment proposals submitted to the Kinetics and Catalysis Program as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information

concerning individuals associated with the proposals. The matters are exempt under 5 U.S.C. 552b.(c)(4) and (6) of the Government Sunshine Act.

Dated: January 31, 1996

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–2334 Filed 2–2–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Final Report on Responsiveness to the Public; Availability

The Nuclear Regulatory Commission has published its Final Report on Responsiveness to the Public, NUREG/BR–0199. The Draft Report was published for comment on March 31, 1995. Thirty-two comments were received in written and electronic format. Where feasible, comments have been incorporated into the final report.

Single copies of the Final Report will be provided to each individual or group that provided comments on the draft report. Other interested parties may purchase a copy of NUREG/BR–0199 from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20402–9328. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

In addition, the final report is available through the Internet World Wide Web server, which can be accessed by using the Uniform Resource Locator, (URL)http:\ww.nrc.gov. A copy is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC 20555–0001. Copies of comments received and responses thereto are also available in the NRC Public Document Room.

Dated at Rockville, Maryland, this 29th day of January, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–2325 Filed 2–2–96; 8:45 am]

BILLING CODE 7590–01–P

Northeast Utilities; Notice of Informal Public Hearing

The U.S. Nuclear Regulatory Commission (NRC) will hold an informal public hearing regarding a petition submitted pursuant to 10 CFR 2.206 involving Millstone Units 1, 2, and 3 and Seabrook Unit 1 of Northeast Utilities (NU/the licensee). The hearing will be held on March 7, 1996, at the Waterford Townhall in Waterford, Connecticut. The hearing will be open to public attendance and will be transcribed. The NRC has elected to hold such a hearing because of the complexity of the issues involved and the public's interest.

The structure of the hearing shall be as follows:

Thursday, March 7, 1996

6:00 p.m.—NRC opening remarks
6:15 p.m.—Petitioner's presentation
7:00 p.m.—NRC questions
7:15 p.m.—Licensee's presentation
8:00 p.m.—NRC questions
8:15 p.m.—Public comments
9:45 p.m.—Licensee/Petitioners' final statements
10:00 p.m.—Meeting concludes

A Petition pursuant to 10 CFR 2.206 was submitted to the NRC by Mr. Ernest C. Hadley on behalf of Mr. George Galatis and the Citizens Group, We the People (Petitioners) on August 21, 1995, as supplemented August 28, 1995. The Petitioners allege that NU has knowingly, willingly, and flagrantly operated Millstone Unit 1 in violation of its operating license for approximately 20 years; that it obtained previous licensing amendments through the use of material false statements; and that it presently proposes to continue operating under unsafe conditions rather than comply with the mandates of its license. Specifically, the Petitioners allege that NU has offloaded more fuel assemblies into the spent fuel pool than permitted under License Amendment No. 39 to the Millstone Unit 1 Provisional Operating License and License Amendment No. 40 to the Millstone Unit 1 Full-Term Operating License. The Petitioners further allege that License Amendments Nos. 39 and 40 were based upon material false statements made by NU in documents submitted to the NRC. The Petitioners refer to certain NU submittals allegedly containing the false information, such as NU Safety Assessment Reports associated with License Amendments Nos. 39 and 40 and with Systematic Evaluation Program Topics IX–1 (fuel storage), IX–5 (ventilation systems), and III–7.B (design codes, design criteria, load combinations, and reactor cavity design criteria).

In the Supplement, Mr. Galatis alleges that NU also committed violations by offloading more than one-third of a core of fuel at Millstone Units 2 and 3 and Seabrook Unit 1. In addition, Mr. Galatis alleged with regard to Millstone Unit 3 that NU submitted a material false statement to the NRC associated with a license amendment and that an unanalyzed condition exists with regard to system piping for full-core offload events. With regard to Seabrook Unit 1, Mr. Galatis alleged technical specification violations associated with a criticality analysis.

The purpose of this informal public hearing is to obtain additional information from the Petitioners, NU, and the public for NRC staff use in evaluating the Petition. Therefore, this informal public hearing will be limited to information relevant to issues raised in the Petition and its Supplement. The staff will not offer any preliminary views on its evaluation of the Petition. The informal public hearing will be chaired by a senior NRC official who will limit presentations to the above subject.

The format of the informal public hearing will be as follows: opening remarks by the NRC regarding the general 10 CFR 2.206 process, the purpose of the informal public hearing, and a brief summary of the Petition and its Supplement (15 minutes); time for the Petitioners to articulate the basis for the Petition (45 minutes); time for the NRC to ask the Petitioners questions for purposes of clarification (15 minutes); time for NU to address the issues raised in the Petition (45 minutes); time for the NRC to ask NU questions for purposes of clarification (15 minutes); time for public comments relative to the Petition (90 Minutes); and time for licensee and Petitioners' final statements (15 minutes).

Members of the public who are interested in presenting information relative to the Petition should notify the NRC official, named below, 5 working days prior to the hearing. A brief summary of the information to be presented and the time requested should be provided in order to make appropriate arrangements. Time allotted for presentations by members of the public will be determined based upon the number of requests received and will be announced at the beginning of the hearing. The order for public presentations will be on a first received first to speak basis. Written statements will also be accepted and included in the record of the hearing. Written statements should be mailed to the U.S. Nuclear Regulatory Commission, Mailstop O–14H3, Attn: Stephen Dembek, Washington, DC 20555.

Requests for the opportunity to present information can be made by contacting Stephen Dembek, Project Manager, Division of Reactor Projects—I/II (telephone 301–415–1455) between 8:30 a.m. to 5:00 p.m. (EST). Persons planning to attend this informal public

hearing are urged to contact the above 1 or 2 days prior to the informal public hearing to be advised of any changes that may have occurred.

Dated at Rockville, Maryland this 1st day of February, 1996.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Deputy Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 96–2438 Filed 2–2–96; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Accounting for Liabilities of the Federal Government

AGENCY: Office of Management and Budget.

ACTION: Notice of Document Availability.

SUMMARY: This Notice indicates the availability of the fifth Statement of Federal Financial Accounting Standards, ''Accounting for Liabilities of the Federal Government,'' adopted by the Office of Management and Budget (OMB). The statement was recommended by the Federal Accounting Standards Advisory Board and adopted in its entirety by OMB.

ADDRESSES: Copies of the Statement of Federal Financial Accounting Standards No. 5, ''Accounting for Liabilities of the Federal Government,'' may be obtained for $5.50 each from the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (telephone 202–783–3238), Stock No. 041–001–00463–7.

FOR FURTHER INFORMATION CONTACT: Ronald Longo (telephone: 202–395–3993), Office of Federal Financial Management, Office of Management and Budget, 725–17th Street NW., Room 6025, Washington, DC 20503.

SUPPLEMENTARY INFORMATION: This Notice indicates the availability of the fifth Statement of Federal Financial Accounting Standards, ''Accounting for Liabilities of the Federal Government.'' The standard was recommended by the Federal Accounting Standards Advisory Board (FASAB) in September 1995, and adopted in its entirety by the Office of Management and Budget (OMB).

Under a Memorandum of Understanding among the General Accounting Office, the Department of the Treasury, and OMB on Federal Government Accounting Standards, the Comptroller General, the Secretary of the Treasury, and the Director of OMB decide upon principles and standards after considering the recommendations of FASAB. After agreement to specific principles and standards, they are to be published in the Federal Register and distributed throughout the Federal Government.

G. Edward DeSeve,

Controller.

[FR Doc. 96–2359 Filed 2–4–96; 8:45 am]

BILLING CODE 3110–01–P

OFFICE OF PERSONNEL MANAGEMENT

The National Partnership Council

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

TIME AND DATE: 1:00 p.m., February 14, 1996.

PLACE: U.S. Office of Personnel Management Auditorium, Theodore Roosevelt Building, 1900 E Street NW., Washington, DC 20415–0001.

STATUS: This meeting will be open to the public. Seating will be available on a first-come, first-served basis. Individuals with special access needs wishing to attend should contact OPM at the number shown below to obtain appropriate accommodations.

MATTERS TO BE CONSIDERED: This meeting will consist of an awards ceremony. The winners of the NPC Partnership Award will be announced; and the winners will receive their awards. The NPC Partnership Award is given in recognition of outstanding labor-management partnership activities. These will be the first NPC Partnership Awards given out.

CONTACT PERSON FOR MORE INFORMATION: Douglas K. Walker, National Partnership Council, Executive Secretariat, Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street NW., Room 5315, Washington, DC 20415–0001, (202) 606–1000.

James B. King,

Director.

[FR Doc. 96–2284 Filed 2–2–96; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–21722; 812–9884]

First American Investment Funds, Inc., et al.; Notice of Application

January 30, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: First American Investment Funds, Inc. (''FAIF''), First American Funds, Inc. (''FAF''), each existing and future series of FAIF and FAF, and existing and future registered investment companies or series thereof that, now or in the future, are advised by First Bank National Association (collectively, the ''Funds''); and First Bank National Association (''First Bank'').[1]

RELEVANT ACT SECTIONS: Order requested under section 6(c) for an exemption from section 12(d)(1)(A)(ii), under sections 6(c) and 17(b) for an exemption from section 17(a)(1) and 17(a)(2), and under rule 17d–1 to permit certain transactions in accordance with section 17(d) and rule 17d–1.

SUMMARY OF APPLICATION: Applicants seek an order that would permit certain Funds to use their cash reserves to purchase shares of affiliated money market funds.

FILING DATE: The application was filed on December 8, 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 February 26, 1996 and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues 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. FAIF and FAF, 680 East Swedesford Road, Wayne, Pennsylvania 19087; First Bank, 601 Second Avenue South, Minneapolis, Minnesota 55402.

FOR FURTHER INFORMATION CONTACT: Sarah A. Wagman, Staff Attorney, at (202) 942–0654, or Alison E. Baur, Branch Chief, at (202) 942–0464 (Division of Investment Management, Office of Investment Company Regulation).

[1] All existing Funds that presently intend to rely on the requested order are named as applicants. Any Funds that may, in the future, rely on the requested order will only do so in accordance with the terms and conditions thereto.

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. FAIF is an open-end management investment company that currently offers twenty series, each of which is a variable net asset value fund (a ''Non-Money Market Fund''). FAF is an open-end management investment company that currently offers three series, each of which is a money market fund subject to the requirements of rule 2a–7 under the Act (a ''Money Market Fund'').

2. First Bank serves as investment adviser to each series of FAIF and FAF. Marvin & Palmer Associates, Inc. serves as subadviser to the International Fund, a series of FAIF (together with First Bank and any future sub-adviser to a Fund, the ''Advisers''). First Trust National Association (the ''Custodian'') serves as custodian for the assets of each series of FAIF and FAF.

3. The Money Market Funds seek current income, liquidity, and capital preservation by investing exclusively in short-term money market instruments, such as U.S. government securities, bank obligations, commercial paper, municipal obligations, and repurchase agreements secured by government securities. These short-term debt securities are valued at their amortized cost in accordance with the requirements of rule 2a–7. The Non-Money Market Funds invest in a variety of debt and/or equity securities in accordance with their respective objectives and policies.

4. Applicants request an order that would permit each of the Funds to utilize cash reserves that have not been invested in portfolio securities (''Uninvested Cash'') to: (a) Purchase shares of one or more of the Money Market Funds (each such Fund, including Money Market Funds, purchasing shares of a Money Market Fund is an ''Investing Fund''), and (b) each Money Market Fund to sell shares to, and redeem such shares from, an Investing Fund. Applicants also request relief that would permit the Funds to invest Uninvested Cash in a Money Market Fund in excess of the percentage limitations set out in section 12(d)(1)(A)(ii) of the Act. Applicants propose that each Fund be permitted to invest in shares of a Money Market Fund provided that each Fund's aggregate investment in such Money Market Fund does not exceed the greater of 5% of such Fund's total net assets or $2.5 million. Applicants will comply with all other provisions of section 12(d)(1).

5. By investing Uninvested Cash in the Money Market Funds, applicants believe that the Investing Funds will be able to combine these cash balances and thereby reduce their transaction costs, create more liquidity, enjoy greater returns, and further diversify their holdings. The policies of the Funds either now permit, or will be amended to permit (pursuant to any required shareholder vote), the Funds to purchase money market instruments, including shares of a Money Market Fund.

6. The shareholders of the Investing Funds would not be subject to the imposition of double advisory fees. Each Adviser will remit to the respective Investing Fund or waive the investment advisory fees that it earns as a result of the Investing Fund's investments in the Money Market Funds, to the extent such fees are based upon the Investing Fund's assets invested in shares of the Money Market Funds. Further, the Money Market Funds, or any underwriter, will not charge a sales charge, contingent deferred sales charge, a distribution fee under a plan adopted in accordance with the requirements of rule 12b–1 under the Act, or other underwriting or distribution fees to the Investing Funds with respect to the purchase or redemption of Money Market Fund shares. If a Money Market Fund offers more than one class of shares, each Investing Fund will invest only in the class with the lowest expense ratio at the time of the investment.

7. Several of the Funds have voluntary expense cap arrangements with First Bank for the purpose of keeping each Fund's total expenses below a certain predetermined percentage amount (an ''Expense Waiver''). To the extent actual expenses of the Funds exceed these caps, First Bank waives or reimburses a Fund in the amount of the excess. Any applicable Expense Waiver will not limit the advisory fee waiver or remittance discussed above.

Applicants' Legal Analysis

1. Section 17(a)(1) and 17(a)(2) makes it unlawful for any affiliated person of a registered investment company, or an affiliated person of such affiliated person, acting as principal, to sell any security to, or purchase any security from, such investment company. Because each Fund may be deemed to be under common control with the other Funds, it is an ''affiliated person,'' as defined in section 2(a)(3) of the Act, of the other Funds. Accordingly, the sale of shares of the Money Market Funds to the Investing Funds and the redemption of such shares of the Money Market Funds from the Investing Funds, would be prohibited under section 17(a).

2. Section 17(b) authorizes the SEC to exempt a transaction from section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each investment company concerned, and the proposed transaction is consistent with the general purposes of the Act. Under section 6(c), the SEC may exempt a series of transactions from any provision of the Act or any rule or regulation thereunder if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Thus, applicants request relief under sections 6(c) and 17(b) because they wish to engage in a series of transactions rather than a single transaction.

3. The Investing Funds will retain their ability to invest their cash balances directly in money market instruments if they believe they can obtain a higher return. Each of the Money Market Funds has the right to discontinue selling shares to any of the Investing Funds if its board of directors determines that such sales would adversely affect the portfolio management and operations of such Money Market Fund. Therefore, applicants believe that the proposal satisfies the standards for relief.

4. Section 17(d) and rule 17d–1 prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates. Each Investing Fund, each Investment Adviser of an Investing Fund, and each of the Money Market Funds could be considered participants in a joint enterprise or other joint arrangement within the meaning of section 17(d)(1) and rule 17d–1.

5. Under rule 17d–1, the SEC may permit a proposed joint transaction if participation by a registered investment company is consistent with the provisions, policies, and purposes of the Act, and not on a basis different from or less advantageous than that of the other participants. Applicants believe that their proposal satisfies these standards.

6. Section 12(d)(1)(A)(ii) prohibits a registered investment company from acquiring the securities of another investment company if, immediately

thereafter, the acquiring company would have more than 5% of its total assets invested in the securities of the selling company. Applicants request an exemption from section 12(d)(1)(A)(ii) to permit each Fund to invest in a Money Market Fund the greater of 5% of such Fund's total net assets or $2.5 million. The perceived abuses section 12(d)(1) sought to address include undue influence by an acquiring fund over the management of an acquired fund, layering of fees, and complex structures. Applicants believe that none of these concerns are presented by the proposed transactions and that the proposed transactions meet the section 6(c) standards for relief.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. The shares of the Money Market Fund sold to and redeemed from the Investing Funds will not be subject to a sales load, redemption fee, or distribution fee under a plan adopted in accordance with rule 12b–1.

2. Applicants will cause the Investment Advisers, in their capacities as advisers for the Money Market Funds, to remit to the respective Investing Fund or waive an amount equal to all investment advisory fees received by them under their respective advisory agreements with the Money Market Funds to the extent such fees are based upon the Investing Fund's assets invested in shares of the Money Market Funds. Any of these fees remitted or waived will not be subject to recoupment by the Funds' Investment Advisers at a later date.

3. For the purpose of determining any amount to be waived and/or expenses to be borne to comply with any Expense Waiver, the adjusted fees for an Investing Fund (gross fees minus Expense Waiver) will be calculated without reference to the amount waived or remitted pursuant to condition 2. Adjusted fees will then be reduced by the amount waived pursuant to condition 2. If the amount waived pursuant to condition 2 exceeds adjusted fees, the applicable Money Market Fund's Investment Adviser also will reimburse the Investing Fund in an amount equal to such excess.

4. Each of the Investing Funds will be permitted to invest Uninvested Cash in, and hold shares of, a Money Market Fund only to the extent that the Investing Fund's aggregate investment in the Money Market Fund does not exceed the greater of 5% of the Investing Fund's total net assets or $2.5 million.

5. The Investing Funds will vote their shares of each of the Money Market Funds in the same proportion as the votes of all other shareholders in such Money Market Funds.

6. The Investing Funds will receive dividends and bear their proportionate share of expenses on the same basis as other shareholders of such Money Market Funds. A separate account will be established in the shareholder records of each of the Money Market Funds for each of the acquiring Investing Funds.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2327 Filed 2–2–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21713; 812–9926]

Lexington Growth and Income Fund, Inc., et al.; Notice of Application

January 30, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Lexington Crosby Small Cap Asia Growth Fund, Inc., Lexington Emerging Markets Fund, Inc., Lexington Global Fund, Inc., Lexington GNMA Income Fund, Inc., Lexington Goldfund, Inc., Lexington Growth and Income Fund, Inc., Lexington International Fund, Inc., Lexington Money Market Trust, Lexington Natural Resources Trust, Lexington Ramirez Global Income Fund, Lexington SmallCap Value Fund, Inc., Lexington Strategic Investments Fund, Inc., Lexington Strategic Silver Fund, Inc., Lexington Tax Free Money Fund, Inc., and Lexington Worldwide Emerging Markets Fund, Inc., (collectively, the ''Investment Companies''); and Lexington Management Corporation (the ''Adviser'').

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for an exemption from sections 13(a)(2), 13(a)(3), 18(f)(1), 22(f), and 22(g) and rule 2a–7 thereunder, under sections 6(c) and 17(b) of the Act for an exemption from section 17(a)(1), and pursuant to rule 17d–1 under the Act to permit certain joint arrangements in accordance with section 17(d) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit certain investment companies to enter into deferred compensation arrangements with their trustees.

FILING DATE: The application was filed on December 26, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 26, 1996, 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: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o Lawrence Kantor, Park 80 West, Plaza Two, Saddle Brook, New Jersey 07662.

FOR FURTHER INFORMATION CONTACT: Marianne H. Khawly, Staff Attorney, at (202) 942–0562, 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 at the SEC's Public Reference Branch.

Applicants' Representations

1. The Investment Companies are registered under the Act as open-end management investment companies. The Adviser serves as the investment adviser for the Investment Companies and Lexington Funds Distributor, Inc. serves as their distributor.

2. Applicants request that relief granted pursuant to the application also apply to any subsequently registered open-end investment company, or series thereof, advised by the Adviser (together with the Investment Companies, the ''Funds'').

3. Each Investment Company has a board of trustees, a majority of the members of which are not ''interested persons'' of such Investment Company within the meaning of section 2(a)(19) of the Act. Each of the trustees who is not an employee of the Adviser, or of any of the Investment Companies, or any of their affiliates (''Eligible Trustees'') receives annual fees. Applicants request an order to permit the Eligible Trustees to elect to defer receipt of all or a

portion of their fees pursuant to a deferred compensation plan (the ''Plan''). Under the Plan, the Eligible Trustees could defer payment of trustees' fees (the ''Deferred Fees'') in order to defer payment of income taxes or for other reasons.

4. Under the Plan, the deferred fees payable by a Fund to a participating Eligible Trustee will be credited to a book reserve account established by the Fund (a ''Deferred Account''), as of the first business day following the date such fees would have been paid to the Eligible Trustee. The trustee may select one or more Investment Companies from a list of available Investment Companies that will be used to measure the hypothetical investment performance of the trustee's Deferred Account. The value of a Deferred Account will be equal to the value such account would have had if the amount credited to it had been invested and reinvested in shares of the investment portfolios designated by the trustee (the ''Designated Shares'').

5. Each Investment Company generally intends to purchase and maintain Designated Shares in an amount equal to the deemed investments of the Deferred Accounts of its trustees. Any participating money market series of a Fund that values its assets by the amortized cost method will buy and hold the Designated Shares that determine the performance of the Deferral Accounts in order to achieve an exact match between such series' liability to pay deferred fees and the assets that offset such liability.

6. The Funds' respective obligations to make payments of amounts accrued under the Plan will be general unsecured obligations, payable solely from their respective general assets and property. The Plan provides that the Funds will be under no obligation to purchase, hold or dispose of any investments under the Plan, but, if one or more of the Funds choose to purchase investments to cover their obligations under the Plan, then any and all such investments will continue to be a part of the respective general assets and property of such Funds.

7. When the deferred fees are paid, payment will be made to Eligible Trustees in a lump sum or in generally equal annual installments over a period of no more than 10 years as selected by the Eligible Trustee at the time of deferral. In the event of death, amounts payable to the Eligible Trustee under the Plan will become payable to a beneficiary designated by the Eligible Trustee. In all other events, the Eligible Trustee's right to receive payments is non-transferable.

8. The Plan was adopted prior to receipt of the requested relief. Pending receipt of SEC approval, the Plan provides that the compensation deferred by an Eligible Trustee will be credited to a Deferral Account in the form of cash and credited with an amount equal to the yield on 90-day U.S. Treasury Bills.[1]

Applicants' Legal Analysis

1. Applicants request an order which would exempt the Funds: (a) under section 6(c) of the Act from sections 13(a)(2), 13(a)(3), 18(f)(1), 22(f), and 22(g) and rule 2a–7 thereunder, to the extent necessary to permit the Funds to adopt and implement the Plan; (b) under sections 6(c) and 17(b) of the Act from section 17(a)(1) to permit the Funds to sell securities for which they are the issuer to participating Funds in connection with the Plan; and (c) under section 17(d) of the Act and rule 17d–1 thereunder to permit the Funds to effect certain joint transactions incident to the Plan.

2. Section 18(f)(1) generally prohibits a registered open end investment company from issuing senior securities. Section 13(a)(2) requires that a registered investment company obtain shareholder authorization before issuing any senior security not contemplated by the recitals of policy in its registration statement. Applicants state that the Plan possesses none of the characteristics of senior securities that led Congress to enact section 18(f)(1). The Plan would not: (a) Induce speculative investments or provide opportunities for manipulative allocation of any Fund's expenses or profits; (b) affect control of any Fund; or (c) confuse investors or convey a false impression as to the safety of their investments. All liabilities created under the Plan generally would be offset by equal amounts of assets that would not otherwise exist if the fees were paid on a current basis.

3. Section 22(f) prohibits undisclosed restrictions on transferability or negotiability of redeemable securities issued by open-end investment companies. Applicants state that such restrictions are set forth in the Plan, which would be included primarily to benefit the Eligible Trustees and would not adversely affect the interests of the trustees or of any shareholder.

4. Section 22(g) prohibits registered open-end investment companies from issuing any of their securities for services or for property other than cash or securities. This provision prevents the dilution of equity and voting power that may result when securities are issued for consideration that is not readily valued. Applicants believe that the Plan would merely provide for deferral of payment of such fees and thus should be viewed as being issued not in return for services but in return for a Fund not being required to pay such fees on a current basis.

5. Section 13(a)(3) provides that no registered investment company shall, unless authorized by the vote of a majority of its outstanding voting securities, deviate from any investment policy that is changeable only if authorized by shareholder vote. The relief requested from section 13(a)(3) would extend only to existing Investment Companies. Applicants believe that relief from the section is appropriate to enable the affected Investment Companies to invest in Designated Shares without a shareholder vote. Applicants will provide notice to shareholders in the prospectus of each affected Investment Company of the Deferred Fees under the Plan. The value of the Designated Shares will be *de minimis* in relation to the total net assets of the respective Investment Company, and will at all times equal the value of the Investment Company's obligations to pay deferred fees.

6. Rule 2a–7 imposes certain restrictions on the investments of ''money market funds,'' as defined under the rule, that would prohibit a Fund that is a money market Fund from investing in the shares of any other Fund. Applicants believe that the requested exemption would permit the Funds to achieve an exact matching of Designated Shares with the deemed investments of the Deferral Accounts, thereby ensuring that the deferred fees would not affect net asset value.

7. Section 6(c) provides, in relevant part, that the SEC may, by order, exempt any person or class of persons from any provision of the Act or from any rule thereunder, if such exemption is necessary or appropriate in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the relief requested from the above provisions satisfies this standard.

8. Section 17(a)(1) generally prohibits an affiliated person of a registered investment company from selling any security to such registered investment company. Each portfolio may be an affiliated person of each other portfolio by reason of being under the common

[1] *See, e.g.,* American Balanced Fund, Inc. (pub. avail. Feb. 13, 1984) (no-action assurances given for deferred compensation plan in which the value of the deferred amounts did not depend upon the investment company's performance).

control of the Adviser.[2] The sale by a portfolio of any security to any other portfolio of any Fund would therefore be subject to the prohibitions of section 17(a)(1). Applicants assert that section 17(a)(1) was designed to prevent, among other things, sponsors of investment companies from using investment company assets as capital for enterprises with which they were associated or to acquire controlling interest in such enterprises. Applicants submit that the sale of securities issued by the Funds pursuant to the Plan does not implicate the concerns of Congress in enacting this section, but merely would facilitate the matching of each Fund's liability for deferred trustees' fees with the Designated Shares that would determine the amount of such Fund's liability.

9. Section 17(b) authorizes the SEC to exempt a proposed transaction from section 17(a) if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the transaction is consistent with the policies of the registered investment company, and the general purposes of the Act. Applicants assert that the proposed transaction satisfies the criteria of section 17(b). The finding that the terms of the transaction are consistent with the policies of the registered investment company is predicated on the assumption that relief is granted from section 13(a)(3). Applicants also request relief from section 17(a)(1) under section 6(c) to the extent necessary to implement the Deferred Fees under the Plan on an ongoing basis.[3]

10. Section 17(d) and rule 17d–1 generally prohibit a registered investment company's joint or joint and several participation with an affiliated person in a transaction in connection with any joint enterprise or other joint arrangement without SEC approval. Eligible Trustees will not receive a benefit that would otherwise inure to a Fund or its shareholders. Eligible Trustees will receive tax deferral but the Plan otherwise will maintain the parties, viewed both separately and in their relationship to one another, in the same position as if the deferred fees were paid on a current basis.

[2] Section 2(a)(3)(C) of the Act defines the term ''affiliated person'' of another person to include any person directly or indirectly controlling, controlled by, or under common control with such other person.

[3] Section 17(b) may permit only a single transaction, rather than a series of on-going transactions, to be exempted from section 17(a). *See Keystone Custodian Funds, Inc.*, 21 S.E.C. 295 (1945).

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. With respect to the requested relief from rule 2a–7, any money market Fund that values its assets by the amortized cost method will buy and hold Designated Shares that determine the performance of Deferral Accounts to achieve an exact match between the liability of any such Fund to pay compensation deferrals and the assets that offset that liability.

2. If a Fund purchases Designated Shares issued by an affiliated Fund, the Fund will vote such shares in proportion to the votes of all other shareholders of such affiliated Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2328 Filed 2–2–96; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Application No. 99000176]

Regent Capital Partners, L.P.; Notice of Filing of an Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1995)) by Regent Capital Partners, L.P., at 505 Park Avenue, Suite 1700, New York, New York 10022 for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended, (15 U.S.C. §§ 661 et. seq.), and the Rules and Regulations promulgated thereunder.

Regent Capital Partners, L.P., is a Delaware limited partnership, of which Regent Capital Holdings, Inc. is the sole general partner.

The individual General Partners of Regent Capital Partners, L.P. are Richard H. Hochman, Nina E. McLemore and John Oliver Maggard. All three of these individuals have extensive experience in banking, finance, and investment analysis.

Regent Capital Partners, L. P. will begin operations with committed capital of $18.7 million and will be a source of equity and debt financings for qualified small business concerns.

The following partner will own 10 percent or more of the proposed SBIC:

Name	Percentage of ownership
Alan Meltzer	10.7

The applicant intends to focus on subordinated debt and equity investments in small to medium size companies across a variety of industries. The applicant anticipates making portfolio investments in various industries including, consumer products and services, media and communications, and distribution.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW, Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Dated: January 30, 1996.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 96–2309 Filed 2–2–96; 8:45 am]

BILLING CODE 8025–01–P

[Application No. 99000194]

Toronto Dominion Capital (U.S.A.), Inc.; Notice of Filing of Application for a License to Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1995)) by Toronto Dominion Capital (U.S.A.), Inc., 31 West 52nd Street, 20th Floor, New York, New York, 10019 for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended, (15 U.S.C. et. Seq.), and the Rules and Regulations promulgated

there under. Toronto Dominion Capital (U.S.A.), Inc., is a Delaware corporation. The applicant is based in New York, New York, and intends to make investments in small business concerns throughout the United States.

The applicant's only stockholder is Toronto Dominion Holdings (U.S.A.), Inc., a Delaware corporation and a 100% owned subsidiary of The Toronto-Dominion Bank, a publicly held Canadian financial institution. There is only one class of Common Stock. All shares of Common Stock are entitled to an equal portion of any dividends on the Common Stock which may from time to time be declared by the Board of Directors out of assets legally available. The Board of Directors has not adopted a dividend policy. The Common Stock is not subject to any provisions respecting conversion, redemption or assessment. The responsible managers of the applicant are Brian A. Rich, President; Stephen A. Reinstadtler, Vice President—Investment; and Eric D. Rindahl, Assistant Vice President—Investment. Mr. Rich is a recognized leader in media and communications financings and is a regular speaker at industry conferences. Mr. Reinstadtler specializes in health care and manufacturing financings. Mr. Rindahl has specialized in a number of transactions within the media and communications industries providing advisory services and tax analysis on various transactions.

The initial capitalization of $5,000,000 has been provided by Toronto Dominion Holdings (U.S.A.), Inc., a Delaware corporation and the applicant's parent. The applicant will operate without SBA leverage. The following shareholders will own 10 percent or more of the proposed SBIC:

Name	Percentage of ownership
Toronto Dominion Holdings (U.S.A.), Inc., 31 West 52nd Street, 20th Floor, New York, New York 10019	100

The applicant intends to invest in small business concerns which have a capacity for significant growth. Although the applicant will focus on growth equity investments, its portfolio companies will not necessarily be in so-called ''high technology'' industries. Because the applicant's managers have extensive experience in raising and providing capital to companies in the media and communications industries, a large percent of the applicant's initial investments may be concentrated in these industries. The applicant, however, also intends to focus on small business concerns in other industries.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later that 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Dated: January 29, 1996.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 96–2332 Filed 2–2–96; 8:45 am]

BILLING CODE 8025–01–P

Sunshine Act Meetings

Federal Register
Vol. 61, No. 24
Monday, February 5, 1996

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 DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 9:35 a.m. on Monday, January 29, 1996, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's supervisory activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Mr. Stephen R. Steinbrink, acting in the place and stead of Director Eugene A. Ludwig (Comptroller of the Currency), concurred in by Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), and Chairman Ricki Helfer, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, N.W., Washington, D.C.

Dated: January 30, 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–2444 Filed 2–1–96; 11:27 am]

BILLING CODE 6714–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

''FEDERAL REGISTER'' CITATION OF PREVIOUS ANNOUNCEMENT: 61 FR 3088, Tuesday, January 30, 1996.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Thursday, February 8, 1996—2:00 P.M. (Eastern Time).

CHANGE IN THE MEETING: The following item has been added:

4. Recommended FY 1996 State and Local Allocations.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–4070.

This Notice Issued February 1, 1996.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 96–2533 Filed 2–1–96; 3:14 pm]

BILLING CODE 6750–06–M

NATIONAL LABOR RELATIONS BOARD

Notice of Meeting

TIME AND DATE: 2:00 p.m., Tuesday, January 16, 1996.

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) (matters relating solely to internal personnel rules and practices); 9(B) (disclosure would significantly frustrate implementation of a proposed Agency action * * *), and (c)(10) (deliberations concern * * * the Board's participation in a civil action).

MATTERS TO BE CONSIDERED: Personnel.

CONTACT PERSON FOR MORE INFORMATION: John J. Toner, Executive Secretary, Washington, D.C. 20570, Telephone: (202) 273–1940.

Dated: Washington, DC, January 30, 1996.

By direction of the Board.

John J. Toner,

Executive Secretary, National Labor Relations Board.

[FR Doc. 96–2537 Filed 2–1–96; 3:48 pm]

BILLING CODE 7545–01–M

Corrections

Federal Register
Vol. 61, No. 24
Monday, February 5, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP90-137-029]

Williston Basin Interstate Pipeline Company; Notice of Refund Report

Correction

FR notice documents 96-1696 and 96-1697 beginning on page 3022, in the issue of Tuesday, January 30, 1996, were published in error and should be removed.

BILLING CODE 1505–01–D

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 106, 109 and 114

Express Advocacy; Independent Expenditures; Corporate and Labor Organization Expenditures

Correction

In rule document 95–16502 beginning on page 35292 in the issue of Thursday, July 6, 1995, make the following correction:

On page 35303, in the second column, in the second paragraph, in the fourth line, after ''reporting'' insert ''requirements set out in 11 CFR 109.2. Section 109.2 requires''.

BILLING CODE 1505–01–D

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 102, 109, 110 and 114

[Notice 1995-23]

Corporate and Labor Organization Activity; Express Advocacy and Coordination With Candidates

Correction

In rule document 95–30381 beginning on page 64260 in the issue of Thursday, December 14, 1995, make the following corrections:

1. On page 64261, in the 3rd column, in the 1st full paragraph, in the 14th line from the bottom, ''favorably'' should read ''unfavorably''.

2. On page 64267, in the first column, in the third full paragraph, in the seventh line from the bottom, ''driver'' should read ''drive''.

3. On page 64268, in the second column, in the second full paragraph, in the fifth line from the bottom, ''even'' should read ''event''.

PART 110—[CORRECTED]

4. On page 64273, in the second column, in the Authority citation to Part 110, in the second line, ''438(a)(98)'' should read ''438(a)(8)''.

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February 5, 1996

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 611, et al.

Groundfish of the Gulf of Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands; Final Rules

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 672, and 676

[Docket No. 960129018–6018–01; I.D. 110295B]

Groundfish of the Gulf of Alaska; Limited Access; Foreign Fishing; Final 1996 Harvest Specifications

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

ACTION: Final 1996 harvest specifications for groundfish and associated management measures; closures.

SUMMARY: NMFS announces final 1996 harvest specifications for Gulf of Alaska (GOA) groundfish and associated management measures. This action is necessary to establish harvest limits and associated management measures for groundfish during the 1996 fishing year. NMFS is also closing fisheries as specified in the final 1996 groundfish specifications. These measures are intended to carry out management objectives contained in the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

EFFECTIVE DATES: The final 1996 harvest specifications are effective at 12 noon Alaska local time (A.l.t.) on January 30, 1996, through 24:00 A.l.t. December 31, 1996, or until changed by subsequent notification in the Federal Register. The closures to directed fishing are effective January 30, 1996, through 24:00 A.l.t., December 31, 1996, or until changed by subsequent notification in the Federal Register.

ADDRESSES: Copies of the Environmental Assessment (EA) for 1996 Total Allowable Catch Specifications for the GOA, dated January 1996, may be obtained from Ronald J. Berg, Chief, Fisheries Management Division, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802–1668. The Final Stock Assessment and Fishery Evaluation Report (SAFE report), dated November 1995, is available from the North Pacific Fishery Management Council, 605 W 4th Ave Suite 306, Anchorage, AK 99501–2252, or by calling 907–271–2809.

FOR FURTHER INFORMATION CONTACT: Kaja Brix, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

NMFS announces for the 1996 fishing year: (1) Total allowable catch (TAC) amounts for each groundfish species category in the GOA and apportionments thereof among domestic annual processing (DAP), joint venture processing (JVP), total allowable level of foreign fishing (TALFF), and reserves; (2) apportionments of reserves to DAP; (3) assignments of the sablefish TAC to authorized fishing gear users; (4) apportionments of pollock TAC among regulatory areas, seasons, and between inshore and offshore components; (5) apportionment of Pacific cod TAC between inshore and offshore components; (6) ''other species'' TAC; (7) prohibited species catch (PSC) limits relevant to fully utilized groundfish species; (8) closures to directed fishing; (9) Pacific halibut PSC mortality limits; and (10) seasonal apportionments of the halibut PSC limits. A discussion of each of these measures follows.

The process of determining TACs for groundfish species in the GOA is established in regulations implementing the FMP, which was prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson Fishery Conservation and Management Act. The FMP is implemented by regulations for the foreign fishery at 50 CFR part 611 and for the U.S. fishery at 50 CFR parts 672, 676, and 677. General regulations that also pertain to U.S. fisheries appear at 50 CFR part 620.

Pursuant to § 672.20(a)(2)(ii), the sum of the TACs for all species must fall within the combined optimum yield (OY) range of 116,000–800,000 metric tons (mt) established for these species in § 672.20(a)(1). Under §§ 611.92(c)(1) and 672.20(a)(2)(i), TACs are apportioned initially among DAP, JVP, TALFF, and reserves. The DAP amounts are intended for harvest by U.S. fishermen for delivery and sale to U.S. processors. JVP amounts are intended for joint ventures in which U.S. fishermen typically deliver their catches to foreign processors at sea. TALFF amounts are intended for harvest by foreign fishermen.

Regulations at § 672.20(a)(2)(ii) establish initial reserves equal to 20 percent of the TACs for pollock, Pacific cod, flatfish species categories, and ''other species.'' NMFS has apportioned all of the reserves to DAP in the final harvest specifications. Reserves that are not reapportioned to DAP or JVP may be reapportioned to TALFF according to § 672.20(d)(2).

The Council met from September 27 through October 2, 1995, and developed recommendations for proposed 1996 TAC specifications for each species category of groundfish on the basis of the best available scientific information. The Council also recommended other management measures pertaining to the 1996 fishing year. Under § 672.20(c)(1)(ii), the proposed GOA groundfish specifications and specifications for prohibited species bycatch allowances for the groundfish fishery of the GOA were published in the Federal Register on November 30, 1995 (60 FR 61514). Interim amounts of one-fourth the TAC were published in the Federal Register on November 30, 1995 (60 FR 61492). The final 1996 initial groundfish harvest specifications and prohibited species bycatch allowances implemented under this action supersede the interim 1996 specifications.

The Council met December 6 through 10, 1995, to review the best available scientific information concerning groundfish stocks, and to consider public testimony regarding 1996 groundfish fisheries. Scientific information is contained in the November 1995 SAFE report for the GOA. The SAFE report was prepared and presented by the GOA Plan Team to the Council and the Council's Scientific and Statistical Committee (SSC) and Advisory Panel (AP) and includes the most recent information concerning the status of groundfish stocks based on the most recent catch data, survey data, and biomass projections using different modeling approaches or assumptions.

For establishment of the acceptable biological catches (ABCs) and TACs, the Council considered information in the SAFE report, recommendations from its SSC and AP, as well as public testimony. The SSC adopted the ABC recommendations from the Plan Team, which were provided in the SAFE report, for all of the groundfish species categories, except Pacific ocean perch (POP) and pelagic shelf rockfish.

The Plan Team separated dusky rockfish from the pelagic shelf rockfish assemblage and recommended an ABC for dusky rockfish of 5,090 mt and an ABC of 340 mt for the remainder of the pelagic shelf rockfish complex. The Plan Team recommended this action because adult dusky rockfish reside in habitats different from other species in the pelagic shelf rockfish assemblage. Adult dusky rockfish are commonly found on deeper offshore banks with smooth bottoms and are susceptible to trawl-gear operations. Conversely, most other rockfish in the assemblage inhabit shallow, rocky, nearshore areas and are

usually taken in jig fisheries. Furthermore, concerns exist about localized over-exploitation of black rockfish and other near-shore species in the Central GOA as a result of the developing rockfish jig fishery in that area.

The SSC did not believe adequate biological information is available to separate dusky rockfish from the pelagic shelf rockfish assemblage. Concern was also expressed that the small ABC for the remaining pelagic shelf complex could cause these species to be placed on a prohibited species status to avoid reaching the overfishing limit and result in closure of other fisheries. For these reasons the SSC did not recommend separating dusky rockfish from the pelagic shelf rockfish complex. The Council accepted the SSC's recommendation.

The SSC also did not accept the Plan Team's ABC (8,060 mt) for POP. As in previous years, the Plan Team adjusted the POP ABC by a ratio of $F_{35\%}/F_{30\%}$ to provide a buffer between ABC and the overfishing limit. The SSC does not agree with this adjustment and, as it did in 1994 and 1995, recommended that the ABC equal the overfishing limit (10,165 mt). However, the Council adopted the recommendations of the Plan Team and set the ABC at 8,060 mt.

The ABC for demersal shelf rockfish (DSR) increased significantly over the 1995 estimates. This increase is mainly due to improvements in the assessment methodologies involving surveys using research submarines.

The Council adopted the SSC ABC recommendations for each species category, except for POP. The Council's recommended ABCs, listed in Table 1, reflect harvest amounts that are less than the specified overfishing amounts (Table 1). The sum of 1996 ABCs for all groundfish is 475,170 mt, which is lower than the 1995 ABC total of 492,780 mt.

1. Specifications of TAC and Apportionments Thereof Among DAP, JVP, TALFF, and Reserves

The Council recommended TACs equal to ABCs for pollock, Pacific cod, sablefish, shortraker/rougheye rockfish, pelagic shelf rockfish, demersal shelf rockfish, Atka mackerel and northern rockfish. The Council recommended TACs less than the ABC for shallow-water and deep-water flatfish, other slope rockfish, rex sole, flathead sole, arrowtooth flounder, and thornyhead rockfish (Table 1).

The TAC for pollock is continuing to decline, following a downward trend in the ABC for this species. The 1996 sablefish TAC is also lower than the 1995 amount. For 1996 the SSC recommended that the ABC for Atka mackerel be reduced by one-half, from 6,480 mt to 3,240 mt, consistent with last year's recommendation. This conservative approach is recommended because of uncertainty in the abundance of Atka mackerel and because of concerns for marine mammals. Atka mackerel is an important prey species for sea lions and occurs in abundance near sea lion rookeries.

For other slope rockfish the AP recommended increases in all regulatory areas to allow these species, which are primarily taken as bycatch, to be processed and marketed instead of being discarded. The Council accepted the AP recommendation for the Central Gulf Regulatory Area of 1,170 mt, which should provide enough for bycatch needs. The Council, however, reduced the AP's recommended amounts in the Western and Eastern Regulatory Areas to levels that should also be enough for bycatch needs.

The TAC for thornyhead rockfish was also reduced by the Council from 1,560 mt to 1,248 mt to create a buffer between the TAC and ABC.

The sum of the TACs for all GOA groundfish is 260,207 mt, which is within the OY range specified by the FMP. The sum of the TACs is lower than the 1995 TAC sum of 279,463 mt. The Council, after adopting the TACs, recommended 1996 apportionments of the TACs for each species category among DAP, JVP, TALFF, and reserves. Existing harvesting and processing capacity of the U.S. industry is capable of utilizing the entire 1996 TAC specification for GOA groundfish; therefore, the Council recommended that the DAP allowance equal the TAC for each species category, resulting in no TALFF or JVP apportionments for the 1996 fishing year.

NMFS has reviewed the Council's recommendation for TAC specifications and apportionments and hereby approves these specifications under § 672.20(c)(1)(ii)(B). The TAC for ''other species'' is calculated as 5 percent of the sum of TACs for the other groundfish species categories, or 12,390 mt.

The 1996 ABCs, TACs, and overfishing levels are shown in Table 1.

TABLE 1

[1996 ABCs, TACs (=DAP), and Overfishing Levels of Groundfish (Metric Tons) for the Western/Central (W/C), Western (W), Central (C), and Eastern (E) Regulatory Areas and in the West Yakutat (WYK), Southeast Outside (SEO), and Gulf-Wide (GW) Districts of the Gulf of Alaska. Amounts Specified as Joint Venture Processing (JVP) and Total Allowable Level of Foreign Fishing (TALFF) are Proposed to be Zero and are not Shown in This Table. Reserves are Apportioned to DAP. Values are in Metric Tons (mt)]

Species	Area [1]	ABC	TAC	Overfishing
Pollock: [2]				
Shumagin	(61)	25,480	25,480	
Chirikof	(62)	12,840	12,840	82,000
Kodiak	(63)	13,680	13,680	
Subtotal	W/C	52,000	52,000	
	E	2,810	2,810	4,400
Total		54,810	54,810	86,400
Pacific cod: [3]				
	W	18,850	18,850	
	C	42,900	42,900	
	E	3,250	3,250	
Total		65,000	65,000	88,000
Flatfish [4] (deepwater):				
	W	670	460	
	C	8,150	7,500	

TABLE 1—Continued

[1996 ABCs, TACs (=DAP), and Overfishing Levels of Groundfish (Metric Tons) for the Western/Central (W/C), Western (W), Central (C), and Eastern (E) Regulatory Areas and in the West Yakutat (WYK), Southeast Outside (SEO), and Gulf-Wide (GW) Districts of the Gulf of Alaska. Amounts Specified as Joint Venture Processing (JVP) and Total Allowable Level of Foreign Fishing (TALFF) are Proposed to be Zero and are not Shown in This Table. Reserves are Apportioned to DAP. Values are in Metric Tons (mt)]

Species	Area [1]	ABC	TAC	Overfishing
	E	5,770	3,120	.....
Total	.....	14,590	11,080	17,040
Rex sole:[4]				
	W	1,350	800	.....
	C	7,050	7,050	.....
	E	2,810	1,840	.....
Total	.....	11,210	9,690	13,091
Flathead sole:				
	W	26,280	2,000	.....
	C	23,140	5,000	.....
	E	2,850	2,740	.....
Total	.....	52,270	9,740	31,557
Flatfish [5] (shallow-water):				
	W	8,880	4,500	.....
	C	17,170	12,950	.....
	E	2,740	1,180	.....
Total	.....	28,790	18,630	60,262
Arrowtooth flounder:				
	W	28,400	5,000	.....
	C	141,290	25,000	.....
	E	28,440	5,000	.....
Total	.....	198,130	35,000	231,416
Sablefish: [6]				
	W	2,200	2,200	.....
	C	6,900	6,900	.....
	WYK	3,040	3,040	.....
	SEO	4,940	4,940	.....
Total	.....	17,080	17,080	22,800
Pacific ocean perch: [7]				
	W	1,460	1,260	1,840
	C	3,860	3,333	4,870
	E	2,740	2,366	3,455
Total	.....	8,060	6,959	10,165
Short raker/rougheye: [8]				
	W	170	170	.....
	C	1,210	1,210	.....
	E	530	530	.....
Total	.....	1,910	1,910	2,925
Other rockfish: [9] [10] [11]				
	W	180	100	.....
	C	1,170	1,170	.....
	E	5,760	750	.....
Total	.....	7,110	2,020	8,395
Northern Rockfish: [12]				
	W	640	640	.....
	C	4,610	4,610	.....
	E	20	20	.....
Total	.....	5,270	5,270	9,926

TABLE 1—Continued

[1996 ABCs, TACs (=DAP), and Overfishing Levels of Groundfish (Metric Tons) for the Western/Central (W/C), Western (W), Central (C), and Eastern (E) Regulatory Areas and in the West Yakutat (WYK), Southeast Outside (SEO), and Gulf-Wide (GW) Districts of the Gulf of Alaska. Amounts Specified as Joint Venture Processing (JVP) and Total Allowable Level of Foreign Fishing (TALFF) are Proposed to be Zero and are not Shown in This Table. Reserves are Apportioned to DAP. Values are in Metric Tons (mt)]

Species	Area [1]	ABC	TAC	Overfishing
Pelagic shelf rockfish: [13]				
	W	910	910	
	C	3,200	3,200	
	E	1,080	1,080	
Total		5,190	5,190	8,704
Demersal shelf rockfish: [11]				
	SEO	950	950	1,702
Thornyhead rockfish:				
	GW	1,560	1,248	2,200
Atka mackerel:				
			2,310	
	C		925	
	E		5	
Total		3,240	3,240	9,800
Other species: [14]				
	GW	N/A [15]	12,390	
Total: [16]		475,170	260,207	604,383

[1] Regulatory areas and districts are defined at § 672.2.
[2] Pollock is apportioned to three statistical areas in the combined Western/Central Regulatory Area (Table 3), each of which is further divided into equal quarterly allowances. In the Eastern Regulatory Area, pollock is not divided into quarterly allowances.
[3] Pacific cod is allocated 90 percent to the inshore, and 10 percent to the offshore component. Component allowances are shown in Table 4.
[4] ''Deep water flatfish'' means Dover sole and Greenland turbot.
[5] ''Shallow water flatfish'' means flatfish not including ''deep water flatfish,'' flathead sole, rex sole, or arrowtooth flounder.
[6] Sablefish is allocated to trawl and hook-and-line gears (Table 2).
[7] ''Pacific ocean perch'' means *Sebastes alutus.*
[8] ''Shortraker/rougheye rockfish'' means *Sebastes borealis* (shortraker) and *S. aleutianus* (rougheye).
[9] ''Other rockfish'' in the Western and Central Regulatory Areas and in the West Yakutat District means slope rockfish and demersal shelf rockfish. The category ''other rockfish'' in the Southeast Outside District means Slope rockfish.
[10] ''Slope rockfish'' means *Sebastes aurora* (aurora), *S. melanostomus* (blackgill), *S. paucispinis* (bocaccio), *S. goodei* (chilipepper), *S. crameri* (darkblotch), *S. elongatus* (greenstriped), *S. variegates* (harlequin), *S. wilsoni* (pygmy), *S. babcocki* (redbanded), *S. proriger* (redstripe), *S. zacentrus* (sharpchin), *S. jordani* (shortbelly), *S. brevispinis* (silvergrey), *S. diploproa* (splitnose), *S. saxicola* (stripetail), *S. miniatus* (vermilion), and *S. reedi* (yellowmouth).
[11] ''Demersal shelf rockfish'' means *Sebastes pinniger* (canary), *S. nebulosus* (china), *S. caurinus* (copper), *S. maliger* (quillback), *S. helvomaculatus* (rosethorn), *S. nigrocinctus* (tiger), and *S. ruberrimus* (yelloweye).
[12] ''Northern rockfish'' means *Sebastes polyspinis.*
[13] ''Pelagic shelf rockfish'' means *Sebastes melanops* (black), *S. mystinus* (blue), *S. ciliatus* (dusky), *S. entomelas* (widow), and *S. flavidus* (yellowtail).
[14] ''Other species'' means sculpins, sharks, skates, eulachon, smelts, capelin, squid, and octopus. The TAC for ''other species'' equals 5 percent of the TACs of target species.
[15] N/A means not applicable.
[16] The total ABC is the sum of the ABCs for target species.

2. Apportionment of Reserves to DAP

Regulations implementing the FMP require that 20 percent of each TAC for pollock, Pacific cod, flatfish species, and the ''other species'' category be set aside in reserves for possible apportionment at a later date (§ 672.20(a)(2)(ii)). For the preceding 8 years, including 1995, NMFS has apportioned all of the reserves to DAP in the final harvest specifications. NMFS proposed apportionment of reserves for 1996 in the proposed GOA groundfish specifications published in the Federal Register on November 30, 1995 (60 FR 61514). NMFS received no public comments on the proposed apportionments. For 1996, NMFS apportions reserves for each species category to DAP, anticipating that domestic harvesters and processors will need all the DAP amounts.

3. Assignment of the Sablefish TACs to Authorized Fishing Gear Users

Under § 672.24(c), sablefish TACs for each of the regulatory areas and districts are assigned to hook-and-line and trawl gear. In the Western and Central Regulatory Areas, 80 percent of each TAC is assigned to hook-and-line gear and 20 percent to trawl gear. In the Eastern Regulatory Area, 95 percent of the TAC is assigned to hook-and-line gear and 5 percent is assigned to trawl gear. The trawl gear allocation in the Eastern Regulatory Area may only be used as bycatch to support directed fisheries for other target species. Sablefish caught in the GOA with gear other than hook-and-line or trawl gear must be treated as prohibited species and may not be retained. Table 2 shows the assignments of the 1996 sablefish TACs between hook-and-line and trawl gear.

TABLE 2

[1996 Sablefish TAC Specifications in the Gulf of Alaska and Assignments Thereof to Hook-and-Line and Trawl Gear. Values are in metric tons]

Area/District	TAC	Hook-and-line share	Trawl share
Western	2,200	1,760	440
Central	6,900	5,520	1,380
West Yakutat	3,040	2,888	152
Southeast Outside	4,940	4,693	247
Total	17,080	14,861	2,219

4. Apportionments of Pollock TAC Among Regulatory Areas, Seasons, and Between Inshore and Offshore Components

In the GOA, pollock is apportioned by area, season, and inshore/offshore components. Regulations at § 672.20(a)(2)(iv) require that the TAC for pollock in the combined W/C GOA be apportioned among statistical areas Shumagin (61), Chirikof (62), and Kodiak (63) in proportion to known distributions of the pollock biomass. This measure was intended to provide spatial distribution of the pollock harvest as a sea lion protection measure. Each statistical area apportionment is further divided equally among the four quarterly reporting periods of the fishing year (Table 3). Within any fishing year, any unharvested amount of any quarterly allowance of pollock TAC is added in equal proportions to the quarterly allowance of following quarters, resulting in a sum for each quarter that does not exceed 150 percent of the initial quarterly allowance. Similarly, harvests in excess of a quarterly allowance of TAC are deducted in equal proportions from the remaining quarterly allowances of that fishing year. As specified at § 672.23(e), directed fishing for the four quarterly allowances will start on January 1, June 1, July 1, and October 1. The Eastern Regulatory Area pollock TAC of 2,810 mt is not allocated among smaller areas, or quarters.

The Council is expected to take final action in January 1996 on a proposed amendment, which, if approved by NMFS, would combine the third and fourth quarters into a final season with a start date in September or October. This would change the pollock seasonal apportionments from four seasons to three seasons. Should the Council recommend this change and NMFS approve it, any ensuing changes to the 1996 seasonal apportionment of pollock TACs would be implemented under a separate rulemaking.

Regulations at § 672.20(a)(2)(v)(A) require that the DAP apportionment for pollock in all regulatory areas and all quarterly allowances thereof be divided into inshore and offshore components. One hundred percent of the pollock DAP in each regulatory area is apportioned to the inshore component after subtraction of amounts that are determined by the Director, Alaska Region, NMFS (Regional Director) to be necessary to support the bycatch needs of the offshore component in directed fisheries for other groundfish species. The amount of pollock available for harvest by vessels in the offshore component is that amount actually taken as bycatch during directed fishing for groundfish species other than pollock, up to the maximum retainable bycatch amounts allowed under regulations at § 672.20(g).

TABLE 3

[Distribution of Pollock in the Western and Central Regulatory Areas of the Gulf of Alaska (W/C GOA); Biomass Distribution, Area Apportionments, and Quarterly Allowances. ABC for the W/C GOA is 52,000 Metric Tons (mt). Biomass Distribution is Based on 1993 Survey Data. TACs are Equal to ABC. Inshore and Offshore Allocations of Pollock are not Shown. ABCs and TACs are Rounded to the Nearest 10 mt]

Statistical area	Biomass percent	1996 TAC	Quarterly allowance
Shumagin (61)	49.0	25,480	6,370
Chirikof (62)	24.7	12,840	3,210
Kodiak (63)	26.3	13,680	3,420
Total	100.0	52,000	13,000

5. Apportionment of Pacific Cod TAC Between Inshore and Offshore Components

Regulations at § 672.20(a)(2)(v)(B) require that the DAP apportionment of Pacific cod in all regulatory areas be allocated to vessels catching Pacific cod for processing by the inshore and offshore components. The inshore component is equal to 90 percent of the Pacific cod TAC in each regulatory area. The remaining 10 percent of the TAC is assigned to the offshore component. Inshore and offshore allocations of the 65,000 mt Pacific cod TAC for 1996 are shown in Table 4.

TABLE 4

[1996 Allocation (metric tons) of Pacific Cod in the Gulf of Alaska; Allocations to Inshore and Offshore Components]

Regulatory area	TAC	Component allocation	
		Inshore (90%)	Offshore (10%)
Western	18,850	16,965	1,885
Central	42,900	38,610	4,290
Eastern	3,250	2,925	325
Total	65,000	58,500	6,500

6. PSC Limits Relevant to Fully Utilized Species

Under § 672.20(b)(1), if NMFS determines, after consultation with the Council, that the TAC for any species or species group will be fully utilized in the DAP fishery, a groundfish PSC limit applicable to the JVP fisheries may be specified for that species or species group.

The Council recommended that DAP equal TAC for each species category. NMFS concurs with the Council's recommendation, and has not established any JVP amounts; therefore, no groundfish PSC limits under § 672.20(b)(1) are necessary.

7. Closures to Directed Fishing

The ''interim 1995 initial specifications of groundfish, associated management measures, and closures'' for the GOA (60 FR 61492, November 30, 1995) contained several closures to directed fishing for groundfish during 1996. The closures for the final specifications, which supersede the closures announced in the interim specifications, are listed in Table 5.

Under § 672.20(c)(2)(ii), the Regional Director determined that the entire TACs or allocations of TAC of groundfish species and species groups listed in Table 5 will be needed as incidental catch to support other anticipated groundfish fisheries during 1996. The Regional Director is establishing directed fishing allowances of zero mt and prohibiting directed fishing for the remainder of the year for the fisheries listed in Table 5. Maximum retainable bycatch amounts for the aforementioned closures may be found at § 672.20(g).

In addition to the above closures, NMFS closed Statistical Area 61 to directed fishing for pollock effective 12 noon, A.l.t., January 28, 1996 (Action filed by the Office of the Federal Register on January 26, 1996.) and Statistical Area 62 to directed fishing for pollock effective 12 noon, A.l.t., January 29, 1996 (Action filed by the Office of

the Federal Register on January 26, 1996.) under authority of the interim 1996 specifications. In accordance with § 672.20(c)(2)(ii) and § 672.23(e), the closures for Statistical Areas 61 and 62 will remain in effect until the second quarter directed fishery opens at noon, A.l.t., June 1, 1996, or until changed by subsequent notification in the Federal Register. Under authority of the interim 1996 specifications, NMFS closed Statistical Area 63 to directed fishing for pollock effective 12 noon, A.l.t., January 23, 1996 (61 FR 2457, January 26, 1996) in order to reserve amounts anticipated to be needed for incidental catch in other fisheries. The Regional Director determined that the first quarterly TAC for pollock in Statistical Area 63 had not been reached. On January 29, 1996, NMFS terminated the closure and opened directed fishing for pollock (Action filed with the Office of Federal Register on January 29, 1996.). Under the final 1996 specifications, the directed fishery for pollock in Statistical Area 63 will remain open until 12 noon, A.l.t., April 1, 1996, or until changed by subsequent notification in the Federal Register.

TABLE 5.—CLOSURES TO DIRECTED FISHING FOR TOTAL ALLOWABLE CATCHES IMPLEMENTED BY THIS ACTION.[1] OFFSHORE=THE OFFSHORE COMPONENT; TRW=TRAWL; ALL=ALL GEARS; WG=WESTERN REGULATORY AREA; CG=CENTRAL REGULATORY AREA; EG=EASTERN REGULATORY AREA; GOA=ENTIRE GULF OF ALASKA.

Fishery	Component	Gear	Closed areas
Atka mackerel		ALL	GOA
Northern rockfish		ALL	WG, EG
Deep-water flatfish		ALL	WG
Other rockfish[2]		ALL	GOA
Pacific cod	Offshore	ALL	EG
Sablefish		TRW	GOA
Shortraker/rougheye rockfish		ALL	GOA
Thornyhead rockfish		ALL	GOA

[1] These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 672.
[2] Other rockfish includes slope and demersal shelf rockfish in the WG and CG.

8. Halibut Prohibited Species Catch (PSC) Mortality Limits

Under § 672.20(f)(2), annual Pacific halibut PSC limits are established and apportioned to trawl and hook-and-line gear and are established for pot gear.

Regulations at § 672.20(f)(1)(ii) authorize the exemption of specified non-trawl fisheries from the halibut PSC limit. As in 1995 the Council exempted pot gear and the hook-and-line sablefish fishery from the non-trawl halibut limit for 1996. The Council recommended these exemptions because of the low halibut bycatch mortality experienced in the pot gear fisheries (16 mt in 1995) and because of the 1995 implementation of the sablefish and halibut Individual Fishing Quota program, which allows legal-sized halibut to be retained in the sablefish fishery.

As in 1995, the Council recommended a hook-and-line halibut PSC mortality limit of 300 mt. Ten mt of this limit are apportioned to the DSR fishery. The remainder is seasonally apportioned among the non-sablefish hook-and-line fisheries as shown in Table 6.

The Council continued to recommend a trawl PSC mortality limit of 2,000 mt. The PSC limit has remained unchanged since 1989. Regulations at § 672.20(f)(1)(i) authorize separate apportionments of the trawl halibut bycatch mortality limit between trawl fisheries for deep-water and shallow-water species fisheries. These apportionments are divided seasonally to avoid seasonally high halibut bycatch rates.

NMFS concurs with the Council's recommendations listed above. The following types of information as presented in, and summarized from, the 1995 SAFE report, or as otherwise available from NMFS, Alaska Department of Fish and Game, the International Pacific Halibut Commission (IPHC) or public testimony were considered:

(A) Estimated Halibut Bycatch in Prior Years

The best available information on estimated halibut bycatch is available from 1995 observations of the groundfish fisheries as a result of the NMFS Observer Program. The calculated halibut bycatch mortality by trawl, hook-and-line, and pot gear through December 31, 1995, is 2,065 mt, 325 mt, and 16 mt, respectively, for a total of 2,406 mt.

Halibut bycatch restrictions seasonally constrained trawl gear fisheries throughout the year. Trawling for the deep-water fishery complex was closed during the first quarter on March 27 (60 FR 16587, March 31, 1995), for the second quarter on April 22 (60 FR 20658, April 27, 1995) and for the third quarter on July 21 (60 FR 37601, July 21, 1995). The shallow-water fishery complex was closed in the second quarter on May 8 (60 FR 25623, May 12, 1995) and in the third quarter on July 17 (60 FR 37600, July 21, 1995). All trawling was closed in the fourth quarter on October 23.

The amount of groundfish that trawl or hook-and-line gear might have harvested if halibut had not been seasonally limiting in 1995, is unknown. However, lacking market incentives, some amounts of groundfish will not be harvested, regardless of halibut PSC bycatch availability.

(B) Expected Changes in Groundfish Stocks

At its December 1995 meeting, the Council adopted lower ABCs for pollock, Pacific cod, sablefish, and thornyhead rockfish than those established for 1995. The Council adopted higher ABCs for DSR and POP than those established for 1995. More information on these changes is included in the Final SAFE Report dated November 1995 and in the Council and SSC minutes.

(C) Expected Changes in Groundfish Catch

The total of the 1996 TACs for the GOA is 260,207 mt, a slight decrease from the 1995 TAC total of 279,463 mt. At its December 1995 meeting, the Council changed the 1996 TACs for some fisheries from the 1995 TACs. Those fisheries for which the 1996 TACs are lower than in 1995 are pollock (decreased to 54,810 mt from 65,360 mt), Pacific cod (decreased to 65,000 mt from 69,200 mt), sablefish (decreased to 17,080 mt from 21,500 mt), other slope rockfish (decreased to 2,020 mt from 2,235 mt), and thornyhead rockfish (decreased to 1,248 mt from 1,900 mt). Those species for which the 1996 TAC

is higher than in 1995 are POP (increased to 6,959 mt from 5,630 mt) and DSR (increased to 950 mt from 580 mt).

(D) Current Estimates of Halibut Biomass and Stock Condition

The stock assessment for 1995 conducted by the IPHC indicates that the total exploitable biomass of Pacific halibut in the BSAI management area and the GOA together was 166.85 million lbs (75,700 mt). Biomass declined 18 percent between 1993 and 1994, and indicates a decline of 14 percent between 1994 and 1995. These rates are high relative to the 5–15 percent declines observed in previous years.

Recruitment of 8-year-old halibut appears again to have dropped off in all areas. Recruitment in 1995 represents the lowest recruitment of 8-year-old fish observed in nearly two decades. The low recruitment of recent years indicates that the stock will continue its decline at a rate of about 10–15 percent per year over the next several years.

(E) Other Factors

Potential impacts of expected fishing for groundfish on halibut stocks and U.S. halibut fisheries and methods available for, and costs of, reducing halibut bycatches in the groundfish fisheries were discussed in the proposed 1996 specifications (60 FR 61514, November 30, 1995). That discussion is not repeated here.

9. Seasonal Allocations of the Halibut PSC Limits

Under § 672.20(f)(1)(iii), NMFS seasonally allocates the halibut PSC limits based on recommendations from the Council. The FMP requires that the following information be considered by the Council in recommending seasonal allocations of halibut: (a) Seasonal distribution of halibut, (b) seasonal distribution of target groundfish species relative to halibut distribution, (c) expected halibut bycatch needs on a seasonal basis relative to changes in halibut biomass and expected catches of target groundfish species, (d) expected bycatch rates on a seasonal basis, (e) expected changes in directed groundfish fishing seasons, (f) expected actual start of fishing effort, and (g) economic effects of establishing seasonal halibut allocations on segments of the target groundfish industry.

The notices publishing the final 1995 initial groundfish and PSC specifications (60 FR 3470, February 14, 1995, as amended by 60 FR 12149, March 6, 1995) summarize Council findings with respect to each of the FMP considerations set forth above. At this time, the Council's findings are unchanged from those set forth for 1995. Pacific halibut PSC limits, and apportionments thereof, are presented in Table 6. Regulations specify that any overages or shortfalls in a seasonal apportionment of a PSC limit will be deducted from or added to the next respective seasonal apportionment within the 1996 season.

TABLE 6.—FINAL 1996 PACIFIC HALIBUT PSC LIMITS, ALLOWANCES, AND APPORTIONMENTS. THE PACIFIC HALIBUT PSC LIMIT FOR HOOK-AND-LINE GEAR IS ALLOCATED TO THE DEMERSAL SHELF ROCKFISH (DSR) FISHERY AND FISHERIES OTHER THAN DSR. VALUES ARE IN METRIC TONS

Trawl gear		Hook-and-line gear			
		Other than DSR		DSR	
Dates	Amount	Dates	Amount	Dates	Amount
Jan 1–Mar 31	600 (30%)	Jan 1–May 17	250 (86%)	Jan 1–Dec 31	10 (100%)
Apr 1–Jun 30	400 (20%)	May 18–Aug 31	15 (5%)		
Jul 1–Sep 30	600 (30%)	Sep 1–Dec 31	25 (9%)		
Oct 1–Dec 31	400 (20%)				
Total	2,000 (100%)		290 (100%)		10 (100%)

Regulations at § 672.20(f)(1)(i) authorize apportionments of the trawl halibut PSC limit allowance as bycatch allowances to a deep-water species fishery category, comprised of sablefish, rockfish, deep-water flatfish, rex sole and arrowtooth flounder; and a shallow-water species fishery category, comprised of pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and other species. The apportionment for these two fishery categories is presented in Table 7.

TABLE 7.—FINAL 1996 APPORTIONMENT OF PACIFIC HALIBUT PSC TRAWL LIMITS BETWEEN THE DEEP-WATER SPECIES COMPLEX AND THE SHALLOW-WATER SPECIES COMPLEX. VALUES ARE IN METRIC TONS

Season	Shallow-water	Deep-water	Total
Jan. 20–Mar. 31	500	100	600
Apr. 1–Jun. 30	100	300	400
Jul. 1–Sep. 30	200	400	600
Oct. 1–Dec. 31—No apportionment between shallow-water and deep-water fishery categories during the 4th quarter.			

The Council recommended that the revised halibut discard mortality rates recommended by the IPHC be adopted for purposes of monitoring halibut bycatch mortality limits established for the 1996 groundfish fisheries. NMFS concurs with the Council's recommendation. The IPHC's assumed halibut mortality rates are based on an average of mortality rates determined from NMFS-observer data collected during 1993 and 1994. Two separate mortality rates are established for the GOA bottom trawl pollock fishery: 54 percent for shoreside processors and 74 percent for at-sea processors. The rate differences for at-sea and shoreside processors result from analyses by the IPHC, which showed that at-sea processing vessels had a significantly higher discard mortality rate than the

shorebased operators. However, NMFS notes that directed fishing for GOA pollock by the offshore component is prohibited under § 672.20(a)(2)(v) and that at-sea processing of pollock would be unlikely.

Based on new information the IPHC also recommended different seasonal rates for deep-water flatfish of 60 percent for the spring/summer and 52 percent for the fall/winter. For purposes of this notice, NMFS defines spring/summer to mean April 1–September 30, and fall/winter to mean October 1–March 31. The IPHC also recommended a new rate for the Atka mackerel fishery of 48 percent, a rate of 57 percent for trawl sablefish and a rate of 47 percent for other species.

The halibut mortality rates are listed in Table 8.

TABLE 8.—1996 ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR VESSELS FISHING IN THE GULF OF ALASKA. TABLE VALUES ARE PERCENT OF HALIBUT BYCATCH ASSUMED TO BE DEAD

Gear and Target	
Hook-and-line:	
Sablefish	23
Pacific cod	12
Rockfish	18
Trawl:	
Midwater pollock	72
Rockfish	57
Shallow-water flatfish	67
Pacific cod	56
Deep-water flatfish—April 1–Sept. 30	60
Deep-water flatfish—Oct. 1–March 31	52
Bottom pollock	
Shoreside	54
At-sea	74
Atka mackerel	48
Sablefish	57
Other species	47
Pot:	
Pacific cod	17

Responses to Comments

Written comments on the proposed 1996 specifications and other management measures were requested until December 29, 1995 (60 FR 61514; November 30, 1995). No written comments were received.

Classification

This action is authorized under 50 CFR 611.92 and 672.20; and is exempt from review under E.O. 12866.

This action adopts final 1996 harvest specifications for the GOA, revises associated management measures, and closes specified fisheries. Generally, this action does not significantly revise management measures in a manner that would require time to plan or prepare for those revisions. In some cases, such as closures, action must be taken immediately to conserve fishery resources. Without these closures, specified TAC amounts will be overharvested and retention of these species will become prohibited, which would disadvantage fishermen who could no longer retain bycatch amounts of these species. The immediate effectiveness of this action is required to provide consistent management and conservation of fishery resources. Accordingly, the Assistant Administrator for Fisheries, NOAA (AA) finds there is good cause to waive the 30-day delayed effectiveness period under 5 U.S.C. 553(d)(3) with respect to such provisions and to the apportionment discussed above. In some cases, the interim specifications in effect would be insufficient to allow directed fisheries to operate during a 30-day delayed effectiveness period, which would result in unnecessary closures and disruption within the fishing industry; in many of these cases, the final specifications will allow the fisheries to continue, thus relieving a restriction. Provisions of a rule relieving a restriction under 5 U.S.C. 553(d)(1) are not subject to a delay in effective date.

Pursuant to section 7 of the Endangered Species Act, NMFS and the Fish and Wildlife Service have determined that the groundfish fishery operating under the 1996 GOA TAC specifications is unlikely to jeopardize the continued existence or recovery of species listed as endangered or threatened or to adversely modify critical habitat.

NMFS prepared an EA on the 1996 TAC specifications. The AA concluded that no significant impact on the environment will result from their implementation. A copy of the EA is available (see **ADDRESSES**).

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

Dated: January 30, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 96–2292 Filed 1–30–96; 4:56 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 675, and 676

[Docket No. 960129019–6019–01; I.D. 111495A]

Groundfish Fishery of the Bering Sea and Aleutian Islands; Foreign Fishing; Limited Access; Final 1996 Harvest Specifications for Groundfish

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

ACTION: Final 1996 specifications of groundfish and associated management measures; closures.

SUMMARY: NMFS announces final 1996 harvest specifications of total allowable catches (TACs), initial apportionments of TACs for each category of groundfish, and associated management measures in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to establish harvest limits and associated management measures for groundfish during the 1996 fishing year. NMFS also is closing specified fisheries consistent with the final 1996 groundfish specifications and fishery bycatch allowances of prohibited species. These measures are intended to conserve and manage the groundfish resources in the BSAI.

EFFECTIVE DATE: The final 1996 harvest specifications are effective at noon, Alaska local time (A.l.t.), January 30, 1996, through 2400 A.l.t., December 31, 1996, or until changed by subsequent notification in the Federal Register. The closures to directed fishing are effective noon, A.l.t., January 30, 1996, through 2400 A.l.t., December 31, 1996.

ADDRESSES: The final Environmental Assessment (EA) prepared for the 1996 Total Allowable Catch Specifications may be obtained from the Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel, or by calling 907–586–7229. The final Stock Assessment and Fishery Evaluation (SAFE) report is available from the North Pacific Fishery Management Council, West 4th Avenue, Suite 306, Anchorage, AK 99510–2252 (907–271–2809).

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

Groundfish fisheries in the BSAI are governed by Federal regulations at 50 CFR part 675 that implement the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Island area (FMP). Other applicable regulations are found at 50 CFR 611.93 (foreign fishing) and 50 CFR part 676 (Limited Access Management of Federal Fisheries In and Off of Alaska). The FMP was prepared by the North Pacific Fishery Management Council (Council) and approved by NMFS under the Magnuson Fishery Conservation and Management Act.

The FMP and implementing regulations require NMFS, after consultation with the Council, to specify annually the apportionments of prohibited species catch (PSC) limits among fisheries and seasons (§ 675.21(b)), the TAC, initial TAC (ITAC), initial domestic annual harvest (DAH), and initial total allowable level of foreign fishing (TALFF) for each target species and the ''other species'' category (§ 675.20(a)(2)). The sum of the TACs must be within the optimum yield (OY) range of 1.4 million to 2.0 million metric tons (mt) (§ 675.20(a)(2)). Specifications set forth in Tables 1–9 of this action satisfy these requirements. For 1996, the sum of TACs is 2,000,000 mt.

The proposed BSAI groundfish specifications and specifications for prohibited species bycatch allowances for the groundfish fishery of the BSAI were published in the Federal Register on December 6, 1995 (60 FR 62373). Comments were invited through January 4, 1996. No written comments were received within the comment period. Public consultation with the Council occurred during the December 6–10, 1995, Council meeting in Anchorage, AK. Biological and economic data that were available at the Council's December meeting were considered by NMFS when it approved the final 1996 specifications as recommended by the Council.

Interim Specifications

Regulations under § 675.20(a)(7)(i) authorize one-fourth of each proposed ITAC and apportionment thereof, one-fourth of each PSC allowance, and the first proposed seasonal allowance of pollock to be in effect on January 1 on an interim basis and to remain in effect until superseded by final initial specifications. NMFS published the interim 1996 specifications in the Federal Register on December 6, 1995 (60 FR 62339). The final 1996 initial groundfish harvest specifications and prohibited species bycatch allowances contained in this action supersede the interim 1996 specifications. TAC Specifications and Acceptable Biological Catch (ABC)

The specified TAC for each species is based on the best available biological and socioeconomic information. The Council, its Advisory Panel (AP), and its Scientific and Statistical Committee (SSC) reviewed current biological information about the condition of groundfish stocks in the BSAI at their September and December 1995 meetings. This information was compiled by the Council's BSAI Groundfish Plan Team and is presented in the final 1996 SAFE report for the BSAI groundfish fisheries, dated November 1995. The Plan Team annually produces such a document as the first step in the process of specifying TACs. The SAFE report contains a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters. From these data and analyses, the Plan Team estimates an ABC for each species category.

A summary of the preliminary ABCs for each species for 1996 and other biological data from the September 1995 draft SAFE report were provided in the discussion supporting the proposed 1996 specifications (60 FR 62373, December 6, 1995). The Plan Team's recommended ABCs were reviewed by the SSC, AP, and Council at their September 1995 meetings. Based on the SSC's comments concerning technical methods and new biological data not available in September, the Plan Team revised its ABC recommendations in the final SAFE report, dated November 1995. The revised ABC recommendations were again reviewed by the SSC, AP, and Council at their December 1995 meetings. While the SSC endorsed most of the Plan Team's recommendations for 1996 ABCs set forth in the final SAFE report, the SSC recommended revisions to ABC amounts calculated for pollock, Greenland turbot, Pacific cod, and sablefish. The Council adopted the SSC's recommendations for the 1996 ABCs. The final ABCs are listed in Table 1.

The Council developed its TAC recommendations based on the final ABCs as adjusted for other biological and socioeconomic considerations, including maintaining the total TAC in the required OY range of 1.4–2.0 million mt. None of the Council's recommended TACs for 1996 exceeds the final 1996 ABC for each species category. Therefore, NMFS finds that the recommended TACs are consistent with the biological condition of groundfish stocks. The final TACs and overfishing levels for groundfish in the BSAI area for 1996 are given in Table 1 of this action.

Apportionment of TAC

Except for the hook-and-line and pot gear allocation of sablefish, each species' TAC initially is reduced by 15 percent to establish the ITAC for each species, as required by § 675.20(a)(3) and § 675.20(a)(7)(i). The sum of the 15-percent amounts is the reserve. One half of the pollock TACs placed in reserve is designated as a community development quota (CDQ) reserve for use by CDQ participants. The remainder of the reserve is not designated by species or species group, and any amount of the reserve may be reapportioned to a target species or the ''other species'' category during the year, providing that such reapportionments do not result in overfishing.

The ITAC for each target species and the ''other species'' category at the beginning of the year is apportioned between the DAH and TALFF, if any. Each DAH amount is further apportioned between two categories of U.S. fishing vessels. The domestic annual processing (DAP) category includes U.S. vessels that process their catch on board or deliver it to U.S. fish processors. The joint venture processors (JVP) category includes U.S. fishing vessels working in joint ventures with foreign processing vessels authorized to receive catches in the U.S. exclusive economic zone.

In consultation with the Council, the initial amounts of DAP and JVP are determined by the Director, Alaska Region, NMFS (Regional Director). Consistent with the final 1991–95 initial specifications, the Council recommended that 1996 DAP specifications be set equal to ITAC and that zero amounts of groundfish be allocated to JVP and TALFF. In making this recommendation, the Council considered the capacity of DAP harvesting and processing operations and anticipated that 1996 DAP operations will harvest the full TAC specified for each BSAI groundfish species category. The ABCs, TACs, ITACs, specified overfishing levels (OFLs), and initial apportionments of groundfish in the BSAI for 1996 are set out in Table 1.

TABLE 1.—FINAL 1996 ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND OVERFISHING LEVELS OF GROUNDFISH IN THE BERING SEA AND ALEUTIAN ISLANDS AREA [1,2]

Species	ABC	TAC	ITAC DAP [3,4]	Over-fishing level
Pollock:				
Bering Sea (BS)	1,190,000	1,190,000	1,011,500	1,460,000
Aleutian Islands (AI)	35,600	35,600	30,260	47,000
Bogoslof District	121,000	1,000	850	121,000
Pacific cod	305,000	270,000	229,500	420,000
Sablefish total:	.....	.....	.....	3,300
BS	1,200	1,100	468	.....
AI	1,300	1,200	255	.....
Atka mackerel total:	116,000	106,157	90,233	164,000
Western AI	55,700	45,857	38,978	.....
Central AI	33,600	33,600	28,560	.....
Eastern AI/BS	26,700	26,700	22,695	
Yellowfin sole	278,000	200,000	170,000	342,000
Rock sole	361,000	70,000	59,500	420,000
Greenland turbot total:	10,300	7,000	5,950	25,100
BS	6,900	4,667	3,967	.....
AI	3,400	2,333	1,983	.....
Arrowtooth flounder	129,000	9,000	7,650	162,000
Flathead sole	116,000	30,000	25,500	140,000
Other flatfish [5]	102,000	35,000	29,750	120,000
Pacific ocean perch:				
BS	1,800	1,800	1,530	2,860
AI total	12,100	12,100	10,285	25,200
Western AI	6,050	6,050	5,143	.....
Central AI	3,025	3,025	2,571	.....
Eastern AI	3,025	3,025	2,571	.....
Other red rockfish: [6]				
BS	1,400	1,260	1,071	1,400
Sharpchin/Northern:				
AI	5,810	5,229	4,445	5,810
Shortraker/Rougheye:				
AI	1,250	1,125	956	1,250
Other rockfish: [7]				
BS	497	447	380	497
AI	952	857	728	952
Squid	3,000	1,000	850	3,000
Other species: [8]	27,600	20,125	17,106	137,000
Totals	2,820,809	2,000,000	1,698,767	.....

[1] Amounts are in metric tons. These amounts apply to the entire Bering Sea (BS) and Aleutian Islands (AI) area unless otherwise specified. With the exception of pollock, and for the purpose of these specifications, the BS includes the Bogoslof District.

[2] Zero amounts of groundfish are specified for Joint Venture Processing and Total Allowable Level of Foreign Fishing.

[3] Except for the portion of the sablefish TAC allocated to hook-and-line and pot gear, 0.15 of each TAC is put into a reserve. The ITAC for each species is the remainder of the TAC after the subtraction of these reserves. One half of the amount of the pollock TACs placed in reserve, or 7.5 percent of the TACs, is designated as a CDQ reserve for use by CDQ participants (See § 675.20(a)(3)(ii)).

[4] Twenty percent of the sablefish TAC allocated to hook-and-line gear or pot gear is reserved for use by CDQ participants (See § 676.24(b)). Regulations at § 675.20(a)(3) do not provide for the establishment of an ITAC for the hook-and-line and pot gear allocation for sablefish. The ITAC for sablefish reflected in Table 1 is for trawl gear only.

[5] ''Other flatfish'' includes all flatfish species except for Pacific halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, and arrowtooth flounder.

[6] ''Other red rockfish'' includes shortraker, rougheye, sharpchin, and northern.

[7] ''Other rockfish'' includes all *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, sharpchin, northern, shortraker, and rougheye.

[8] ''Other species'' includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus.

The SSC's revisions to the ABCs recommended by the Plan Team for pollock, Greenland turbot, Pacific cod, and sablefish are discussed below.

Eastern Bering Sea pollock. The SSC believed that the Plan Team's projected 1996 biomass and ABC for eastern Bering Sea pollock (7.36 million mt and 1.29 million mt, respectively) were overestimated. The Plan Team's recommended biomass level was based on a prediction of a strong 1992 year class. However, the SSC expressed concerns about the assumed strength of the 1992 year class that include: (1) The possibility that the rate of exploitation on the year class is underestimated, (2) recent fishery independent indicators of abundance have not corroborated the earlier observations of year class strength, (3) the 1992 year class has experienced an undocumented rate of exploitation in the Russian fishery operating along the U.S./Russia provisional boundary northwest of the Pribilof Islands, and (4) the 1992 year class did not show strongly in the 1995 bottom trawl survey. The SSC recommended that the predicted strength of the 1992 year class should be demonstrated by observing its contribution to the 1996 fishery.

The Plan Team also reviewed an alternative estimate of stock abundance and ABC based on lower recruitment and exploitation rate assumption. The resulting 1996 stock abundance and ABC were 6.0 million mt and 1.09 million mt, respectively. The SSC

recommended adopting a midpoint estimate of ABC at 1,190,000 mt to account for alternative interpretations of 1996 recruitment. The associated midpoint biomass is 6,672,000 mt.

Aleutian Islands pollock. The SSC revised the 1996 Aleutian Islands pollock biomass to 142,505 mt from the Plan Team's 87,200 mt. This increase was based on the SSC's recommendation that biomass estimated for the eastern Aleutian Islands (Unalaska-Umnak area) be included in the Aleutian Islands biomass estimate, as done in previous years. In the past, the Plan Team included biomass from the Unalaska-Umnak islands area in the Aleutian Islands area estimate because this area was surveyed as part of the Aleutian Islands survey and was never included in the eastern Bering Sea trawl survey. The Plan team excluded the eastern extension of the Aleutian Islands area from its 1996 biomass estimate because these fish likely are not a discrete stock given that pollock are continuously distributed from the eastern Bering Sea. Furthermore, a portion of the pollock harvested in the eastern Aleutian Islands (area 541) likely are Aleutian Basin fish because a substantial portion of the commercial catch is from deep-water areas adjacent to the Bogoslof area during the first half of the year. Nonetheless, because the Plan team did not include the eastern Aleutian biomass in either the Aleutian Basin or eastern Bering Sea areas for the purpose of assessing ABC, the SSC determined that no compelling reason exists for excluding an allowable catch from this area. Therefore, the SSC recommended that the Council revert to historical practice and include the Unalaska-Umnak area in the estimate of Aleutian Islands ABC. Given the SSC's revised biomass of 142,505 mt, the SSC recommended an ABC of 35,600 mt using an exploitation rate of 25 percent and an overfishing level (OFL) of 47,000 mt.

Bogoslof pollock. The SSC concurred with the Plan Team's estimate for Bogoslof area pollock biomass (1.1 million mt) based on the 1995 hydroacoustic survey. This level of biomass is twice that estimated for 1995. This increase is believed to be the result of a large increase in the 1989 year class, as well as an increase in the abundance of older pollock in the Bogoslof area. These older fish could have migrated from the eastern Bering Sea or Aleutian Island shelf areas; however, little is understood of the relationship of the Bogoslof pollock population to the adjacent eastern BSAI population. In view of this uncertainty, the SSC recommended a more conservative exploitation rate for the Bogoslof area than that recommended by the Plan Team. The SSC recommended an ABC of 121,000 mt based on an $F_{40\%}/2$ exploitation rate (0.11) applied to the current biomass (1.1 million mt). This level of ABC is reduced from the Plan Team's recommendation of 286,000 mt based on an $F_{35\%}$ exploitation rate (.26). The SSC considered its ABC calculation to be consistent with the overfishing definition so that OFL=ABC=121,000.

The Council recommended that pollock be closed to directed fishing in the Bogoslof District and that a TAC of 1,000 mt be established to provide for bycatch in other groundfish fisheries. This recommendation was intended to accommodate uncertainty about whether or not Bogoslof pollock are a distinct self-sustaining population or surplus fish from the shelf populations. The Council's TAC recommendation also addresses concerns about the potential impacts of undocumented fishing effort in the Russian zone on young pollock that are primarily considered to be of U.S. origin. The Council's TAC recommendation is adopted in these final specifications (Table 1).

Greenland turbot. The SSC endorsed the Plan Team's ABC for Greenland turbot (17,000 mt). However, the SSC recommended that this ABC amount be phased in over a 3-year period to allow the possibility of conducting joint industry/NMFS assessment surveys of the Bering Sea slope and Aleutian Islands. Results of these surveys would allow for a refinement of the stock abundance estimates prior to fully increasing the ABC to 17,000 mt. Given a 3-year phasing in period, the SSC recommended a 1996 ABC of 10,300 mt based on the estimated biomass of 67,000 mt and an exploitation rate of 0.154. The SSC concurred with the Plan Team's recommendation that the ABC be split so that two-thirds of the TAC is apportioned to the eastern Bering Sea and one-third is apportioned to the Aleutian Islands. The intent of this apportionment is to spread fishing effort over a larger area and to avoid localized depletion. Using the SSC's recommended ABC, this apportionment scheme results in eastern BSAI ABCs of 6,900 mt and 3,400 mt, respectively. The Council concurred with the SSC's recommendation for ABC and adopted a 7,000-mt TAC, as recommended by the AP.

Pacific cod. The SSC applied a harvest strategy of $F_{40\%}$ yielding an ABC of 305,000 mt, compared to the Plan Team's ABC of 357,000 using $F_{35\%}$. The SSC recommended a more conservative exploitation strategy because of recruitment variability and the unknown impact of increased use of larger-sized trawl mesh on gear selectivity.

Sablefish. The SSC recommended that the sablefish ABCs be set at the level recommended in the 1996 SAFE report (1,200 mt for the Bering Sea and 1,300 mt for the Aleutian Islands). The recommended ABCs are slightly higher than the levels recommended by the Plan Team (1,100 mt for the Bering Sea and 1,200 mt for the Aleutian Islands), yet they represent a substantial reduction from 1995 levels. This reduction reflects biomass declines due to continuing low recruitment. The slightly higher ABCs recommended by the SSC are based on a $F_{35\%}$ exploitation rate, rather than the $F_{40\%}$ used by the Plan Team.

Seasonal Allowances of Pollock TACs

Under § 675.20(a)(2)(ii), the pollock TAC for each subarea or district of the BSAI is divided, after subtraction of reserves (§ 675.20(a)(3)), into two seasonal allowances. The first allowance is available for directed fishing from January 1 to April 15 (roe season) and the second allowance is available from August 15 through the end of the fishing year (non-roe season).

The Council recommended that the seasonal allowances for the Bering Sea pollock roe and non-roe seasons be specified at 45 percent and 55 percent of the ITAC amounts, respectively (Table 2). These percentages are unchanged since 1993. As in past years, the pollock TAC amounts specified for the Aleutian Islands subarea and the Bogoslof District are not seasonally apportioned.

When specifying seasonal allowances of the pollock TAC, the Council and NMFS considered the factors specified in section 14.4.10 of the FMP and listed in the proposed specifications (60 FR 62373, December 6, 1995). A discussion of these factors relative to the roe and non-roe seasonal allowances was presented in the final 1993 specifications for BSAI groundfish (58 FR 8703, February 17, 1993). Consideration under these factors remains unchanged from 1993 given that the relative seasonal allowances for 1993–96 are the same.

Apportionment of the Pollock TAC to the Inshore and Offshore Components

Regulations at § 675.20(a)(2)(iii) require that the proposed pollock ITAC amounts specified for the BSAI be allocated 35 percent to vessels catching pollock for processing by the inshore component and 65 percent to vessels catching pollock for processing by the

offshore component. Definitions of these components are found at § 675.2. The 1996 ITAC specifications are consistent with these requirements (Table 2).

TABLE 2.—SEASONAL ALLOWANCES OF THE INSHORE AND OFFSHORE COMPONENT ALLOCATIONS OF POLLOCK TAC AMOUNTS [1, 2]

Subarea	TAC	ITAC [3]	Roe season [4]	Non-roe season [5]
Bering Sea:				
Inshore	.....	354,025	159,311	194,714.
Offshore	.....	657,475	295,864	361,611.
	1,190,000	1,011,500	455,175	556,325.
Aleutian Islands:				
Inshore	.....	10,591	10,591	Remainder.
Offshore	.....	19,669	19,669	Remainder.
	35,600	30,260	30,260	Remainder.
Bogoslof:				
Inshore	.....	298	298	Remainder.
Offshore	.....	552	552	Remainder.
	1,000	850	850	Remainder.

[1] TAC = total allowable catch.
[2] Based on an offshore component allocation of 0.65 (ITAC) and an inshore component allocation of 0.35 (ITAC).
[3] ITAC = initial TAC = 0.85 of TAC.
[4] January 1 through April 15—based on a 45/55 split (roe = 45 percent).
[5] August 15 through December 31—based on a 45/55 split (non-roe = 55 percent).

Apportionment of the Pollock TAC to the Western Alaska Community Development Quota

Regulations at § 675.20(a)(3)(ii) require one-half of the pollock TAC placed in the reserve for each subarea or district, or 7.5 percent of each TAC, be assigned to a CDQ reserve for each subarea or district. The 1996 CDQ reserve amounts for each subarea are as follows:

BSAI Subarea	Pollock CDQ (mt)
Bering Sea	89,250
Aleutian Islands	2,670
Bogoslof	75
Total	91,995

Under regulations governing the CDQ program at § 675.27, NMFS may allocate the 1996 pollock CDQ reserves to eligible Western Alaska communities or groups of communities that have an approved community development plan (CDP). NMFS has approved six CDP's and associated percentages of the CDQ reserve for each CDP recipient for 1996–98 (60 FR 66516, December 22, 1995). Table 3 lists the approved CDP recipients, and each recipient's allocation of the 1996 pollock CDQ reserve for each subarea.

TABLE 3.—APPROVED SHARES (PERCENTAGES) AND RESULTING ALLOCATIONS AND SEASONAL ALLOWANCES (METRIC TONS) OF THE 1996 POLLOCK CDQ RESERVE SPECIFIED FOR THE BERING SEA (BS) AND ALEUTIAN ISLANDS (AI) SUBAREAS, AND THE BOGOSLOF DISTRICT (BD) AMONG APPROVED CDP RECIPIENTS

CDP recipient	Percent	Area	Allocation	Roe-season allowance [1]
Aleutian Pribilof Island Community Development Assn	16	BS	14,280	6,426
	.....	AI	427	.....
	.....	BD	12	.....
Total	.....	.....	14,719	.....
Bristol Bay Economic Development Corp	20	BS	17,850	8,033
	.....	AI	534	.....
	.....	BD	15	.....
Total	.....	.....	18,399	.....
Central Bering Sea Fishermen's Assn	4	BS	3,570	1,607
	.....	AI	107	.....
	.....	BD	3	.....
Total	.....		3,680	.....
Coastal Villages Fishing Coop	25	BS	22,312	10,040
	.....	AI	668	.....
	.....	BD	19	.....
Total	.....	.....	22,999	.....
Norton Sound Fisheries Development Corp	22	BS	19,635	8,836
	.....	AI	587	.....

TABLE 3.—APPROVED SHARES (PERCENTAGES) AND RESULTING ALLOCATIONS AND SEASONAL ALLOWANCES (METRIC TONS) OF THE 1996 POLLOCK CDQ RESERVE SPECIFIED FOR THE BERING SEA (BS) AND ALEUTIAN ISLANDS (AI) SUBAREAS, AND THE BOGOSLOF DISTRICT (BD) AMONG APPROVED CDP RECIPIENTS—Continued

CDP recipient	Percent	Area	Allocation	Roe-season allowance [1]
	.....	BD	16	.....
Total	.....	.....	20,238	.....
Yukon Delta Fisheries Development Corp	13	BS	11,603	5,221
	.....	AI	347	.....
	.....	BD	10	.....
Total	.....	.....	11,960	.....
Total	100	.....	91,995	40,163

[1] No more than 45 percent of a CDP recipient's 1996 pollock allocation may be harvested during the pollock roe season, January 1 through April 15.

Allocation of the Pacific Cod TAC

Under § 675.20(a)(2)(iv), 2 percent of the Pacific cod ITAC is allocated to vessels using jig gear, 44 percent to vessels using hook-and-line or pot gear, and 54 percent to vessels using trawl gear. At its December 1995 meeting, the Council recommended a seasonal apportionment of the portion of the Pacific cod TAC allocated to vessels using hook-and-line or pot gear. The seasonal apportionments are authorized under § 675.20(a)(2)(v) to provide for the harvest of Pacific cod when flesh quality and market conditions are optimum and Pacific halibut bycatch rates are low. The Council's recommendations for seasonal apportionments are based on: (1) Seasonal distribution of Pacific cod relative to prohibited species distributions, (2) expected variations in prohibited species bycatch rates experienced in the Pacific cod fisheries throughout the year, and (3) economic effects of seasonal apportionment of Pacific cod on the hook-and-line and pot gear fisheries. The seasonal allocation of the Pacific cod ITAC is specified in Table 4.

TABLE 4.—1996 GEAR SHARES OF THE BSAI PACIFIC COD INITIAL TAC

Gear	Percent TAC	Share ITAC (mt)	Seasonal apportionment		
			Date	Percent	Amount (mt)
Jig	2	4,590	Jan. 1–Dec. 31	100	4,590
Hook-and-line/pot gear	44	100,980	Jan. 1–Apr. 30	79	80,000
			May 1–Aug. 31	18	18,000
			Sep. 1–Dec. 31	3	2,980
Trawl gear	54	123,930	Jan 1–Dec 31	100	123,930
Total	100	229,500			

Sablefish Gear Allocation and CDQ Allocations for Sablefish

Regulations at § 675.24(c)(1) require that sablefish TACs for BSAI subareas be divided between trawl and hook-and-line/pot gear types. Gear allocations of TACs are established in the following proportions: Bering Sea subarea: Trawl gear—50 percent; hook-and-line/pot gear—50 percent; and Aleutian Islands subarea: Trawl gear—25 percent; hook-and-line/pot gear—75 percent. In addition, regulations under § 676.24(b) require NMFS to withhold 20 percent of the hook-and-line and pot gear sablefish allocation as sablefish CDQ reserve. Gear allocations of sablefish TAC and CDQ reserve amounts are specified in Table 5.

TABLE 5.—1996 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS

Subarea	Gear	Percent of TAC (mt)	Share of TAC (mt)	Initial TAC (mt) [1]	CDQ reserve
Bering Sea	Trawl	50	550	468	N/A
	Hook-and-line/pot gear [2]	50	550	N/A	110
Total	.....	.....	1,100	468	
Aleutian Islands	Trawl	25	300	255	N/A
	Hook-and-line/pot gear [2]	75	900	N/A	180
Total	.....	.....	1,200	255	290

[1] Except for the sablefish hook-and-line and pot gear allocation, 0.15 of TAC is apportioned to reserve. The ITAC is the remainder of the TAC after the subtraction of these reserves.

[2] For the portion of the sablefish TAC allocated to vessels using hook-and-line or pot gear, 20 percent of the allocated TAC is reserved for use by CDQ participants. Regulations at § 675.20(a)(3) do not provide for the establishment of an ITAC for sablefish allocated to hook-and-line or pot gear.

Under regulations governing the sablefish CDQ program at § 676.24, NMFS may allocate the 1996 sablefish CDQ reserve to eligible Western Alaska communities or groups of communities that have an approved CDP. NMFS has approved seven CDP's and associated percentages of the sablefish CDQ reserve for each CDP recipient for 1995–97 (59 FR 61877, December 2, 1994). Table 6 lists the approved CDP recipients, and each recipient's allocation of the 1996 sablefish CDQ reserve for each subarea.

TABLE 6.—APPROVED SHARES (PERCENTAGES) AND RESULTING ALLOCATIONS (MT) OF THE 1996 SABLEFISH CDQ RESERVE SPECIFIED FOR THE BERING SEA (BS) AND ALEUTIAN ISLANDS (AI) SUBAREAS AMONG APPROVED CDP RECIPIENTS

Sablefish CDP recipient	Area	Percent	Allocation (mt)
Atka Fishermen's Association	BS	0	0
	AI	0	0
Bristol Bay Economic Development Corp	BS	0	0
	AI	25	45
Coastal Villages Fishing Cooperative	BS	0	0
	AI	25	45
Norton Sound Economic Development Corporation	BS	25	28
	AI	30	54
Pribilof Island Fishermen	BS	0	0
	AI	0	0
Yukon Delta Fisheries Development Association	BS	75	82
	AI	10	18
Aleutian Pribilof Islands Community Development Association	BS	0	0
	AI	10	18
Total	BS	100	110
	AI	100	180

Allocation of Prohibited Species Catch (PSC) Limits for Crab, Halibut, and Herring

PSC limits of red king crab and *C. bairdi* Tanner crab in Bycatch Limitation Zones (50 CFR 675.2) of the Bering Sea subarea, and for Pacific halibut throughout the BSAI specified under § 675.21(a). The PSC limits are:

—Zone 1 trawl fisheries, 200,000 red king crabs;
—Zone 1 trawl fisheries, 1 million *C. bairdi* Tanner crabs;
—Zone 2 trawl fisheries, 3 million *C. bairdi* Tanner crabs;
—BSAI trawl fisheries, 3,775 mt mortality of Pacific halibut;
—BSAI nontrawl fisheries, 900 mt mortality of Pacific halibut; and
—BSAI trawl fisheries, 1,697 mt Pacific herring.

The PSC limit of Pacific herring caught while conducting any trawl operation for groundfish in the BSAI is 1 percent of the annual eastern Bering Sea herring biomass. The best estimate of 1996 herring biomass is 169,700 mt. This amount was derived using 1995 survey data and an age-structured biomass projection model developed by the Alaska Department of Fish and Game. Therefore, the herring PSC limit for 1996 is 1,697 mt.

Regulations under § 675.21(b) authorize the apportionment of each PSC limit into PSC allowances for specified fishery categories. Regulations at § 675.21(b)(1)(iii) specify seven trawl fishery categories (midwater pollock, Greenland turbot/arrowtooth flounder/sablefish, rock sole/flathead sole/other flatfish, yellowfin sole, rockfish, Pacific cod, and bottom pollock/Atka mackerel/''other species''). Regulations at § 675.21(b)(2) authorize the apportionment of the non-trawl halibut PSC limit among five fishery categories (Pacific cod hook-and-line, sablefish hook-and-line, groundfish pot gear, groundfish jig gear, and other non-trawl fishery categories). The fishery bycatch allowances for the trawl and nontrawl fisheries are listed in Table 7.

The fishery bycatch allowances listed in Table 7 reflect the recommendations made to the Council by its AP. These recommendations generally reflect those established for 1995 except for the halibut bycatch allowance specified for the Greenland turbot/arrowtooth flounder/sablefish fishery category. A halibut bycatch allowance equal to zero is specified for this fishery category in 1996. This means that directed fishing for these species by vessels using trawl gear is prohibited. The reasons for this action were discussed in the December 6, 1995, publication of the proposed 1996 specifications (60 FR 62373). The remainder of the prohibited species bycatch allowances were based on 1995 bycatch amounts, anticipated 1996 harvest of groundfish by trawl gear and fixed gear, and assumed halibut mortality rates in the different groundfish fisheries.

Regulations at § 675.21(b)(2) authorize exemption of specified non-trawl fisheries from the halibut PSC limit. As in 1995, the Council recommended that the pot gear, jig gear, and sablefish hook-and-line gear fishery categories be exempt from the halibut bycatch restrictions.

The Council recommended that the pot and jig gear fisheries be exempt from halibut-bycatch restrictions because these fisheries use selective gear types that experience low halibut bycatch mortality. In 1995, total groundfish catch for the pot gear fishery in the BSAI was approximately 21,000 mt with an associated halibut bycatch mortality of less than 15 mt. The 1995 groundfish jig gear fishery harvested about 700 mt of groundfish. The jig gear fleet is comprised of vessels less than 60 ft (18.3 m) length overall that are exempt from observer coverage requirements. As a result, no observer data are available on halibut bycatch in the BSAI

jig gear fishery. Nonetheless, the selective nature of this gear type and the relatively small amount of groundfish harvested with jig gear likely results in a negligible amount of halibut bycatch mortality.

As in 1995, the Council recommended that the sablefish Individual Fishing Quota (IFQ) fishery be exempt from halibut bycatch restrictions because of the sablefish and halibut IFQ program (50 CFR part 676). The IFQ program requires legal-sized halibut to be retained by vessels using hook-and-line gear if a halibut IFQ permit holder is aboard. The best available information on the 1995 sablefish IFQ fishery indicates that less than 40 mt of halibut discard mortality was associated with this fishery.

TABLE 7.—FINAL 1996 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL FISHERIES

Trawl fisheries	Zone 1	Zone 2	BSAI-wide
Red king crab, number of animals:			
Yellowfin sole	50,000		
Rcksol/flatsol/othflat [1]	110,000		
Turb/arrow/sab [2]	0		
Rockfish	0		
Pacific cod	10,000		
Plck/Atka/othr [3]	30,000		
Total	200,000		
C. Bairdi tanner crab, number of animals:			
Yellowfin sole	250,000	1,530,000	
Rcksol/flatsol/othflat	425,000	510,000	
Turb/arrow/sab	0	0	
Rockfish	0	10,000	
Pacific cod	250,000	260,000	
Plck/Atka/othr	75,000	690,000	
Total	1,000,000	3,000,000	
Pacific halibut, mortality (MT):			
Yellowfin sole			820
Rcksol/flatsol/othflat			730
Turb/arrow/sab			0
Rockfish			110
Pacific cod			1,685
Plck/Atka/othr			430
Total			3,775
Pacific herring (MT):			
Midwater pollock[4]			1,227
Yellowfin sole			287
Rcksol/flatsol/othflat			0
Turb/arrow/sab			0
Rockfish			7
Pacific cod			22
Plck/Atka/othr[4]			154
Total			1,697
Non-Trawl Fisheries			
Pacific halibut, mortality (MT):			
Pacific cod hook-and-line			800
Sablefish hook-and-line			(5)
Groundfish pot gear			(5)
Groundfish jig gear			(5)
Other non-trawl			100
Total			900

[1] Rock sole, flathead sole, and other flatfish fishery category.
[2] Greenland turbot, arrowtooth flounder, and sablefish fishery category.
[3] Pollock, Atka mackerel, and ''other species'' fishery category.
[4] Pollock other than midwater pollock, Atka mackerel, and ''other species'' fishery category.
[5] Exempt.

Seasonal Apportionments of PSC limits

Regulations at § 675.21(b)(3) authorize NMFS, after consultation with the Council, to establish seasonal apportionments of prohibited species bycatch allowances. At its December 1995 meeting, the Council recommended that certain crab bycatch allowances apportioned to the yellowfin sole fishery, the trawl fishery halibut bycatch allowances, and the halibut bycatch allowance apportioned to the Pacific cod hook-and-line gear fishery be seasonally apportioned as shown in

Table 8. The recommended seasonal apportionments reflect recommendations made to the Council by its AP.

The Council recommended a seasonal apportionment of the Zone 1 red king crab and Zone 1 *C. bairdi* bycatch allowances apportioned to the yellowfin sole fishery. This recommendation was intended to balance concerns about undesirable high bycatch rates of red king crab in Zone 1 with the recognition that Zone 1 provides desirable fishing grounds for the yellowfin sole fleet during the time of the year when trawl closure areas and ice cover in more northern waters restrict fishing opportunities. Furthermore, halibut and *C. bairdi* bycatch rates experienced in Zone 1 tend to be lower than those encountered on other fishing grounds in the Bering Sea.

The Council recommended seasonal apportionments of the halibut bycatch allowances specified for the trawl flatfish and rockfish fisheries to provide additional fishing opportunities in the BSAI early in the year and to reduce the incentive for trawl vessel operators to move from the BSAI to the Gulf of Alaska after the rock sole roe fishery is closed, typically by the end of February.

The seasonal apportionment of the halibut bycatch allowance specified for the Pacific cod trawl fishery is intended to provide the opportunity for a late fall fishery in the event that sufficient amounts of the Pacific cod TAC allocated to vessels using trawl gear remain.

The recommended seasonal apportionment of the halibut bycatch allowance for the pollock/Atka mackerel/''other species'' fishery category is based on the seasonal allowances of the Bering Sea pollock ITAC recommended for the roe and non-roe seasons, and the assumption that most of the pollock taken during the roe season will be taken with pelagic trawl gear with reduced halibut bycatch rates.

The Council recommended three seasonal apportionments of the halibut bycatch allowance specified for the Pacific cod hook-and-line fishery. The intent of this recommendation was to provide amounts of halibut necessary to support the harvest of the seasonal apportionments of Pacific cod TAC listed in Table 4, as well as limit a hook-and-line fishery for Pacific cod during summer months when halibut bycatch rates are high. As authorized under § 675.21(b)(3)(iii), the Council further recommended that any unused portion of the first seasonal halibut bycatch allowance specified for the Pacific cod hook-and-line fishery be reapportioned to the third seasonal allowance to avoid opportunity for additional fishing for Pacific cod during summer months. Any overage of a halibut bycatch allowance would be deducted from the remaining seasonal bycatch allowances specified for 1996 in amounts proportional to those remaining seasonal bycatch allowances.

TABLE 8.—FINAL SEASONAL APPORTIONMENTS OF THE 1996 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL FISHERIES

Trawl fisheries	Seasonal bycatch allowance
Pacific halibut, mortality (mt):	
Yellowfin sole:	
Jan. 20–Mar. 31	160
Apr. 01–May 10	150
May 11–Aug. 14	100
Aug. 15–Dec. 31	410
Total	820
Rock sole/flathead sole/''other flatfish'':	
Jan. 20–Mar. 31	453
Apr. 01–Jun. 30	139
Jul. 01–Dec. 31	138
Total	730
Rockfish:	
Jan.20–Mar. 31	30
Apr.01–Jun. 30	50
Jul.01–Dec. 31	30
Total	110
Pacific cod:	
Jan. 20–Oct. 24	1,585
Oct. 25–Dec. 31	100
Total	1,685
Pollock/Atka mackerel/''other species'':	
Jan. 20–Apr. 15	330
Apr. 16–Dec. 31	100
Total	430
Zone 1 Red king crab, Number of animals:	
Yellowfin sole:	
Jan. 20–Mar. 31	5,000
Apr. 01–May 10	15,000
May 11–Aug. 14	10,000
Aug. 15–Dec. 31	20,000
Total	50,000
Zone 1 C. Bairdi crab, number of animals:	
Yellowfin sole:	
Jan. 20–Mar. 31	50,000
Apr. 01–Dec 31	200,000
Total	250,000
Non-Trawl Gear:	
Pacific halibut mortality (mt):	
Pacific cod hook-and-line:[1].	
Jan. 01–Apr. 30	475
May 01–Aug. 31	40
Sep. 01–Dec. 31	285
Total	800

[1] Any unused portion of the first seasonal halibut bycatch allowance specified for the Pacific cod hook-and-line fishery will be reapportioned to the third seasonal allowance. Any overage of a seasonal halibut bycatch allowance would be deducted from the remaining seasonal bycatch allowances specified for 1996 in amounts proportional to those remaining seasonal bycatch allowances.

For purposes of monitoring the fishery halibut bycatch mortality allowances and apportionments, the Regional Director will use observed halibut bycatch rates and estimates of groundfish catch to project when a fishery's halibut bycatch mortality allowance or seasonal apportionment is reached. The Regional Director monitors the fishery's halibut bycatch mortality allowances using assumed mortality rates that are based on the best information available, including information contained in the final annual SAFE report.

The Council recommended that the assumed halibut mortality rates developed by staff of the International Pacific Halibut Commission (IPHC) for the 1996 BSAI groundfish fisheries be adopted for purposes of monitoring halibut bycatch allowances established for the 1996 groundfish fisheries. NMFS concurs with the Council's recommendation. The IPHC's assumed halibut mortality rates generally are based on an average of mortality rates determined from NMFS observer data collected during 1993 and 1994. Assumed Pacific halibut mortality rates for BSAI fisheries during 1996 are specified in Table 9.

TABLE 9.—ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR THE BSAI FISHERIES DURING 1996

Fishery	Assumed mortality (percent)
Hook-and-line gear fisheries:	
Rockfish	24
Pacific cod	11.5
Greenland turbot	22
Sablefish	17
Trawl gear fisheries:	
Midwater pollock	88
Non-pelagic pollock	78
Yellowfin sole	73
Rock sole, flathead sole, other flatfish	73
Rockfish	75
Pacific cod	63
Atka mackerel	63
Arrowtooth flounder	49
Greenland turbot	49
Sablefish	49
Other species	82
Pot gear fisheries:	
Pacific cod	7

Groundfish PSC Limits

No PSC limits for groundfish species are specified in this action. Section 675.20(a)(6) authorizes NMFS to specify PSC limits for groundfish species or species groups for which the TAC will be completely harvested by domestic fisheries. These PSC limits apply only to JVP or TALFF fisheries. At this time, no groundfish are allocated to either JVP or TALFF and specifications of groundfish PSC limits are unnecessary.

Closures to Directed Fishing

Under § 675.20(a)(8), if the Regional Director determines that the amount of a target species or ''other species'' category apportioned to a fishery or, with respect to pollock, to an inshore or offshore component allocation, is likely to be reached, the Regional Director may establish a directed fishing allowance for the species or species group. If the Regional Director established a directed fishing allowance, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified subarea or district. Similarly, under §§ 675.21(c) and 675.21(d), if the Regional Director determines that a fishery category's bycatch allowance of halibut, red king crab, or *C. bairdi* tanner crab for a specified area has been reached, the Regional Director will prohibit directed fishing for each species in that category in the specified area.

The Regional Director has determined that the TAC amounts of pollock in the Bogoslof District, Pacific ocean perch in the Bering Sea subarea and in the Eastern and Central Aleutian Islands districts, shortraker/rougheye rockfish in the Aleutian Islands subarea, other rockfish in the BSAI subareas, and other red rockfish in the Bering Sea will be necessary as incidental catch to support other anticipated groundfish fisheries. Therefore, NMFS is prohibiting directed fishing for these target species in the specified area identified in Table 10 to prevent exceeding the groundfish TACs specified in Table 1 of this document.

A Zone 1 red king crab bycatch allowance of zero crab is specified for the rockfish trawl fishery, which is defined at § 675.21(b)(1)(iii)(D). Similarly, the BSAI halibut bycatch allowance specified for the Greenland turbot/arrowtooth flounder/sablefish trawl fishery category, defined at § 675.21(b)(1)(iii)(C), is 0 mt. The Regional Director has determined, in accordance with §§ 675.21(c)(1)(i) and 675.21(c)(1)(iii), that the red king crab bycatch allowance specified for the trawl rockfish fishery in Zone 1 and the halibut bycatch allowance specified for the Greenland turbot/arrowtooth flounder/sablefish trawl fishery category has been caught. Therefore, NMFS is prohibiting directed fishing for rockfish in Zone 1 by vessels using trawl gear, and for Greenland turbot, arrowtooth flounder, and sablefish in the BSAI by vessels using trawl gear (Table 10).

The closures listed in Table 10 supersede the closures announced in the 1996 interim specifications (60 FR 62339, December 6, 1996). In accordance with § 675.20(a)(7)(ii), these closures will remain in effect until 12 midnight, A.l.t., December 31, 1996. While these closure are in effect, the maximum retainable bycatch amounts at § 675.20(h) apply at any time during a fishing trip. Additional closures and restrictions may be found in existing regulations at 50 CFR part 675.

Under the 1996 interim specification, NMFS closed directed fishing for Pacific ocean perch in the Western Aleutian Islands District. The final 1996 specifications contained in this action supersede the interim 1996 specifications. Therefore, directed fishing for Pacific ocean perch is authorized in the Western Aleutian Islands District under the final 1996 specifications.

TABLE 10.—CLOSURES TO DIRECTED FISHING UNDER 1996 TACS [1]

Fishery (all gear)	Closed area [2]
Pollock in Bogoslof District.	Statistical Area 518.
Pacific ocean perch	Bering Sea.
	Eastern AI.[3]
	Central AI.
Shortraker/rougheye rockfish.	AI.
Other rockfish [4]	BSAI.
Other red rockfish [5]	Bering Sea.
Rockfish (trawl only)	Zone 1.
Greenland turbot/arrowtooth/sablefish (trawl only).	BSAI.

[1] These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 675.
[2] Refer to § 675.2 for definitions of areas.
[3] ''AI'' means Aleutian Islands area.
[4] In the BSAI, ''Other rockfish'' includes *Sebastes* and *Sebastolobus* species except for Pacific ocean perch and the ''other red rockfish'' species.
[5] ''Other red rockfish'' includes shortraker, rougheye, sharpchin, and northern.

Classification

This action is authorized under 50 CFR 611.93(b), 675.20, and 676; and is exempt from review under E.O. 12866.

This action adopts final 1996 harvest specifications for the BSAI, revises associated management measures, and closes specified fisheries. Generally, this action does not significantly revise management measures in a manner that would require time to plan or prepare for those revisions. In some cases, such as closures, action must be taken immediately to conserve fishery resources. Without these closures, specified prohibited species bycatch allowances will be exceeded, established TAC amounts will be overharvested, and retention of some groundfish species will become prohibited, which would disadvantage fishermen who could no longer retain bycatch amounts of these species. The immediate effectiveness of this action is required to provide consistent management and conservation of fishery resources. Accordingly, the Assistant Administrator for Fisheries, NOAA (AA), finds good cause exists to waive the 30-day delayed effectiveness period under 5 U.S.C. 553(d)(3) with respect to such provisions. In some cases, the interim specifications in effect would be insufficient to allow directed fisheries to operate during a 30-day delayed effectiveness period, which would result in unnecessary closures and disruption within the fishing industry; in many of these cases, the final specifications will allow the fisheries to continue, thus relieving a restriction. Provisions of a rule relieving a restriction under 5 U.S.C. 553(d)(1) are

not subject to a delay in the effective date.

Pursuant to section 7 of the Endangered Species Act, NMFS and the U.S. Fish and Wildlife Service have determined that the groundfish fisheries operating under the 1996 BSAI TAC specifications are unlikely to jeopardize the continued existence or recovery of species listed as endangered or threatened or to adversely modify critical habitat of these species.

NMFS prepared an EA on the 1996 TAC specifications. The AA concluded that no significant impact on the environment will result from their implementation. A copy of the EA is available (see **ADDRESSES**).

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

Dated: January 30, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

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Impact Aid; Notice

DEPARTMENT OF EDUCATION

Impact Aid

AGENCY: Department of Education.

ACTION: Notice extending the application deadline date for Impact Aid fiscal year 1996 section 8002 grants and fiscal year 1997 section 8003 grants.

SUMMARY: The Secretary extends the deadline date for the submission of applications for Impact Aid fiscal year 1996 section 8002 grants and fiscal year 1997 section 8003 grants to March 15, 1996. Impact Aid regulations at 34 CFR 222.3 specify that the annual application deadline is January 31. Due to a lack of appropriated funds in November and December resulting in the furlough of Department employees and inclement weather in January, the Department of Education, like many other Federal agencies, was closed for approximately five weeks. As a result, application packages could not be mailed until the week of January 15, 1996. Consequently, an extension is being granted to potential applicants under sections 8002 and 8003 for Impact Aid assistance for the respective years specified. Section 8003 applicants should use a survey date for their student counts that is at least three days after the start of the 1995–96 school year and before the extended deadline of March 15, 1996.

EFFECTIVE DATE: This notice extending the application deadline date to March 15, 1996, for Impact Aid fiscal year 1996 section 8002 grants and fiscal year 1997 section 8003 grants is effective February 5, 1996. The deadline date for the transmittal of comments by State Educational Agencies is March 30, 1996. The Secretary will also accept and approve for payment any otherwise approvable application that is received on or before the sixtieth calendar day after March 15, 1996, which is May 14, 1996. However, any applicant meeting the conditions of the preceding sentence will have its payment reduced by 10 percent of the amount it would have received had its application been filed by March 15, 1996.

FOR APPLICATIONS OR INFORMATION CONTACT: Impact Aid Program, U.S. Department of Education, 600 Independence Avenue SW., Room 4200 Portals, Washington, DC 20202–6244. Telephone: (202) 260–3907. 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.

Waiver of rulemaking. Section 222.3, which establishes the annual January 31 Impact Aid application deadline, is currently in effect. However, due to the government furloughs affecting the Department and inclement weather, the applications could not be mailed to applicants on a timely basis, and applicants may not have sufficient time to comply with the annual deadline. Because this amendment makes a procedural change for this year only as a result of unique circumstances, proposed rulemaking is not required under 5 U.S.C. 553(b)(A). In addition, the Secretary has determined under 5 U.S.C. 553(b)(B) that proposed rulemaking on this one-time suspension of the regulatory deadline date is impracticable, unnecessary, and contrary to the public interest.

Program Authority: 20 U.S.C. 7705.

(Catalog of Federal Domestic Assistance Number 84.041)

Dated: January 31, 1996.

Gerald N. Tirozzi,

Assistant Secretary for Elementary and Secondary Education.

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Monday
February 5, 1996

Part IV

Department of the Treasury

31 CFR Part 103

Department of the Treasury

Office of the Comptroller of the Currency

12 CFR Part 21

Federal Reserve System

12 CFR Part 208, et al.

Suspicious Transactions Reporting Requirements; Final Rules

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA13

Amendment to the Bank Secrecy Act Regulations; Requirement To Report Suspicious Transactions

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Final rule.

SUMMARY: This document contains a final rule requiring banks and other depository institutions to report to the Department of the Treasury under the Bank Secrecy Act any suspicious transactions relevant to possible violations of federal law or regulation. The rule is adopted by the Financial Crimes Enforcement Network (''FinCEN'') to implement the authority granted to the Secretary of the Treasury by the Bank Secrecy Act. The rule is a key to the creation of a new method for the reporting by depository institutions, on a uniform ''Suspicious Activity Report,'' of suspicious transactions and known or suspected criminal violations; related rules have been or will be adopted by the five federal financial supervisory agencies that examine and regulate the safety and soundness of depository institutions.

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Pamela Johnson, Assistant Director, Office of Financial Institutions Policy, FinCEN (703) 905–3920; Charles Klingman, Office of Financial Institutions Policy, FinCEN (703) 905–3920; Stephen R. Kroll, Legal Counsel, FinCEN (703) 905–3590; or Joseph M. Myers, Attorney-Advisor, Office of Legal Counsel, FinCEN, at (703) 905–3590.

SUPPLEMENTARY INFORMATION:

I. Statutory Provisions

The Bank Secrecy Act, Pub. L. 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5330, authorizes the Secretary of the Treasury, *inter alia,* to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, and to implement counter-money laundering programs and compliance procedures. Regulations implementing Title II of the Bank Secrecy Act (codified at 31 U.S.C. 5311–5330), appear at 31 CFR Part 103. The authority of the Secretary to administer the Bank Secrecy Act has been delegated to the Director of FinCEN.

The provisions of 31 U.S.C. 5318(g) deal with the reporting of suspicious transactions by financial institutions subject to the Bank Secrecy Act and the protection from liability to customers of persons who make such reports.[1] Subsection (g)(1) states generally:

> The Secretary may require any financial institution, and any director, officer, employee, or agent of any financial institution, to report any suspicious transaction relevant to a possible violation of law or regulation.

Subsection (g)(2) provides further:

> A financial institution, and a director, officer, employee, or agent of any financial institution, who voluntarily reports a suspicious transaction, or that reports a suspicious transaction pursuant to this section or any other authority, may not notify any person involved in the transaction that the transaction has been reported.

Subsection (g)(3) provides that neither a financial institution, nor any director, officer, employee, or agent

> that makes a disclosure of any possible violation of law or regulation or a disclosure pursuant to this subsection or any other authority . . . shall . . . be liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the person involved in the transaction or any other person of such disclosure.

Finally, subsection (g)(4) requires the Secretary of the Treasury, ''to the extent practicable and appropriate,'' to designate ''a single officer or agency of the United States to whom such reports shall be made.'' This designation is not to preclude the authority of supervisory agencies to require financial institutions to submit other reports to the same agency ''under any other applicable provision of law.'' 31 U.S.C. 5318(g)(4)(C). The designated agency is in turn responsible for referring any report of a suspicious transaction to ''any appropriate law enforcement or supervisory agency.'' *Id.,* at subsection (g)(4)(B).

II. Notice of Proposed Rulemaking

On September 7, 1995, a notice of proposed rulemaking (the ''Notice''), under the authority contained in 31 U.S.C. 5318(g), relating to the reporting of suspicious transactions by banks and other depository institutions,[2] was published in the Federal Register (60 FR 46,556). Like this final rule, the Notice was published in coordination with the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration (collectively, the ''Supervisory Agencies''). An announcement that the time to comment on the Notice had been extended until November 13, 1995, was published in the Federal Register on October 13, 1995, 60 FR 53,316.

The final rule is a key to the creation of a single reporting form, filing point, and data base for all reports of suspicious activity made by depository institutions. (The background of the new system is explained in greater detail in the Notice, *see* 60 FR at 46557–46558 (September 7, 1995).) The sifiling point not only eliminates the need for multiple copies but also permits magnetic filing of reports by most institutions capable of and accustomed to making such filings with the Internal Revenue Service. Finally, the single data base will permit rapid dissemination of reports to appropriate law enforcement agencies, more thorough analysis and tracking of those reports, and, in time, the provision to the financial community of information about trends and patterns gleaned from the information reported.

Each Supervisory Agency involved has issued or shortly will issue a final rule requiring reporting under its respective authority. The final rules have been conformed to one another, so that a bank will file a suspicious activity report in satisfaction of both the rules of FinCEN and the rules of the applicable Supervisory Agency or Agencies. A significant group of activities are required to be reported both under the authority of 31 U.S.C. 5318(g) and under the Supervisory Agencies' own administrative requirements, but a single filing will suffice to comply with all requirements.

As indicated above, this final rule becomes effective on April 1, 1996, as do the final rules issued by the Supervisory Agencies.

[1] The authority to require reporting of suspicious transactions was added to the Bank Secrecy Act by section 1517 of the Annunzio-Wylie Anti-Money Laundering Act (''Annunzio-Wylie''), Title XV of the Housing and Community Development Act of 1992, Pub. L. 102–550; it was expanded by section 403 of the Money Laundering Suppression Act of 1994 (the ''Money Laundering Suppression Act''), Title IV of the Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103–325, to require designation of a single government recipient for reports of suspicious transactions.

[2] References to ''bank'' include not only commercial banks, but also thrift institutions, credit unions, other types of depository institutions, and certain other institutions. *See* 31 CFR 103.11(c) (defining ''bank'' for purposes of 31 CFR Part 103).

III. Explanation of Revisions and Summary of Comments

A. Comments on the Notice—Overview

FinCEN received 30 written comments on the Notice. Of these, 14 comments were submitted by banks or bank holding companies, seven by banking trade associations, one by a credit union, three by credit union trade associations, three by non-bank financial institutions, one by an *ad hoc* association of non-bank financial institutions, and one by a practicing attorney on his own behalf.

The commenters generally applauded the decision to reduce reporting burdens on banks and eliminate the confusion caused by duplicate filing requirements. They also supported efforts to enhance the use of the information submitted by banks about suspicious transactions and noted favorably Treasury's general efforts to work with the financial sector to fashion reasonable and cost-effective rules to prevent money laundering.

Commenters expressed a variety of concerns relating to five subjects. Four of the subjects—the definition of ''transaction'' (especially the treatment of safe deposit box use), the time for filing of suspicious activity reports, the nature of the records required to be retained by institutions in connection with particular suspicious activity reports and the manner and time period for their retention, and the confidentiality rules for such reports—concerned the operational details of the rule outlined in the Notice. The specifics of the comments are outlined below; suggestions made in the comments on those subjects have been adopted in large part.

The fifth subject addressed in the comments was the appropriateness of the proposed definition of suspicious transaction itself, especially the provisions of proposed 31 CFR 103.21(a)(2)(iii), which would require reporting generally of transactions that appear to have no business purpose and for which the reporting institution knew of no reasonable explanation. This provision has been retained, with revision, in the final rule. Specific comments on the provision are also discussed below.

After consideration of all the comments, 31 CFR 103.21, proposed in the Notice, is adopted as revised herein.

B. The Final Rule

While the final rule reflects numerous modifications in response to the comments received on the Notice, the format and substance of the final rule are generally consistent with the rule proposed in the Notice. The changes adopted are intended to improve, clarify, and refine the provisions of the proposed rule that required such modifications, without fundamentally altering the basic policies described in the Notice and reflected in the proposed rule.

The Notice outlined the importance of the reporting of suspicious transactions to Treasury's anti-money laundering and anti-financial crime programs. *See* 60 FR at 46,558–59 (September 7, 1995). Treasury is reconfirming, in issuing the final rule, its judgment that reporting of suspicious transactions in a timely fashion is a key component of the flexible and cost-efficient compliance system required to prevent the use of the nation's financial system for illegal purposes. The same judgment underlies Treasury's initiatives to sharply reduce the extent to which ordinary currency transactions are required to be reported with respect to ongoing businesses with a significant business history. Reporting of suspicious transactions is also required by the emerging international consensus defining the most effective methods for fighting international organized crime.

IV. Section-by-Section Analysis

A. 31 CFR 103.11—Definitions

1. *31 CFR 103.11 (qq)—FinCEN.* The definition of FinCEN is adopted without change.

2. *31 CFR 103.11(ii)—Transaction.* The Notice proposed to replace the definition of ''transaction in currency'' in the Bank Secrecy Act regulations with a definition of ''transaction'' that reflected the definition of transaction in 18 U.S.C. 1956 (laundering of monetary instruments). The Notice specifically requested comments on the treatment of the use of safe deposit boxes that would result from the proposed change and noted that the proposal was not intended to vary the substance of the requirement to report currency transactions under 31 CFR 103.22, other than in the case of deposits of cash in safe deposit boxes.

a. *Appropriateness of New Definition Generally.* One group of commenters questioned the appropriateness generally of the adoption for this rule of a definition of transaction based on the definition in the money laundering statute. Those commenters noted that ''Congress drafted this statutory definition broadly in order to criminalize every conceivable type of criminally-derived property [sic] but not with the expectation that it would be used as the basis for imposing a positive reporting obligation on financial institutions.'' They asserted that ''[s]uch a definition simply would not be workable for financial institutions that must comply with regulatory requirements.''

Treasury believes there is a necessary relationship between the anti-money laundering statute and the Bank Secrecy Act. The extent to which banks should be required to track or monitor certain sorts of transactions will also be addressed in the know-your-customer rules expected to be proposed later this year. Moreover, the ''transaction'' definition in the federal money laundering statute is already necessarily embraced in the existing criminal referral rules.

b. *Treatment of Safe Deposit Boxes.* The Notice had specifically requested comment on the decision to include use of a safe deposit box in the definition of transaction. The Notice explained that the definition was included to reflect the fact that in appropriate cases use of a safe deposit box may constitute a transaction under 18 U.S.C. 1956, following that statute's amendment to reverse the decision in *United States v. Bell*, 936 F.2d 337 (7th Cir. 1991).

Commenters strongly felt that a blanket inclusion of safe deposit box transactions within the ambit of the rule was inadvisable, potentially contrary to state law, and in any event contrary to a long established banking practice that a customer's use of a safe deposit box was a private transaction in which bank employees studiously sought not to interfere. After consideration of the comments, FinCEN has excluded use of a safe deposit box from the transaction definition. Based on present experience, the risk of the use of a safe deposit box by itself as part of a money laundering or similar offense is sufficiently rare that a rule mandating blanket changes in long-established banking practices is uncalled for. At the same time, a transaction that involved both the use of a safe deposit box and a use of other banking facilities would be included in the transaction definition to the extent it involved such other facilities. (Of course, use of a safe deposit box by a customer that came to a bank's attention, for example, when a box was entered by a bank pursuant to accepted procedures, would be a candidate for the voluntary reporting contemplated by the second sentence of section 103.21(a).)

c. *Definition of Transaction in Currency.* Several commenters requested that the definition of ''transaction in currency'' be retained in 31 CFR 103.11, in order to avoid confusion in the administration of the currency transaction reporting requirement. That definition has been

retained, solely for purposes of the reporting rule in 31 CFR 103.22.

d. *Investment Securities.* One commenter pointed out that the proposed definition failed to take account of the fact that the Bank Secrecy Act definition of monetary instrument, unlike the 18 U.S.C. 1956 definition, includes only bearer instruments. The final rule adds the term ''investment security'' to the definition of transaction, as a cross reference to the definition of investment security in 31 CFR 103.11(t).

B. 31 CFR 103.21—Reports of Suspicious Transactions

1. *31 CFR 103.21(a).* Subsection (a) contains the general statement of the obligation to file a suspicious activity report, and a general definition of the term ''suspicious transaction.'' The obligation extends only to transactions conducted or attempted by, at, or through a bank; transactions are reportable under this rule and 31 U.S.C. 5318(g) whether or not they involve currency.

Paragraph (a)(1) states, in its first sentence, that section 103.21 implements the regulatory authority granted to the Secretary of the Treasury by 31 U.S.C. 5318(g). Language has been added to the sentence to make it clear that the reporting of transactions ''relevant to a possible violation of law or regulation'' is required only to the extent specified in the rule. A second sentence has been added to encourage the reporting of transactions as so relevant, even in cases in which the rule does not explicitly so require, for example in the case of use of a safe deposit box or with respect to a transaction below the $5,000 threshold added to the rule, as discussed below. As also discussed below, such a voluntary report (that is, the report of a suspicious transaction relevant to a possible violation of law or regulation, in circumstances not required by the rule) is fully covered by the rules relating to non-disclosure and protection against liability specified in 31 U.S.C. 5318 (g)(2) and (g)(3) and in 31 CFR 103.21(e) (added by the final rule).

The proposed rule designated three classes of transactions as requiring reporting. The first class, described in subparagraph (a)(2)(i), includes transactions either involving funds derived from illegal activity or intended or conducted in order to hide or disguise funds or assets derived from illegal activity. The second class, described in subparagraph (a)(2)(ii), involves transactions designed to evade the requirements of the Bank Secrecy Act. The third class, described in subparagraph (a)(2)(iii), involves transactions that appear to have no business purpose or that vary so substantially from normal commercial activities or activities appropriate for the particular customer or class of customer as to have no reasonable explanation.

Commenters raised a number of questions about the terms of the proposed definition in paragraph (a)(2). First, they sought to limit the terms in which knowledge would be ascribed to a bank by questioning a standard that called for reporting when a bank ''knows, suspects, or has reason to suspect'' that a transaction requires reporting. The use of the term is intended to introduce a concept of due diligence into the reporting procedures. As part of the general conforming of the rules of FinCEN and the Supervisory Agencies, the same standards have been adopted by each agency.

Second, the Notice asked for the industry's position as to whether monetary thresholds should be created for reporting Bank Secrecy Act and money laundering violations. Many commenters sought the addition of a threshold for reporting transactions, while several other commenters argued against thresholds. FinCEN has determined to add a $5,000 threshold to the reporting rule, so that reports are now required only for a transaction (or, as explained below, a series of transactions) that involve at least that amount in funds or assets and that otherwise satisfy the terms of the rule. Adoption of this threshold is intended to reduce the burden of reporting and to conform the treatment of money laundering and related transactions to that of other situations in which reporting is required by the Supervisory Agencies. As a concomitant to the creation of a threshold, language has been added to make it clear that related transactions ''aggregating'' $5,000 or more may be reportable.

Several commenters also objected to the requiring of reports of ''attempted'' transactions, on the ground that an attempted transaction may neither be sufficiently obvious to draw a bank's attention nor to generate the sorts of records necessary to complete the report. FinCEN recognizes that these situations may arise and that the standards applied to reporting of attempts must necessarily be somewhat more flexible than those requiring reporting of completed transactions. However, the reporting of ''attempts'' has been required in the criminal referral reports that have evolved into the suspicious activity report, and the requirement to report attempts has been retained in the final rule.

The proposed rule required reporting of transactions conducted or attempted ''by, at, or through, or otherwise involving'' a bank. Several commenters objected to the inclusion in the rule of the words ''otherwise involving'' because their meaning was unclear and provided insufficient guidance for bank officials. The phrase has been deleted.

2. *Subparagraph (a)(2)(i).* Several commenters questioned whether the requirement to report transactions involving funds derived from illegal activity that are conducted in order to hide or disguise funds or assets derived from illegal activity extended to all illegal activity or only to activity that was illegal under federal law. Language has been added to specify plainly that only activity that is in violation of federal law or regulation is covered by the requirement. Such a limitation does not, of course, make violation of state law irrelevant, especially in the many cases under 18 U.S.C. 1956, 1957 or 1960 in which violations of state law can serve as a predicate for a federal offense.

3. *Subparagraph (a)(2)(ii).* No comments were directed specifically toward subparagraph (a)(2)(ii), and that subparagraph is unchanged, except for a revised reference to the Bank Secrecy Act.

4. *Subparagraph (a)(2)(iii).* As proposed in the Notice, subparagraph (a)(2)(iii) required reporting of a transaction if:

> the transaction appears to have no business purpose, the transaction varies from the normal methods of financial commerce, or the transaction is not the sort in which the particular customer or class of customer would normally be expected to engage, and, in each case, the bank knows of no reasonable explanation for the transaction.

Although a number of commenters opposed the reporting of transactions that could not definitively be linked to wrongdoing, FinCEN believes that a suspicious transaction reporting rule appropriately can and indeed must include a requirement for the reporting of transactions that vary so substantially from normal practice that they legitimately can and should raise suspicions of possible illegality. Unlike many criminal acts, money laundering involves the taking of apparently lawful steps—opening bank accounts, wiring funds, or investing or reinvesting assets—for an unlawful purpose. A skillful money launderer will often split the movement of funds between several institutions so that no one institution can have a complete picture of the transactions or funds movement

involved. Although a number of commenters objected to the standard, others viewed the standard as a workable compromise between the competing needs of enforcement and the financial system and, in one case, as consistent with the advice and training already given to line staff at the commenter's money center bank.

In addition, as indicated in the Notice, subparagraph (a)(2)(iii) recognizes the emerging international consensus that efforts to deter, substantially reduce, and eventually eradicate money laundering are greatly assisted by the reporting of suspicious transactions by banks. The requirements of this section comply with the recommendations adopted by multilateral organizations in which the United States is an active participant, including the Financial Action Task Force of G–7 nations and the Organization of American States, and are consistent with the European Community's directive on preventing money laundering through financial institutions.

Although the basic standard has been retained, a number of changes have been made in response to specific comments on the Notice. First, the structure of the paragraph (a)(2) now makes it clear that all three subparagraphs in the suspicious transaction definition are qualified by the standard that the bank must ''know, suspect, or have reason to suspect'' that the reportable events have occurred. Second, the description of transactions that ''vary from the normal methods of financial commerce'' has been deleted because the phrase provided insufficient guidance to reporting institutions and was comprehended to the extent relevant by the ''no business purpose'' language of the preceding clause. Third, the specification of transactions in which the ''class of customer'' involved would not be expected to engage has been deleted, in response to concerns that the language unintentionally created a need for comparisons among groups of customers based on their personal characteristics. Fourth, the language has been altered to require reporting of transactions that appear to have no business ''or apparent lawful purpose''; the exception for transactions for which the bank knows of a reasonable explanation has been clarified to specify that knowledge of such an explanation requires an examination by the bank of the available facts, including factors such as the background and possible purpose of the transaction.

It remains true, as indicated in the Notice, that determinations as to whether a report is required must be based on all the facts and circumstances relating to the transaction and bank customer in question. Different fact patterns will require different types of judgments. In some cases, the facts of the transaction may clearly indicate the need to report. For example, continued payments or withdrawals of currency in amounts each beneath the currency transaction reporting threshold applicable under 31 CFR 103.22, or multiple exchanges of small denominations of currency into large denominations of currency, can indicate that a customer is involved in suspicious activity. Similarly, the fact that a customer refuses to provide information necessary for the bank to make reports or keep records required by this Part or other regulations, provides information that a bank determines to be false, or seeks to change or cancel the transaction *after* such person is informed of reporting requirements relevant to the transaction or of the bank's intent to file reports with respect to the transaction, would all indicate that a Suspicious Activity Report (''SAR'') should be filed.

In other situations a more involved judgment may need to be made whether a transaction is suspicious within the meaning of the rule. Transactions that raise the need for such judgments may include, for example, (i) funds transfers, payments or withdrawals that are not commensurate with the stated business or other activity of the person conducting the transaction or on whose behalf the transaction is conducted; (ii) transmission or receipt of funds transfers without normal identifying information or in a manner that indicates an attempt to disguise or hide the country of origin or destination or the identity of the customer sending the funds or of the beneficiary to whom the funds are sent; or (iii) repeated use of an account as a temporary resting place for funds from multiple sources without a clear business purpose therefor. The judgments involved will also extend to whether the facts and circumstances and the institution's knowledge of its customer provide a reasonable explanation for the transaction that removes it from the suspicious category.

5. *31 CFR 103.21(b).* Subsection (b) sets forth the filing procedures to be followed by banks making reports of suspicious transactions. Reports are to be made within 30 calendar days of the initial detection of the suspicious transaction, by completing a SAR and filing it in a central location, to be determined by FinCEN. An additional 30 days is permitted in order to enable a bank to identify a suspect, but in no event may a SAR be filed after 60 days after the initial detection of the reportable transaction. The general timing rule has been changed so that the period for filing runs not from the date of the transaction being reported, but from the date of the ''initial detection'' of facts that may constitute a basis for the filing of a SAR; in many cases the two dates will be the same, but in others, where the transaction is detected by the bank's compliance screening systems, the dates may differ. If the bank's own internal investigation is still ongoing when filing is required the form filed may so indicate, but the form must nonetheless be filed within the periods specified in the rule. FinCEN recognizes that it is always difficult to apply general timing rules to every possible situation in which reporting may be required or reportable activity detected, and it believes that the change made in the rule adequately balances the need to recognize the crucial importance of bank screening systems and to provide clear deadlines for reporting. FinCEN is prepared to consider further changes in the timing rules if experience dictates a need therefor, but it also believes that timely reporting is essential.

Several commenters requested that a change be made in the requirement in the Notice that banks provide immediate telephone notice of ongoing violations to ''the'' appropriate law enforcement agency (in addition to filing the form as required). As requested, the language has been revised to require notice to ''an'' appropriate law enforcement agency.

The new filing procedures represent a significant improvement over the procedures currently followed by banks filing criminal referral forms. There is no longer any requirement to file multiple copies of forms with multiple agencies, and no requirement to file supporting documentation with the SAR itself.

6. *31 CFR 103.21(c).* Subsection (c) continues in effect the longstanding exception from the obligation to file in the case of a robbery or burglary that is otherwise reported to appropriate law enforcement authorities. In response to a comment, the second longstanding exception contained in the rules of the Supervisory Agencies for reports of stolen securities has also been repeated in this rule. Treasury and the Supervisory Agencies recognize that bank robbery and burglary require the immediate attention of the appropriate police authorities, and are not the types of crimes about which this regulation is directly concerned.

7. *31 CFR 103.21(d).* Subsection (d) states the obligation of filing banks to maintain copies of SARs and their

supporting documentation following the date of filing. This provision is intended to relieve banks of the need physically to transmit supporting documentation previously required to be filed with criminal referral reports *without* altering the utility or availability of the supporting documentation to the Supervisory Agencies or law enforcement agencies as needed. The supporting documentation is a part of the SAR and is held by the bank (in effect as agent for the Supervisory Agencies and FinCEN), to avoid requiring often significant masses of paper immediately to be transmitted to investigators or examiners. Thus, identification of supporting documentation must be made at the time the SAR is filed, and such supporting documentation is deemed filed with a SAR in accordance with this paragraph of the final rule; as such, FinCEN, the Supervisory Agencies, and law enforcement authorities need not make their access requests through subpoena or other legal processes.

Several significant changes requested by commenters in the record retention requirements have been made. First, the time for which retention is required has been reduced from 10 years to five years (the general period for record retention required under the Bank Secrecy Act); a provision authorizing FinCEN to permit earlier destruction has been deleted as unnecessary in light of the reduction of the retention period to five years generally. Second, the wording has been changed to permit record retention in either paper form or in accordance with the bank's general recordkeeping procedures, even if those procedures call for record maintenance in electronic rather than paper form. FinCEN recognizes that a bank will not always have custody of the originals of documents and that some documents will not exist at the bank in paper form. In those cases, preservation of the best available evidentiary documents (for example, computer disks or photocopies) should be acceptable. This has been reflected in the final rule by changing the reference to original documents to ''original document or business record equivalents.''

The Notice referred both to documents ''supporting'' and documents ''related'' to the SAR. Many commenters found this dual reference confusing. FinCEN believes that the use of the word ''supporting'' is more precise and limits the scope of the information which must be retained to that which would be useful in explaining the terms of and parties to any suspicious transaction reported on a SAR. It is anticipated that banks will use their judgment in determining the information to be retained in light of the purposes of the reporting requirement. It is impossible to catalogue the precise types of information covered by this requirement, as the nature of the documentation that will ''support'' the determination embodied in a SAR necessarily depends upon the facts of a particular case.

8. *31 CFR 103.21(e)*. Subsection (e) incorporates the terms of 31 U.S.C. 5318 (g)(2) and (g)(3). This subsection thus specifically prohibits those filing SARs from making any disclosure, except to authorized law enforcement and regulatory agencies, about either the reports themselves, the information contained therein, or the supporting documentation (in the latter case if the supporting documentation indicates in any way that it is related to a SAR). This subsection thus also restates the broad protection from liability for making reports of suspicious transactions, and for failures to disclose the fact of such reporting, contained in the statute. As pointed out in the Notice, the regulatory provisions do not extend the scope of either the statutory prohibition or the statutory protection; however, because Treasury recognizes the importance of these statutory provisions to the overall effort to encourage meaningful reports of suspicious transactions, they are described in the regulation in order to remind compliance officers and others of their existence. The terms of subsection (e) have been revised to clarify that the protection of the statute, as well as the statutory prohibition against disclosures of filing, extends to voluntary reports of suspicious activity as well as those reports required by the final rule.

A number of commenters sought guidance about whether the statutory prohibitions against disclosure extended to subpoenas from third parties in civil litigation. FinCEN believes that the nondisclosure provisions of the statute extend to requests via subpoenas seeking SARs; as noted, the nondisclosure rule does not apply to supporting documentation, *so long as* no material in the supporting documentation produced in response to a subpoena or other process indicates its relationship to a SAR. The final rule adds a requirement that requests for a SAR or the information contained therein should be reported to FinCEN. (Under the rules of the Supervisory Agencies, reporting of such requests to those Agencies is also required.)

9. *31 CFR 103.21(f)*. Subsection (f) notes that compliance with the obligation to report suspicious transactions will be audited, and provides that failure to comply with the rule may constitute a violation of the Bank Secrecy Act and the Bank Secrecy Act regulations. The substitution of the word ''may'' for the word ''shall'' is intended to indicate that the decision whether a failure to report a transaction in fact constitutes a Bank Secrecy Act violation will necessarily depend upon the facts of each situation. FinCEN anticipates that in general the area for inquiry in the case of failure to report will center upon both the facts of the particular failure and what the failure indicates about the bank's compliance systems and attention to the Bank Secrecy Act rules generally.

The Notice also stated that compliance with the obligation to report suspicious transactions would have no direct bearing on a bank's potential exposure under the criminal provisions of Title 18 of the U.S. Code. One commenter argued that any such statement was a bar to cooperation and urged the Department of the Treasury and the Justice Department to create safe harbors from criminal liability in cases in which SARs are filed.

The sentence questioned by the commenter was intended simply as a reminder that the language of the ''safe harbor'' provisions of 31 U.S.C. 5318(g) does not by its terms protect against criminal prosecutions. The sentence has been deleted in response to the comment, but its deletion in no way alters the scope of the statute.

Finally, a mistaken reference to Title 15 of the Code of Federal Regulations has been deleted.

C. Other Comments

1. *Closing Accounts*. FinCEN invited comment concerning the guidance that is appropriate in connection with a bank's decision, after filing a report concerning a particular customer, whether to terminate its relationship with that customer. Treasury continues to believe that unless instructed by an authorized official in writing, this is a decision which must be made by the financial institution.

2. *Non-Bank Financial Institutions*. Several comments were filed on behalf of non-bank financial institutions concerned that the rules embodied in the Notice would be extended to such institutions. Those comments were considered to the extent relevant to the Notice and will be held for consideration when rules are proposed governing such institutions.

V. Regulatory Flexibility Act.

FinCEN certifies that this regulation will not have a significant financial

impact on a substantial number of small depository institutions.

VI. Paperwork Reduction Act

The collection of information contained in this rule has been reviewed by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d).

The collection of information requirements in this rule are found in 31 CFR 103.21, as issued in final form herein. This information is mandatory and is necessary to inform appropriate law enforcement and bank supervisory agencies of suspicious transactions involving or that take place at or through depository institutions. Information collected hereunder is confidential, *see* 31 U.S.C. 5318(g), and may be used by FinCEN, the federal financial institution regulatory agencies, federal law enforcement agencies and, where appropriate, state law enforcement and bank supervisory agencies. The respondent recordkeepers are for-profit financial institutions, including small businesses.

FinCEN may not conduct or sponsor, and an organization is not required to respond to, this information collection unless it displays a currently valid OMB control number. The OMB control number is 1506–0001.

No comments specifically addressing the hour burden for filing the SAR were received.

FinCEN estimates that there will be 15,000 responses from banks subject to the Bank Secrecy Act.

The revisions made to the final rule from the proposed rule published in the Notice simplify the submission of the reporting form and shorten the records retention period. However, the same amount of information will be collected under the final rule as under the proposed rule published in the Notice. The burden per respondent varies depending on the nature of the suspicious transaction being reported. FinCEN estimates that the average annual burden for reporting and recordkeeping per response will be 1 hour. Thus, FinCEN estimates the total annual hour burden to be 15,000 hours. However, this burden will not result in additional cost to the public because the same information is required to be filed by one or more of the Supervisory Agencies, and a single filing will satisfy all filing requirements.

Comments regarding the burden estimate, or any aspect of this collection of information, including suggestions for reducing the burden, should be sent to Office of Regulatory Policy and Enforcement, FinCEN, and to the Office of Management and Budget, Paperwork Reduction Project (7100–0212), Washington, D.C. 20503.

VII. Executive Order 12866

The Department of the Treasury has determined that this rule is not a significant regulatory action under Executive Order 12866.

VIII. Unfunded Mandates Act of 1995 Statement

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (Unfunded Mandates Act), March 22, 1995, requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by state, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 202 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. FinCEN has determined that it is not required to prepare a written statement under section 202 and has concluded that on balance this rule provides the most cost-effective and least burdensome alternative to achieve the objectives of the rule.

List of Subjects in 31 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Banks, banking, Currency, Investigations, Law enforcement, Reporting and recordkeeping requirements.

Amendment

For the reasons set forth above in the preamble, 31 CFR Part 103 is amended as set forth below:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for Part 103 is revised to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

2. Section 103.11 as amended at 60 FR 228 and 44144 effective April 1, 1996, is further amended by revising paragraph (ii) and adding paragraph (qq) to read as follows:

§ 103.11 Meaning of terms.

* * * * *

(ii) *Transaction.* (1) Except as provided in paragraph (ii)(2) of this section, transaction means a purchase, sale, loan, pledge, gift, transfer, delivery or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other investment security or monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

(2) For purposes of § 103.22, and other provisions of this part relating solely to the report required by that section, the term ''transaction in currency'' shall mean a transaction involving the physical transfer of currency from one person to another. A transaction which is a transfer of funds by means of bank check, bank draft, wire transfer, or other written order, and which does not include the physical transfer of currency, is not a transaction in currency for this purpose.

* * * * *

(qq) *FinCEN.* FinCEN means the Financial Crimes Enforcement Network, an office within the Office of the Under Secretary (Enforcement) of the Department of the Treasury.

§ 103.21 [Redesignated as § 103.20]

3. Section 103.21 is redesignated as § 103.20.

4. New § 103.21 is added to read as follows:

§ 103.21 Reports by banks of suspicious transactions.

(a) *General.* (1) Every bank shall file with the Treasury Department, to the extent and in the manner required by this section, a report of any suspicious transaction relevant to a possible violation of law or regulation. A bank may also file with the Treasury Department by using the Suspicious Activity Report specified in paragraph (b)(1) of this section or otherwise, a report of any suspicious transaction that it believes is relevant to the possible violation of any law or regulation but whose reporting is not required by this section.

(2) A transaction requires reporting under the terms of this section if it is conducted or attempted by, at, or through the bank, it involves or aggregates at least $5,000 in funds or other assets, and the bank knows, suspects, or has reason to suspect that:

(i) The transaction involves funds derived from illegal activities or is intended or conducted in order to hide or disguise funds or assets derived from illegal activities (including, without limitation, the ownership, nature, source, location, or control of such

funds or assets) as part of a plan to violate or evade any federal law or regulation or to avoid any transaction reporting requirement under federal law or regulation;

(ii) The transaction is designed to evade any requirements of this part or of any other regulations promulgated under the Bank Secrecy Act, Pub. L. 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5330; or

(iii) The transaction has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the bank knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

(b) *Filing procedures*—(1) *What to file.* A suspicious transaction shall be reported by completing a Suspicious Activity Report (''SAR''), and collecting and maintaining supporting documentation as required by paragraph (d) of this section.

(2) *Where to file.* The SAR shall be filed with FinCEN in a central location, to be determined by FinCEN, as indicated in the instructions to the SAR.

(3) *When to file.* A bank is required to file a SAR no later than 30 calendar days after the date of initial detection by the bank of facts that may constitute a basis for filing a SAR. If no suspect was identified on the date of the detection of the incident requiring the filing, a bank may delay filing a SAR for an additional 30 calendar days to identify a suspect. In no case shall reporting be delayed more than 60 calendar days after the date of initial detection of a reportable transaction. In situations involving violations that require immediate attention, such as, for example, ongoing money laundering schemes, the bank shall immediately notify, by telephone, an appropriate law enforcement authority in addition to filing timely a SAR.

(c) *Exceptions.* A bank is not required to file a SAR for a robbery or burglary committed or attempted that is reported to appropriate law enforcement authorities, or for lost, missing, counterfeit, or stolen securities with respect to which the bank files a report pursuant to the reporting requirements of 17 CFR 240.17f–1.

(d) *Retention of records.* A bank shall maintain a copy of any SAR filed and the original or business record equivalent of any supporting documentation for a period of five years from the date of filing the SAR. Supporting documentation shall be identified, and maintained by the bank as such, and shall be deemed to have been filed with the SAR. A bank shall make all supporting documentation available to FinCEN and any appropriate law enforcement agencies or bank supervisory agencies upon request.

(e) *Confidentiality of reports; limitation of liability.* No bank or other financial institution, and no director, officer, employee, or agent of any bank or other financial institution, who reports a suspicious transaction under this part, may notify any person involved in the transaction that the transaction has been reported. Thus, any person subpoenaed or otherwise requested to disclose a SAR or the information contained in a SAR, except where such disclosure is requested by FinCEN or an appropriate law enforcement or bank supervisory agency, shall decline to produce the SAR or to provide any information that would disclose that a SAR has been prepared or filed, citing this paragraph (e) and 31 U.S.C. 5318(g)(2), and shall notify FinCEN of any such request and its response thereto. A bank, and any director, officer, employee, or agent of such bank, that makes a report pursuant to this section (whether such report is required by this section or is made voluntarily) shall be protected from liability for any disclosure contained in, or for failure to disclosure the fact of such report, or both, to the full extent provided by 31 U.S.C. 5318(g)(3).

(f) *Compliance.* Compliance with this section shall be audited by the Department of the Treasury, through FinCEN or its delegees under the terms of the Bank Secrecy Act. Failure to satisfy the requirements of this section shall be a violation of the reporting rules of the Bank Secrecy Act and of this part. Such failure may also violate provisions of Title 12 of the Code of Federal Regulations.

Dated: January 30, 1996.

Stanley E. Morris,

Director, Financial Crimes Enforcement Network.

[FR Doc. 96–2272 Filed 2–2–96; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 21

[Docket No. 96–02]

RIN 1557–AB19

Minimum Security Devices and Procedures, Reports of Suspicious Activities, and Bank Secrecy Act Compliance Program

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is amending its regulations that require national banks to file criminal referral and suspicious transaction reports. This final rule streamlines reporting requirements by providing that national banks file a new Suspicious Activity Report (SAR) with the OCC and the appropriate Federal law enforcement agencies by sending SARs to the Financial Crimes Enforcement Network of the Department of the Treasury (FinCEN) to report a known or suspected criminal offense or a transaction that a bank suspects involves money laundering or violates the Bank Secrecy Act (BSA).

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Robert S. Pasley, Assistant Director, or Neil M. Robinson, Senior Attorney, Enforcement and Compliance Division, (202–874–4800), or Daniel L. Cooke, Attorney, Legislative and Regulatory Activities Division (202–874–5090).

SUPPLEMENTARY INFORMATION:

Background

The OCC, the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (collectively, the Agencies) issued for public comment substantially similar proposals to revise their rules that require the institutions under their supervision to report known or suspected criminal conduct and suspicious transactions. *See* 60 FR 34476 (July 3, 1995) (OCC); 60 FR 34481 (July 3, 1995) (Board); 60 FR 36366 (July 17, 1995) (OTS); 60 FR 47719 (September 14, 1995) (FDIC). The Department of the Treasury, through FinCEN, has issued for public comment a substantially similar proposal to require the reporting of suspicious activities. *See* 60 FR 46556 (September 7, 1995).

As noted in the OCC's proposed regulation, the interagency Bank Fraud Working Group, consisting of representatives from the Agencies, law enforcement agencies, and FinCEN, has been working on the development of a single form, the SAR, for the reporting of known or suspected Federal criminal law violations and transactions that an institution suspects involve money laundering or violate the BSA. The SAR will be available to national banks both in paper form and as a computer software shell. SARs can be obtained from the appropriate OCC District Office listed in 12 CFR part 4.[1]

The new SAR reporting system will: (1) Combine the current criminal referral rules of the Federal financial institutions regulatory agencies with the Department of the Treasury's suspicious activity reporting requirements; (2) create a uniform reporting form, the new SAR, for use by financial institutions in reporting known or suspected criminal offenses and transactions that an institution suspects involve money laundering or violate the BSA; (3) provide a system whereby a financial institution need only refer to the SAR and its instructions in order to complete and file the form in conformance with the Agencies' and FinCEN's reporting regulations; (4) require the filing of only one form with FinCEN; (5) eliminate the need to file supporting documentation with a SAR; (6) enable a filer, through computer software that the OCC will provide to all national banks, to prepare a SAR on a computer and file it by mailing a computer disc or tape; (7) establish a database that will be accessible to Federal and state financial institution regulators and law enforcement agencies; (8) raise the thresholds for mandatory reporting in two categories and create a threshold for the reporting of transactions that an institution suspects involve money laundering or violate the BSA in order to reduce unnecessary reporting burdens on banking organizations; and (9) emphasize recent changes in the law that provide (a) a safe harbor from civil liability to financial institutions and their employees when they report known or suspected criminal offenses or suspicious activities, by filing a SAR or by reporting by other means, and (b) criminal sanctions for the disclosure of such a report to any party involved in the reported transaction.

[1] The OCC recently revised Part 4. *See* 60 FR 57315 (November 15, 1995). The geographical composition of each OCC District Office is listed at 12 CFR 4.5. *See* 60 FR at 57322.

Comments Received

The OCC received letters from 33 public commenters, including 26 banks, five trade and industry research groups, and two law firms.

The large majority of commenters expressed general support for the proposal. None of the commenters opposed the proposed new suspicious activity reporting rules although, as discussed below, a number of commenters made suggestions for improving the rule and requests for clarification.

Description of the Final Rule and Responses to Comments Received

After consideration of the public comments received, the Agencies are each promulgating a substantially identical final rule on the filing of SARs. Under the OCC's final rule, national banks need only follow SAR instructions for completing and filing the SAR to be in compliance with the OCC's and FinCEN's reporting requirements.

The final rule adopts the proposal with a few additional changes that are made in response to the comments received. The final rule makes several changes that reduce unnecessary regulatory burden in addition to those that were proposed. In particular, the final rule further reduces burden by: (1) Adding a $5,000 threshold for reporting transactions that an institution suspects involve money laundering or violate the BSA; (2) eliminating the requirement that banks report a transaction that is ''suspicious for any reason'' by modifying the description of the types of suspicious activity that must be reported; (3) reducing the record retention period from ten years to five; and (4) permitting banks to maintain the business record equivalent of a document rather than requiring the bank to maintain the original.

Purpose and Scope (§ 21.11(a))

The proposal clarified the scope of the current rule. The OCC received no comments on this section, and it is adopted as proposed.

Definitions (§ 21.11(b))

The proposal added definitions for several terms used in the operative provisions of the rule. The OCC received one comment on this section. The commenter stated that the definition of ''known or suspected violation'' was too broad because it included violations that have been attempted or may occur. The OCC has concluded, however, that attempted and potential crimes must be reported in order to maintain effective law enforcement. The definition has been incorporated into each of the reporting requirement provisions in § 21.11(c). This definitions section is otherwise adopted as proposed, with minor technical changes.

SARs Required (§ 21.11(c))

The proposal clarified and revised the provision in the former rule that requires a bank to file a criminal referral report. The proposal raised the dollar thresholds that trigger filing requirements and modified the scope of events that a national bank must report.

Most of the comments received by the OCC addressed this section. Approximately one-third of the commenters encouraged the OCC to change proposed § 21.11(c)(4), which required banks to report all financial transactions that are suspicious ''for any reason.'' The commenters stated that this language was too broad and made meaningless the $5,000 reporting threshold of § 21.11(c)(2) (requiring banks to report suspected crimes committed by an identifiable suspect) and the $25,000 reporting threshold of § 21.11(c)(3) (requiring banks to report suspected crimes for which no suspect is identified). These commenters asserted that requiring banks to report all financial transactions that are suspicious for any reason required banks to report transactions that would otherwise fall under the appropriate threshold and would therefore be exempt from mandatory reporting. Several commenters also encouraged the Agencies to adopt a threshold for reporting transactions that are suspicious.

The OCC and the other Agencies agree with the concerns expressed by these commenters. Accordingly, the OCC has substantially revised § 21.11(c)(4) to add a $5,000 reporting threshold for transactions that are suspicious and to clarify that this section of the rule requires banks to report only transactions that a bank suspects involve money laundering or violate the BSA. Under the final rule, a national bank must file a SAR for any transaction of $5,000 or more if the bank knows, suspects, or has reason to suspect that the transaction: (i) Involves funds derived from illicit activities or is intended to hide or disguise funds derived from illicit activities; (ii) is part of a plan to evade any reporting requirement, including those under the BSA, or (iii) has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the institution knows of no reasonable explanation for the transaction after

examining the available facts, including the background and possible purpose of the transaction. For purposes of the subsection, the term ''transaction'' means a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, or purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument or investment security, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

The text of § 21.11(c)(4) in the final rule recognizes that efforts to deter, substantially reduce, and eventually eradicate money laundering are greatly assisted when financial institutions report transactions that they suspect may involve money laundering or violate the BSA. The requirements of this section comply with the recommendations adopted by multi-country organizations in which the United States is an active participant, including the Financial Action Task Force of the G–7 nations and the Organization of American States, and are consistent with European Community's directive on preventing money laundering through financial institutions.

A few commenters encouraged the Agencies to raise the dollar thresholds for known or suspected criminal conduct by non-insiders, and several commenters urged the Agencies to establish a dollar threshold for insiders.

The Agencies considered these comments, but concluded that the thresholds, as proposed, properly balance the dual concerns of prosecuting criminal activity involving national banks and minimizing the burden on national banks. With respect to the suggestion that the OCC adopt a dollar threshold for insider violations, the OCC notes that insider abuse has long been a key concern and focus of enforcement efforts at the OCC. With the development of a new sophisticated and automated database, the OCC and law enforcement agencies will have the benefit of a comprehensive and easily accessible catalogue of known or suspected insider wrongdoing. When insiders are involved, even small-scale offenses—for example, repetitive thefts of small amounts of cash by an employee who frequently moves between banking organizations—may undermine the integrity of banking institutions and warrant enforcement action or criminal prosecution. Therefore, the OCC does not wish to limit the information it receives regarding insider wrongdoing.

One commenter suggested an indexed threshold, based on the regional differences in the various dollar thresholds below which the Federal, state, and local prosecutors generally decline criminal prosecution.

Any regional variations in the dollar amount of financial crimes generally prosecuted involve issues pertaining to the exercise of prosecutorial discretion that are not within the OCC's province to resolve. The OCC's objective is to ensure that banks place the relevant information in the hands of the investigating and prosecuting authorities. In the OCC's view, the dollar thresholds proposed and adopted in this final rule best balance the interests of law enforcement authorities and national banks. The OCC also believes that indexed thresholds could generate additional burden for banks by creating a standard that is unclear and confusing.

One commenter noted that the OCC and OTS proposals keyed the reporting thresholds to the amount of loss or potential loss to the institution, while the Board keyed its reporting thresholds to events that ''involve or aggregate'' more than the appropriate threshold. The commenter urged all agencies to use the OCC and OTS standard.

The OCC observes that its former provision used the same language that the Board used in its proposal and required reporting of all events that ''involve or aggregate'' more than the appropriate threshold. The OCC has concluded that this language provides greater predictability in determining when to file a SAR because the amount of loss or potential loss may differ from the actual sum involved and may be difficult to calculate in many instances. The OCC believes that, were the Agencies to rely on the amount of loss or potential loss, a national bank might consider the potential for recovery of funds to estimate loss.

To avoid potential uncertainty, the OCC's final rule conforms to the OCC's former rule by requiring national banks to file SARs whenever a bank detects a known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the bank or involving a transaction or transactions conducted through the bank that involves or aggregates more than the appropriate threshold.

One commenter expressed the concern that a banking organization would need to establish probable cause before reporting crimes for which an essential element of the proof of the crime was the intent of the actor.

This is not the case, however. Nothing in the rule requires that national banks assume the burden of proving illegal conduct; rather, banks are required only to report actual or suspected crimes or suspicious activities for possible action by the appropriate authorities.

A few commenters requested clarification of whether the proposal required a national bank to file multiple SARs for a crime committed by several individuals or multiple related crimes by the same individual.

Financial institutions should complete one SAR to describe a suspected or known criminal offense committed by several individuals. The instructions to the SAR permit banks to report additional suspects by means of a supplemental page. A financial institution should file a separate SAR whenever an individual commits a suspected or known crime. If the same individual commits multiple or related crimes within the same reporting period, the financial institution may consider reporting the crimes on one SAR, but only if doing so will present clearly what has occurred.

National banks are encouraged to file the SAR via magnetic media using the computer software to be provided to all national banks by the OCC. National banks that currently file currency transaction reports via magnetic tape with FinCEN may also file SARs by magnetic tape. FinCEN has advised the Agencies that it will be unable to accept filings via telecopier/FAX.

Time for Reporting (§ 21.11(d))

Proposed section 21.11(d) did not substantively change the current requirements with respect to the timing of the reporting of known or suspected criminal offenses and transactions that a bank suspects involve money laundering or violate the BSA.

Several commenters requested that the OCC clarify the application of the filing deadline for SARs when no suspect is identified at the initial detection of the suspicious activity, the amount of the transaction is less than the applicable $25,000 mandatory reporting threshold, and the institution later identifies a suspect. For example, some commenters wondered if they would be in violation of the rule if a suspect were identified after 60 days had past.

These comments reflect a misunderstanding of how the filing requirements operate. The time period for reporting commences only when a bank identifies a known or potential violation that fits within the thresholds. Therefore, if a bank uncovers a transaction involving less than $25,000 (but more than $5,000), but does not identify a potential suspect until after the passage of 60 days, the 30-day

period for filing a SAR would begin to run only as of the time the suspect is identified. To make this point clear, the final rule inserts the word ''reportable'' and states that in no case shall reporting be delayed more than 60 calendar days after the date of initial detection of a *reportable* transaction.

Section 21.11(d) also requires a bank to notify law enforcement authorities immediately in the event of an on-going violation. The OCC wishes to clarify that immediate notification is limited to situations involving on-going violations, for example, when a check kite or money laundering has been detected and may be continuing. It is not feasible, however, for the OCC to contemplate all of the circumstances in which it might be appropriate for a financial institution immediately to advise state and local law enforcement authorities. National banks should use their best judgment regarding when to alert these authorities regarding on-going criminal offenses or suspicious activities that involve money laundering or violate the BSA.

Reports to State and Local Authorities (§ 21.11(e))

The proposal encouraged national banks to file SARs with state and local law enforcement agencies when appropriate. Some commenters expressed the concern that national banks and their institution-affiliated parties could be liable under Federal and state laws, such as the Right to Financial Privacy Act (12 U.S.C. § 3401 *et seq.*) (RFPA), for filing SARs with respect to conduct that is later found not to have been criminal. Another concern was that the filing of SARs with state and local law enforcement agencies would subject filers to claims under state law. Both of these concerns are addressed by the scope of the safe harbor protection provided in 31 U.S.C. 5318(g) and, as discussed below, stated in new paragraph 21.11(l) of this section.

Exceptions (§ 21.11(f))

Proposed § 21.11(g) set forth two exceptions to the SAR filing requirement, which did not substantively change its predecessor provision. Under the proposal, a national bank was not required to file a SAR for a robbery or burglary that the bank reported to appropriate law enforcement authorities or to file a SAR for lost, missing, counterfeit, or stolen securities for which the bank filed a report pursuant to 17 CFR 240.17f–l.

The OCC received no comments on this section and adopts it as proposed. The final rule, however, reverses the order of proposed paragraphs (g) and (f) to conform with the other Agencies' rules.

Retention of Records (§ 21.11(g))

The proposal required a bank to retain a copy of the SAR and the original of any underlying documentation relating to the SAR for ten years.

Approximately one-third of the commenters expressed the view that the ten-year period for the retention of records in proposed 21.11(f) was excessive, especially in light of the five-year record retention requirement that is contained in the BSA. Several commenters recommended that the Agencies adopt a five-year requirement. The Agencies agree, and the OCC's final rule reduces the required record retention period to five years.

Many commenters asserted that the provision that required banks to disclose supporting documentation to law enforcement agencies upon their request was either unclear or posed potential RFPA liability. Some therefore questioned whether law enforcement agencies would still need to subpoena relevant documents from a financial institution.

The final rule requires national banks filing SARs to identify, maintain, and treat the documentation supporting the report as if it were actually filed with the SAR. This means that subsequent requests from law enforcement authorities for the supporting documentation relating to a particular SAR do not require the service of a subpoena or other legal processes normally associated with providing information to law enforcement agencies. This treatment of supporting documentation is not a substantive change from the current rule's requirement that supporting documentation be filed with each referral, since it only changes the timing of when an agency will have access to the supporting documentation, not the fact that the information needs to be assembled and made available for law enforcement purposes. The Agencies are therefore of the opinion that the final rule's treatment does not give rise to RFPA liability.

Proposed section 21.11(f) required the maintenance of supporting documentation in its original form. A number of commenters noted that electronic storage of documents is becoming the rule rather than the exception, and that requiring the storage of paper originals would impose undue burdens on financial institutions. Moreover, some records are retained only in a computer database.

The proposal reflected the concerns of the law enforcement agencies that the best evidence be preserved. However, this can include electronic storage of original documentation related to the filing of an SAR. The OCC recognizes that a banking organization will not always have custody of the originals of documents and that some documents will not exist at the organization in paper form. In those cases, preservation of the best available evidentiary documents, for example, computer disks or photocopies, will be acceptable. The final rule reflects these changes by allowing banks to retain business record equivalents of supporting documentation.

Several commenters criticized as inconsistent and vague the proposed requirements that an institution maintain ''related'' documentation and make ''supporting'' documentation available to the law enforcement agencies upon request. One commenter questioned whether the OCC intended a substantive difference in meaning between ''related'' and ''supporting.''

Because a substantive difference is not intended, the OCC has referred to ''supporting'' documentation in the final rule in stating both the maintenance and production requirements. The OCC believes that the use of the word ''supporting'' is more precise and limits the scope of the information that must be segregated and retained to information that would be relevant in proving the crime and the individuals who committed the crime.

The OCC anticipates that banks will use their best judgment in determining the scope of the information to be retained. It is not feasible for the OCC to catalogue the precise types of information covered by this requirement because the scope necessarily depends upon the facts of a particular case.

Notification to Board of Directors (§ 21.11(h))

The proposal reduced the burden on boards of directors to review criminal referrals by allowing the management of a bank promptly to notify either the board of directors or a committee of directors or executive officers designated by the board to receive notice of the filing of an SAR. The proposal prohibited a bank from giving notice of an SAR filing to any director or officer who is a suspect in the known or suspected violation. The proposal also required management to notify the entire board of directors, except the suspect, when an executive officer or director is a suspect.

Most commenters supported this provision of the proposal. One commenter, however, questioned whether the provision that required

prompt notification of the board of directors required notice prior to the next board meeting. This commenter said that a requirement to provide notice between board meetings would be more burdensome than the former rule, which required notification not later than the next board meeting.

The OCC did not intend for the rule as proposed to be more burdensome than the former rule and does not construe the requirement for prompt notification to mean that notice must be provided before the next board meeting. The final rule is intended to be flexible. For example, the OCC expects that, with respect to serious crimes, the appointed committee may consider it appropriate to make more immediate disclosure to the full board. The final rule does not dictate the content of the board or committee notification, and, in some cases, such as when relatively minor non-insider crimes are to be reported, it may be completely appropriate to provide only a summary listing of SARs filed.

Compliance (§ 21.11(i))

The proposal clarified that the OCC treats a national bank's failure to comply with reporting requirements like any other violation of law or regulation, which may result in supervisory actions, including enforcement action. The proposal also conformed the OCC's penalty standard with the rules of the Board and the FDIC by removing the requirement that the failure to file had to be the result of a willful failure or careless disregard of applicable filing obligations.

The OCC received no comments on this section and adopts it as proposed.

Obtaining SARs (§ 21.11(j))

The proposal added section 21.11(j), which provides national banks with information on how to obtain SARs. The OCC received no comments on this section and adopts it as proposed.

Confidentiality of SARs (§ 21.11(k))

The proposal preserved the confidential nature of criminal referral reports by stating that a SAR and the information contained in a SAR are confidential.

One commenter correctly noted that the proposed regulation is unclear as to whether the confidential treatment applies only to the information contained on the SAR itself or also extends to the ''supporting'' documentation. The OCC takes the position that only the SAR and the information on the SAR are confidential under 31 U.S.C. 5318(g). However, as stated below in the discussion of new § 21.11(*l*), the safe harbor provisions of 31 U.S.C. 5318(g) for disclosure of information to law enforcement agencies apply to both SARs and the supporting documentation.

Several commenters urged the OCC to adopt regulations that would make SARs undiscoverable in civil litigation, in order to avoid situations in which a financial institution could be ordered by a court to produce a SAR in civil litigation and could be confronted with the prospect of having to choose between being found in contempt or violating the OCC's rules. In the opinion of the OCC, 31 U.S.C. 5318(g) precludes the disclosure of SARs in discovery.[2] However, the final rule requires a bank that receives a subpoena or other request for a SAR to notify the OCC so that the OCC may intervene in litigation if appropriate.

This notification requirement is consistent with the approach the OCC has recently taken in the final revisions to part 4 of its regulations. In part 4, the OCC requires that a person or entity served in civil litigation with a subpoena provide non-public OCC information notify the OCC so that the OCC can determine whether it should intervene in the proceedings. *See* 60 FR 57315 (November 15, 1995).

Right to Financial Privacy Act Safe Harbor (§ 21.11(l))

Several commenters expressed concern that disclosure of SARs and supporting documentation to law enforcement agencies could give rise to potential RFPA liability. In particular, the commenters questioned the permissibility of voluntarily filing SARs with state agencies or in situations in which the amount of a transaction falls below the appropriate minimum threshold for the known or suspected criminal conduct, or when a transaction involving money laundering or the BSA does not meet the requisite standards or thresholds.

The Agencies are of the opinion that the broad safe harbor protection of 31 U.S.C. 5318(g)(3) includes any reporting of known or suspected criminal offenses or suspicious activities with state and local law enforcement authorities or with the Agencies and FinCEN, regardless of whether such reports are filed pursuant to the mandatory requirements of the OCC's regulations or are filed on a voluntary basis.[3] The OCC takes the same position with regard to the disclosure of documentation supporting a report.

The OCC's final rule adds new paragraph 21.11(*l*), which states this position.

Comments on Information Sharing

Several commenters suggested that the final rule should facilitate the sharing of information among banking organizations in order to better detect new fraudulent schemes. It is anticipated that the Treasury Department, through FinCEN, and the Agencies, will keep reporting entities apprised of recent developments and trends in banking-related crimes through periodic pronouncements, meetings, and seminars.

Effective Date

Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 delays the effective date of regulations promulgated by the Federal banking agencies that impose additional reporting, disclosure, or other new requirements to the first day of the first calendar quarter following publication of the final rule. The OCC believes that Section 302 is not applicable to this final rule, because the effect of the regulation is to reduce reporting burdens on national banks. The final regulation does not impose any additional reporting or other requirements not already contained in the current version of the OCC's criminal referral regulations. The effective date of this final rule is April 1, 1996.

DERIVATION TABLE FOR 12 CFR PART 21

[This table directs readers to the provisions of the current 12 CFR part 21.11 on which the revised 12 CFR part 21.11 is based]

Revised provision	Current provision	Comments
§ 21.11(a)	§ 21.11(a)	Modified.
§ 21.11(b)(1) ...	.....	Added.
§ 21.11(b)(2) ...	.....	Added.
§ 21.11(b)(3) ...	.....	Added.
§ 21.11(c)(1) ...	§ 21.11(b)(2) ..	Modified.
§ 21.11(c)(2) ...	§ 21.11(b)(3) ..	Modified.
§ 21.11(c)(3) ...	§ 21.11(b) (1) & (4).	Modified.

[2] Section 5318(g)(2) prohibits financial institutions and directors, officers, employees, or agents of financial institutions from notifying any person involved in a suspicious transaction that the transaction has been reported.

[3] Section 5318(g)(3) states that a financial institution will not be held liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any state for making a disclosure of any possible violation of law or regulation.

DERIVATION TABLE FOR 12 CFR PART 21—Continued

[This table directs readers to the provisions of the current 12 CFR part 21.11 on which the revised 12 CFR part 21.11 is based]

Revised provision	Current provision	Comments
§ 21.11(c)(4) ...	Derived in part from the OCC's current criminal referral forms.	Added.
§ 21.11(d)(1) ...	§ 21.11(c) (1) & (3).	Modified.
§ 21.11(d)(2) ...	§ 21.11(c)(2) ..	Modified.
§ 21.11(e)	§ 21.11(d)	Modified.
§ 21.11(f)(1)	§ 21.11(f)(1) ...	Modified.
§ 21.11(f)(2)	§ 21.11(f)(2) ...	Modified.
§ 21.11(g)	.....	Added.
§ 21.11(h)(1) ...	§ 21.11(g)	Modified.
§ 21.11(h)(2) ...	.....	Added.
§ 21.11(i)	§ 21.11(h)	Modified.
§ 21.11(j)	.....	Added.
§ 21.11(k)	.....	Added.
§ 21.11(*l*)	.....	Added.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OCC hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. This rule primarily reorganizes the process for making criminal referrals and reduces administrative and cost burdens on national banks. It has no material economic impact on national banks, regardless of size. Accordingly, a regulatory flexibility analysis is not required.

Executive Order 12866

The OCC has determined that this document is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates Act of 1995 Statement

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (Unfunded Mandates Act) (signed into law on March 22, 1995) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 202 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that this final rule will not result in an expenditure by national banks of $100 million or more and has concluded that, on balance, this final rule provides the most cost-effective and least burdensome alternative to achieve the objectives of the rule. The OCC has therefore determined that it is not required to prepare a written statement under section 202.

List of Subjects in 12 CFR Part 21

Bank Secrecy Act, Crime, Currency, National banks, Reporting and recordkeeping requirements, Security measures.

Authority and Issuance

For the reasons set out in the preamble, part 21 of chapter I of title 12 of the Code of Federal Regulations is amended as follows:

PART 21—MINIMUM SECURITY DEVICES AND PROCEDURES, REPORTS OF SUSPICIOUS ACTIVITIES, AND BANK SECRECY ACT COMPLIANCE PROGRAM

1. The heading of part 21 is revised to read as set forth above.

2. The authority citation for part 21 is revised to read as follows:

Authority: 12 U.S.C. 93a, 1818, 1881–1884, and 3401–3422; 31 U.S.C. 5318.

3. Subpart B, consisting of § 21.11, is revised to read as follows:

Subpart B—Reports of Suspicious Activities

§ 21.11 Suspicious Activity Report.

(a) *Purpose and scope.* This section ensures that national banks file a Suspicious Activity Report when they detect a known or suspected violation of Federal law or a suspicious transaction related to a money laundering activity or a violation of the Bank Secrecy Act. This section applies to all national banks as well as any Federal branches and agencies of foreign banks licensed or chartered by the OCC.

(b) *Definitions.* For the purposes of this section:

(1) *FinCEN* means the Financial Crimes Enforcement Network of the Department of the Treasury.

(2) *Institution-affiliated party* means any institution-affiliated party as that term is defined in sections 3(u) and 8(b)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u) and 1818(b)(5)).

(3) *SAR* means a Suspicious Activity Report on the form prescribed by the OCC.

(c) *SARs required.* A national bank shall file a SAR with the appropriate Federal law enforcement agencies and the Department of the Treasury in accordance with the form's instructions, by sending a completed SAR to FinCEN in the following circumstances:

(1) *Insider abuse involving any amount.* Whenever the national bank detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the bank or involving a transaction or transactions conducted through the bank, where the bank believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the bank was used to facilitate a criminal transaction, and the bank has a substantial basis for identifying one of its directors, officers, employees, agents or other institution-affiliated parties as having committed or aided in the commission of a criminal act, regardless of the amount involved in the violation.

(2) *Violations aggregating $5,000 or more where a suspect can be identified.* Whenever the national bank detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the bank or involving a transaction or transactions conducted through the bank and involving or aggregating $5,000 or more in funds or other assets where the bank believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations or that it was used to facilitate a criminal transaction, and the bank has a substantial basis for identifying a possible suspect or group of suspects. If it is determined prior to filing this report that the identified suspect or group of suspects has used an alias, then information regarding the true identity of the suspect or group of suspects, as well as alias identifiers, such as drivers' license or social security numbers, addresses and telephone numbers, must be reported.

(3) *Violations aggregating $25,000 or more regardless of potential suspects.* Whenever the national bank detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the bank or involving a transaction or transactions conducted through the bank and involving or aggregating $25,000 or more in funds or other assets where the bank believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the bank was used to facilitate a criminal transaction, even though there is no substantial basis for identifying a possible suspect or group of suspects.

(4) *Transactions aggregating $5,000 or more that involve potential money laundering or violate the Bank Secrecy Act.* Any transaction (which for purposes of this paragraph (c)(4) means a deposit, withdrawal, transfer between

accounts, exchange of currency, loan, extension of credit, or purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument or investment security, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected) conducted or attempted by, at or through the national bank and involving or aggregating $5,000 or more in funds or other assets, if the bank knows, suspects, or has reason to suspect that:

(i) The transaction involves funds derived from illegal activities or is intended or conducted in order to hide or disguise funds or assets derived from illegal activities (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any law or regulation or to avoid any transaction reporting requirement under Federal law;

(ii) The transaction is designed to evade any regulations promulgated under the Bank Secrecy Act; or

(iii) The transaction has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the institution knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

(d) *Time for reporting.* A national bank is required to file a SAR no later than 30 calendar days after the date of the initial detection of facts that may constitute a basis for filing a SAR. If no suspect was identified on the date of detection of the incident requiring the filing, a national bank may delay filing a SAR for an additional 30 calendar days to identify a suspect. In no case shall reporting be delayed more than 60 calendar days after the date of initial detection of a reportable transaction. In situations involving violations requiring immediate attention, such as when a reportable violation is ongoing, the financial institution shall immediately notify, by telephone, an appropriate law enforcement authority and the OCC in addition to filing a timely SAR.

(e) *Reports to state and local authorities.* National banks are encouraged to file a copy of the SAR with state and local law enforcement agencies where appropriate.

(f) *Exceptions.* (1) A national bank need not file a SAR for a robbery or burglary committed or attempted that is reported to appropriate law enforcement authorities.

(2) A national bank need not file a SAR for lost, missing, counterfeit, or stolen securities if it files a report pursuant to the reporting requirements of 17 CFR 240.17f–1.

(g) *Retention of records.* A national bank shall maintain a copy of any SAR filed and the original or business record equivalent of any supporting documentation for a period of five years from the date of the filing of the SAR. Supporting documentation shall be identified and maintained by the bank as such, and shall be deemed to have been filed with the SAR. A national bank shall make all supporting documentation available to appropriate law enforcement agencies upon request.

(h) *Notification to board of directors*—(1) *Generally.* Whenever a national bank files a SAR pursuant to this section, the management of the bank shall promptly notify its board of directors, or a committee of directors or executive officers designated by the board of directors to receive notice.

(2) *Suspect is a director or executive officer.* If the bank files a SAR pursuant to paragraph (c) of this section and the suspect is a director or executive officer, the bank may not notify the suspect, pursuant to 31 U.S.C. 5318(g)(2), but shall notify all directors who are not suspects.

(i) *Compliance.* Failure to file a SAR in accordance with this section and the instructions may subject the national bank, its directors, officers, employees, agents, or other institution-affiliated parties to supervisory action.

(j) *Obtaining SARs.* A national bank may obtain SARs and the Instructions from the appropriate OCC District Office listed in 12 CFR part 4.

(k) *Confidentiality of SARs.* SARs are confidential. Any national bank or person subpoenaed or otherwise requested to disclose a SAR or the information contained in a SAR shall decline to produce the SAR or to provide any information that would disclose that a SAR has been prepared or filed, citing this section, applicable law (*e.g.*, 31 U.S.C. 5318(g)), or both, and shall notify the OCC.

(l) *Safe harbor.* The safe harbor provision of 31 U.S.C. 5318(g), which exempts any financial institution that makes a disclosure of any possible violation of law or regulation from liability under any law or regulation of the United States, or any constitution, law, or regulation of any state or political subdivision, covers all reports of suspected or known criminal violations and suspicious activities to law enforcement and financial institution supervisory authorities, including supporting documentation, regardless of whether such reports are required to be filed pursuant to this section or are filed on a voluntary basis.

Dated: January 30, 1996.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 96–2246 Filed 2–2–96; 8:45 am]

BILLING CODE 4810–33–P

FEDERAL RESERVE SYSTEM

12 CFR Parts 208, 211 and 225

[Regulations H, K and Y; Docket No. R–0885]

Membership of State Banking Institutions in the Federal Reserve System; International Banking Operations; Bank Holding Companies and Change in Control; Reports of Suspicious Activities Under Bank Secrecy Act

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is amending its regulations on the reporting of known or suspected criminal and suspicious activities by the domestic and foreign banking organizations supervised by the Board. This final rule streamlines reporting requirements by providing that such an organization file a new Suspicious Activity Report (SAR) with the Board and the appropriate federal law enforcement agencies by sending a SAR to the Financial Crimes Enforcement Network of the Department of the Treasury (FinCEN) to report a known or suspected criminal offense or a transaction that it suspects involves money laundering or violates the Bank Secrecy Act (BSA).

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Herbert A. Biern, Deputy Associate Director, Division of Banking Supervision and Regulation, (202) 452–2620, Richard A. Small, Special Counsel, Division of Banking Supervision and Regulation, (202) 452–5235, or Mary Frances Monroe, Senior Attorney, Division of Banking Supervision and Regulation, (202) 452–5231. For the users of Telecommunications Devices for the Deaf (TDD) *only*, contact Dorothea Thompson, (202) 452–3544, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Background

The Board, the Office of the Comptroller of the Currency (OCC), the

Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (collectively, the Agencies) have issued for public comment substantially similar proposals to revise their regulations on the reporting of known or suspected criminal conduct and suspicious activities. The Department of the Treasury, through FinCEN, has issued for public comment a substantially similar proposal to require the reporting of suspicious transactions relating to money laundering activities.

The Board's proposed regulation (60 FR 34481, July 3, 1995) noted that the interagency Bank Fraud Working Group, consisting of representatives from the Agencies, the National Credit Union Administration, law enforcement agencies, and FinCEN, has been working on the development of a single form, the SAR, for the reporting of known or suspected federal criminal law violations and suspicious activities. The Board's proposed regulation, as well as those proposed by the OCC, FDIC, OTS and FinCEN, attempted to simplify and clarify reporting requirements and reduce banking organizations' reporting burdens by raising mandatory reporting thresholds for criminal offenses and by requiring the filing of only one report with FinCEN.

The Board's final rule adopts its proposal with a few additional changes that have been made in response to the comments received. The changes will result in burden reductions even greater than those that were proposed. The Board's, the other Agencies', and FinCEN's final rules relating to the reporting of suspicious activities are now substantially identical, and they:

(1) Combine the current criminal referral rules of the federal financial institutions regulatory agencies with the Department of the Treasury's suspicious activity reporting requirements;

(2) Create a uniform reporting form, the new Suspicious Activity Report or SAR, for use by banking organizations in reporting known or suspected criminal offenses, or suspicious activities related to money laundering and violations of the BSA;

(3) Provide a system whereby a banking organization need only refer to the SAR and its instructions in order to complete and file the form in conformance with the Agencies' and FinCEN's reporting regulations;

(4) Require the filing of only one form with FinCEN;

(5) Eliminate the need to file supporting documentation with a SAR;

(6) Enable a filer, through computer software that will be provided by the Board to all of the domestic and foreign banking organizations it supervises, to prepare a SAR on a computer and file it by magnetic media, such as a computer disc or tape;

(7) Establish a database that will be accessible to federal and state financial institutions regulators and law enforcement agencies;

(8) Raise the thresholds for mandatory reporting in two categories and create a threshold for the reporting of suspicious transactions related to money laundering and violations of the BSA in order to reduce the reporting burdens on banking organizations; and

(9) Emphasize recent changes in the law that provide a safe harbor from civil liability to banking organizations and their employees for reporting of known or suspected criminal offenses or suspicious activities, by filing a SAR or by reporting by other means, and provide criminal sanctions for the unauthorized disclosure of such report to any party involved in the reported transaction.

Section-by-Section Analysis

Under the Board's final rule, state member banks, bank holding companies and their nonbank subsidiaries, most U.S. branches and agencies and other offices of foreign banks, and Edge and Agreement corporations need only follow SAR instructions for completing and filing the SAR to be in compliance with the Board's and FinCEN's reporting requirements. The following section-by-section analysis correlates the specific SAR instruction number with the applicable section of the Board's final rule:

Section 208.20(a) (Instruction No. 1 on the SAR) provides that a state member bank must file a SAR when it detects a known or suspected violation of federal law or a suspicious activity pertinent to a money laundering offense.

Section 208.20(b) provides pertinent definitions.

Sections 208.20(c) (1), (2), and (3) (Instructions 1 a., b., and c. on the SAR) instruct a state member bank to file a SAR with FinCEN in order to comply with the requirement to notify federal law enforcement agencies if the bank detects any known or suspected federal criminal violation, or pattern of violations, committed or attempted against the bank, or involving one or more transactions conducted through the bank, and the bank believes it was an actual or potential victim of a crime, or was used to facilitate a crime. If the bank has a substantial basis for identifying one of its insiders or other institution-affiliated parties in connection with the known or suspected crime, reporting is required regardless of the dollar amount involved. If the bank can identify a non-insider suspect, the applicable transaction threshold is $5,000. In cases in which no suspect can be identified, the applicable transaction threshold is $25,000. These sections were not changed from the proposed regulations published for public comment in July 1995.

Section 208.20(c)(4) (Instruction 1 d. on the SAR) instructs a state member bank to file a SAR with FinCEN in order to comply with the requirement to notify federal law enforcement agencies and the Department of the Treasury of transactions involving $5,000 or more in funds or other assets when the bank knows, suspects or has reason to suspect that the transaction: (i) Involves money laundering, (ii) is designed to evade any regulations promulgated under the Bank Secrecy Act, or (iii) has no business or apparent lawful purpose or is not the sort in which the particular customer normally engages and, after examining the available facts, the bank knows of no reasonable explanation for the transaction. Section 208.20(c)(4) has been modified in the final rule to reflect comments received on the proposal. Most notably, the circumstances under which a transaction should be reported under this section were clarified, and a reporting threshold of $5,000 was added.

Section 208.20(c)(4) recognizes the emerging international consensus that the efforts to deter, substantially reduce, and eventually eradicate money laundering are greatly assisted by the reporting of suspicious transactions by banking organizations. The requirements of this section comply with the recommendations adopted by multi-country organizations in which the United States is an active participant, including the Financial Action Task Force of G–7 nations and the Organization of American States, and are consistent with the European Community's directive on preventing money laundering through financial institutions.

Section 208.20(d) (Instruction 2 on the SAR) provides that SARs must be filed within 30 calendar days of the initial detection of the criminal or suspicious activity. An additional 30 days is permitted in order to enable a bank to identify a suspect, but in no event may a SAR be filed later than 60 days after the initial detection of the reportable conduct. The Board and law enforcement must be notified in the case of a violation requiring immediate action, such as an on-going violation. These reporting requirements were not changed from the July 1995 proposal,

with the exception of the addition of the requirement that the Board be notified about on-going offenses requiring immediate notification to law enforcement authorities.

Section 208.20(e) encourages a state member bank to file a SAR with state and local law enforcement agencies. This section is unchanged from the July 1995 proposal.

Section 208.20(f) (Instruction 3 on the SAR) provides that a state member bank need not file a SAR for an attempted or committed burglary or robbery reported to the appropriate law enforcement agencies. In addition, a SAR need not be filed for missing or counterfeit securities that are the subject of a report pursuant to Rule 17f–1 under the Securities Exchange Act of 1934. This section of the final rule was not modified from the version published for public comment in July 1995.

Section 208.20(g) requires that a state member bank retain a copy of the SAR and the original or business record equivalent of supporting documentation for a period of five years. The section also requires that a state member bank identify and maintain supporting documentation in its files and that the bank make available such documentation to law enforcement agencies upon their request. The Board made three changes to this section from the version published for public comment in July 1995. First, the record retention period was shortened from 10 years to five years. Second, provision was made for the retention of business record equivalents of original documents, such as microfiche and computer imaged record systems, in recognition of modern record retention technology. The third change involves the clarification of a state member bank's obligation to provide supporting documentation upon request to law enforcement officials. Supporting documentation is deemed filed with a SAR in accordance with this section of the Board's final rule; as such, law enforcement authorities need not make their access requests through subpoena or other legal processes.

Section 208.20(h) requires the management of a state member bank to report the filing of all SARs to the board of directors of the bank, or a designated committee thereof. No change was made from the July 1995 proposal.

Section 208.20(i) reminds a state member bank and its institution-affiliated parties that failure to file a SAR may expose them to supervisory action. No change from the July 1995 proposal was made.

Section 208.20(j) provides that SARs are confidential. Requests for SARs or the information contained therein should be declined. The final rule also adds a requirement that a request for a SAR or the information contained therein should be reported to the Board. With the exception of the added requirement that requests for SARs be reported to the Board, no changes were made to this section from the July 1995 proposal.

Section 208.20(k) sets forth the safe harbor provisions of 31 U.S.C. 5318(g). This new section, which was added to the final rule as the result of many comments concerning this important statutory protection for banking organizations, states that the safe harbor provisions of the law are triggered by a report of known or suspected criminal violations or suspicious activities to law enforcement authorities, regardless whether the report is made by the filing of a SAR in accordance with the Board's rules or for other reasons by different means.

Sections 211.8, 211.24(f), and 225.4(f) of the Board's rules relating to the activities of foreign banking organizations and bank holding companies have not been changed in a substantive manner. Only the references in the sections to ''criminal referral forms'' have been changed to reflect the new name for the reporting form, the SAR. The SAR filing requirements, as well as the safe harbor and notification prohibition provisions of 31 U.S.C. 5318(g), continue to be applicable to all foreign banking organizations and bank holding companies and their nonbank subsidiaries supervised by the Federal Reserve through these provisions.

Comments Received

The Board received letters from 44 public commenters. Comments were received from 15 community banks, 13 multinational or large regional banks, eight trade and industry research groups, seven Federal Reserve Banks and one law firm.

The large majority of commenters expressed general support for the Board's proposal. None of the commenters opposed the proposed new suspicious activity reporting rules. A number of suggestions and requests for clarification were received. They are as follows.

Criminal Versus Suspicious Activities

Many commenters expressed confusion over the difference between the known or suspected criminal conduct that would be subject to the dollar reporting thresholds (provided such conduct does not involve an institution-affiliated party of the reporting entity) and the suspicious activities that would be reported regardless of dollar amount. Section 208.20(c)(4) has been revised to add a $5,000 reporting threshold and to clarify that the suspicious activity must relate to money laundering and Bank Secrecy Act violations. A threshold for the reporting of suspicious activities was added to reduce further the reporting burdens on banking organizations.

Reporting of Crimes Under State Law

A number of commenters requested clarification of whether activities constituting crimes under state law, but not under federal law, should be reported on the SAR. The Board continues to encourage banking organizations to refer criminal and suspicious activities under both federal and state law by filing a SAR. Under the new reporting system designed by the Board, the other Agencies, and FinCEN, state chartered banking organizations should be able to fulfill their state reporting obligations by filing a SAR with FinCEN.

Safe Harbor Protections; Potential Liability Under Federal and State Laws

Some commenters expressed the concern that banking organizations and their institution-affiliated parties could be liable under federal and state laws, such as the Right to Financial Privacy Act, for filing SARs with respect to conduct that is later found not to have been criminal. Another concern was that the filing of SARs with state and local law enforcement agencies would subject filers to claims under state law. Both of these concerns are addressed by the scope of the safe harbor protections provided in 31 U.S.C. 5318(g).

The Board is of the opinion that the safe harbor statute is broadly defined to include the reporting of known or suspected criminal offenses or suspicious activities, by filing a SAR or by reporting by other means, with state and local law enforcement authorities, as well as with the Agencies and FinCEN.

A few commenters requested that the Board make explicit the safe harbor protections of 31 U.S.C. 5318(g)(2) and (3) on the SAR. They are included in new Section 208.20(k) of this rule and on the form.

Record Retention

Several commenters expressed the view that the 10-year period for the retention of records in Section 208.20(g) was excessive, especially in light of a five-year record retention requirement for records that is contained in the Bank Secrecy Act. The 10-year period in the Board's proposed regulation would have

continued the Board's existing record retention requirement for criminal referral forms. However, in recognition of the potential burden of document retention on financial institutions, the Board has limited the record retention period to five years.

Dollar Thresholds

A few commenters encouraged the Board to raise the dollar thresholds for known or suspected criminal conduct by non-insiders, or to establish a dollar threshold for insiders. The Board has considered these comments, but at this time it believes that the thresholds meet and properly balance the dual concerns of prosecuting criminal activity involving banking organizations and minimizing the burden on banking organizations. With respect to the suggestion that the Board adopt a dollar threshold for insider violations, it is noted that insider abuse has long been a key concern and focus of enforcement efforts at the Board. With the development of a new sophisticated automated database, the Board and law enforcement agencies will have the benefit of a comprehensive and easily accessible catalogue of known or suspected insider wrongdoing. The Board does not wish to limit the information it receives regarding insider wrongdoing. Some petty crimes, for example, repetitive thefts of small amounts of cash by an employee who frequently moves between banking organizations, may warrant enforcement action or criminal prosecution.

One commenter suggested an indexed threshold, based on the regional differences in the various dollar thresholds below which the federal, state, and local prosecutors generally decline prosecution. While the Board recognizes that there may be regional variations in the dollar amount of financial crimes generally prosecuted, the Board's concern is to place the relevant information in the hands of the investigating and prosecuting authorities. The prosecuting authorities then may consider whether to pursue a particular matter. In the Board's view, the dollar thresholds proposed and adopted in this final rule best balance the interests of law enforcement and banking organizations. The Board also believes that indexed thresholds could create more confusion than benefit to banking organizations.

Commenters also suggested the creation of a dollar threshold for the reporting of suspicious activities relating to money laundering offenses. A $5,000 threshold has been established for reporting of such suspicious activities.

Questions were raised regarding the permissibility of filing SARs in situations in which the dollar thresholds for known or suspected criminal conduct or suspicious activity are not met and the applicability of the safe harbor provisions of 31 U.S.C. 5318(g) to such non-mandatory filings. It is the opinion of the Board that the safe harbor provisions of 31 U.S.C. 5318(g) cover all reports of suspected or known criminal violations and suspicious activities to law enforcement authorities, regardless of whether such reports are filed pursuant to the mandatory requirements of the Board's regulations or are voluntary.

Notification of On-Going Violations and of State and Local Law Enforcement Authorities

Proposed Section 208.20(d) required a banking organization to notify immediately the law enforcement authorities in the event of an on-going violation. Section 208.20(e) encourages the filing of a copy of the SAR with state and local law enforcement agencies in appropriate cases. This requirement and guidance were found by some commenters to be unclear as to when immediate notification or the filing of the SAR with state and local authorities would be required. The Board wishes to clarify that immediate notification is limited to situations involving on-going violations, for example, when a check kite or money laundering has been detected and may be continuing. It is impossible for the Board to contemplate all of the possible circumstances in which it might be appropriate for a banking organization to advise state and local law enforcement authorities. Banking organizations should use their best judgment regarding when to alert them regarding on-going criminal offenses or suspicious activities.

Supporting Documentation

The proposed requirements that an institution maintain ''related'' documentation and make ''supporting'' documentation available to the law enforcement agencies upon request were criticized as inconsistent and vague. One commenter questioned whether the Board intended a substantive difference in meaning between ''related'' and ''supporting.'' As a substantive difference is not intended, the Board has referred to ''supporting'' documentation in the final rule in reference both to the maintenance and production requirements. The Board believes that the use of the word ''supporting'' is more precise and limits the scope of the information which must be retained to that which would be useful in proving that the crime has been committed and by whom it has been committed. As to the criticism that the meaning of ''related'' or ''supporting'' documentation is vague, it is anticipated that banking organizations will use their judgment in determining the information to be retained. It is impossible for the Board to catalogue the precise types of information covered by this requirement, as it necessarily depends upon the facts of a particular case.

Scope of Confidentiality Requirement

One commenter correctly noted that the proposed regulation is unclear as to whether the confidentiality requirement applies only to the information contained on the SAR itself, or whether the requirement extends to the ''supporting'' documentation. The Board takes the position that only the SAR and the fact that supporting documentation to a SAR exists are subject to the confidentiality requirements of 31 U.S.C. 5318(g). The supporting documentation itself is not subject to the confidentiality provisions of 31 U.S.C. 5318(g). The safe harbor provisions of 31 U.S.C. 5318(g), however, apply to the SAR and supporting documentation, as set forth in Section 208.20(k).

Provisions of Supporting Documentation to Law Enforcement Authorities Upon Request

Many commenters noted that the guidance provided in the Board's proposed regulation regarding giving supporting documentation to law enforcement agencies upon their request after the filing of a SAR was unclear or contrary to law. Some questioned whether law enforcement agencies would still need to subpoena relevant documents from a banking organization. The Board's regulation requires banking organizations filing SARs to identify, maintain and treat the documentation supporting the report as if it were actually filed with the SAR. This means that subsequent requests from law enforcement authorities for the supporting documentation relating to a particular SAR does not require the service of a subpoena or other legal processes normally associated with providing information to law enforcement agencies.

Civil Litigation

The Board was encouraged to adopt regulations that would make SARs undiscoverable in civil litigation in order to avoid situations in which a banking organization could be ordered by a court to produce a SAR in civil

litigation and could be confronted with the prospect of having to choose between being found in contempt or violating the Board's rules. In the opinion of the Board, 31 U.S.C. 5318(g) precludes the disclosure of SARs. The final rule requires a banking organization that receives a subpoena or other request for a SAR to notify the Board so that the Board may, if appropriate, intervene in litigation or seek the assistance of the U.S. Department of Justice.

Maintenance of Originals

Proposed Section 208.20(g) required the maintenance of supporting documentation in its original form. A number of commenters noted that electronic storage of documents is becoming the rule rather than the exception, and that requiring the storage of paper originals would impose undue burdens on financial institutions. Moreover, some records are retained only in a computer database. The proposed regulation reflected the concerns of the law enforcement agencies that the best evidence be preserved. However, upon further consideration, the Board wishes to clarify that the electronic storage of original documentation related to the filing of a SAR is permissible. In addition, the Board recognizes that a banking organization will not always have custody of the originals of documents and that some documents will not exist at the organization in paper form. In those cases, preservation of the best available evidentiary documents, for example, computer disks or photocopies, should be acceptable. This has been reflected in the final rule by changing the reference to original documents to ''original documents or business record equivalents.''

Investigation and Proof Burdens

One commenter expressed the concern that a banking organization would need to establish probable cause before reporting crimes for which an essential element of the proof of the crime was the intent of the actor. The Board does not intend that banking organizations assume the burden of proving illegal conduct; rather, banking organizations are required to report known or suspected crimes or suspicious activities in accordance with this final rule.

Supplementary or Corrective Information; Reporting of Multiple Crimes or Suspects

Material information that supplements or corrects a SAR should be filed with FinCEN by means of a subsequent SAR. The first page of the SAR provides boxes for the reporter to indicate whether the report is an initial, a corrected or a supplemental report.

One commenter requested guidance on the reporting of multiple crimes or related crimes committed by more than one individual. The instructions to the SAR contemplate that additional suspects may be reported by means of a supplemental page. Likewise, multiple crimes committed by a suspect may be reported by means of multiple check-offs on the SAR, or if needed, by a written addendum to the SAR. In the event that related crimes have been committed by more than one person, a description of the related crimes may be made by addendum to the SAR. The Board encourages filers to make a complete report of all known or suspected criminal or suspicious activity. The SAR may be supplemented in order to facilitate a complete disclosure.

Calculation of Time Frame for Reporting

A number of commenters requested that the Board clarify the application of the deadline for filing SARs. The Board's proposed regulation used the broadest possible language to set the time frames for the reporting of known or suspected criminal offenses and suspicious activities in order to best guide reporting institutions. Absolute deadlines for the filing of SARs are important to the investigatory and prosecutorial efforts of law enforcement authorities. It is expected that banking organizations will meet the filing deadlines once conduct triggering the reporting requirements is identified. Further clarification of the time frames is not needed in the Board's view.

Board Notification Requirements

Several commenters expressed general support for the modification of the reporting requirement that permits reporting of SARs to a committee of the board. As a matter of clarification, notification of a committee of the board relieves the banking organization of the obligation to disclose the SARs filed to the entire board. It would be expected, however, that the appointed committee, such as the audit committee, would report to the full board at regular intervals with respect to routine matters in the same manner and to the same extent as other committees report at board meetings. With respect to serious crimes or insider malfeasance, the appointed committee likely should consider it appropriate to make more immediate disclosure to the full board.

Some larger banking organizations expressed the view that prompt disclosure of SARs to the board or a committee would impose a serious burden because larger organizations typically file a larger number of criminal referral forms (now, SARs). While the Board acknowledges that larger institutions may have more SARs to report to the board or a committee, this does not alter the directors' fiduciary obligation to monitor, for example, the condition of the institution and to take action to prevent losses. The final regulation does not dictate the content of the board or committee notification, and, in some cases, such as when relatively minor non-insider crimes are to be reported, it may be completely appropriate to provide only a summary listing of SARs filed. The Board expects the management of banking organizations to provide a more detailed notification to the boards or committees of SARs involving insiders or a potential material loss to the institutions.

Information Sharing

Commenters suggested that the final regulations should somehow facilitate the sharing of information among banking organizations in order to better detect new fraudulent schemes. It is anticipated that the Treasury Department, through FinCEN, and the Agencies, will keep reporting entities apprised of recent developments and trends in banking-related crimes through periodic pronouncements, meetings, and seminars.

Single Filing Requirement; Acknowledgement of Filings

Some commenters requested clarification of the single form filing requirement. The Board reiterates that the filing of a SAR with FinCEN is the only filing that is required. Federal and state law enforcement and bank supervisory agencies will have access to the database created and maintained by FinCEN on behalf of the Agencies and the Department of Treasury; thus, a single filing with FinCEN is all that is required under the new reporting system.

Commenters also requested that the final rule permit the filing of SARs via telecopier. Such filings are not compatible with the system developed by the Agencies and FinCEN. Banking organizations can file the SAR via magnetic media using the computer software to be provided to all banking organizations by the Board and each of the other Agencies with respect to the institutions they supervise. Larger banking organizations that currently file currency transaction reports via magnetic tape with FinCEN may also file SARs by magnetic tape.

Regulatory Flexibility Act

The Board certifies that this final regulation will not have a significant financial impact on a substantial number of small banks or other small entities.

Paperwork Reduction Act

In accordance with Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 35; 5 CFR 1320 Appendix A.1), the Board reviewed the rule under the authority delegated to the Board by the Office of Management and Budget.

The collection of information requirements in this regulation are found in 12 CFR 208.20, 211.8, 211.24, and 225.4. This information is mandatory and is necessary to inform appropriate law enforcement agencies of known or suspected criminal or suspicious activities that take place at or were perpetrated against financial institutions. Information collected on this form is confidential (5 U.S.C. 552(b)(7) and 552a(k)(2), and 31 U.S.C. 5318(g)). The federal financial institution regulatory agencies and the U.S. Department of Justice may use and share the information. The respondents/recordkeepers are for-profit financial institutions, including small businesses.

The Federal Reserve may not conduct or sponsor, and an organization is not required to respond to, this information collection unless it displays a currently valid OMB control number. The OMB control number is 7100–0212.

No comments specifically addressing the hour burden estimate were received.

It is estimated that there will be 12,000 responses from state member banks, bank holding companies, Edge and agreement corporations, and U.S. branches and agencies of foreign banks.

Both the new regulation and revisions made to the proposed regulation and reflected in this final rule simplify the submission of the reporting form and shorten the records retention requirement. However, the same amount of information will be collected under the new rule. The burden per respondent varies depending on the nature of the criminal or suspicious activity being reported. The Federal Reserve estimates that the average annual burden for reporting and recordkeeping per response will remain .6 hours. Thus the Federal Reserve estimates the total annual hour burden to be 7,200 hours. Based on an hourly cost of $20, the annual cost to the public is estimated to be $144,000.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551 and to the Office of Management and Budget, Paperwork Reduction Project (7100–0212), Washington, D.C. 20503.

List of Subjects

12 CFR Part 208

Accounting, Agriculture, Banks, banking, Confidential business information, Crime, Currency, Federal Reserve System, Flood insurance, Mortgages, Reporting and recordkeeping requirements, Securities.

12 CFR Part 211

Exports, Federal Reserve System, Foreign banking, Holding companies, Investments, Reporting and recordkeeping requirements.

12 CFR Part 225

Administrative practice and procedures, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, Parts 208, 211 and 225 of chapter II of title 12 of the Code of Federal Regulations are amended as set forth below:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for 12 CFR Part 208 continues to read as follows:

Authority: 12 U.S.C. 36, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1823(j), 1828(o), 1831o, 1831p–1, 3105, 3310, 3331–3351, and 3906–3909; 15 U.S.C. 78b, 781(b), 781(g), 781(i), 78o–4(c)(5), 78q, 78q–1 and 78w; 31 U.S.C. 5318; 42 U.S.C. 4102a, 4104a, 4104b, 4106, and 4128.

2. Section 208.20 is revised to read as follows:

§ 208.20 Suspicious Activity Reports.

(a) *Purpose.* This section ensures that a state member bank files a Suspicious Activity Report when it detects a known or suspected violation of Federal law, or a suspicious transaction related to a money laundering activity or a violation of the Bank Secrecy Act. This section applies to all state member banks.

(b) *Definitions.* For the purposes of this section:

(1) *FinCEN* means the Financial Crimes Enforcement Network of the Department of the Treasury.

(2) *Institution-affiliated party* means any institution-affiliated party as that term is defined in 12 U.S.C. 1786(r), or 1813(u) and 1818(b) (3), (4) or (5).

(3) *SAR* means a Suspicious Activity Report on the form prescribed by the Board.

(c) *SARs required.* A state member bank shall file a SAR with the appropriate Federal law enforcement agencies and the Department of the Treasury in accordance with the form's instructions by sending a completed SAR to FinCEN in the following circumstances:

(1) *Insider abuse involving any amount.* Whenever the state member bank detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the bank or involving a transaction or transactions conducted through the bank, where the bank believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the bank was used to facilitate a criminal transaction, and the bank has a substantial basis for identifying one of its directors, officers, employees, agents or other institution-affiliated parties as having committed or aided in the commission of a criminal act regardless of the amount involved in the violation.

(2) *Violations aggregating $5,000 or more where a suspect can be identified.* Whenever the state member bank detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the bank or involving a transaction or transactions conducted through the bank and involving or aggregating $5,000 or more in funds or other assets, where the bank believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the bank was used to facilitate a criminal transaction, and the bank has a substantial basis for identifying a possible suspect or group of suspects. If it is determined prior to filing this report that the identified suspect or group of suspects has used an ''alias,'' then information regarding the true identity of the suspect or group of suspects, as well as alias identifiers, such as drivers' license or social security numbers, addresses and telephone numbers, must be reported.

(3) *Violations aggregating $25,000 or more regardless of a potential suspect.* Whenever the state member bank detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the bank or involving a transaction or transactions conducted through the bank and involving or aggregating $25,000 or more in funds or other assets, where the bank believes that it was either an actual or potential

victim of a criminal violation, or series of criminal violations, or that the bank was used to facilitate a criminal transaction, even though there is no substantial basis for identifying a possible suspect or group of suspects.

(4) *Transactions aggregating $5,000 or more that involve potential money laundering or violations of the Bank Secrecy Act.* Any transaction (which for purposes of this paragraph (c)(4) means a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument or investment security, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected) conducted or attempted by, at or through the state member bank and involving or aggregating $5,000 or more in funds or other assets, if the bank knows, suspects, or has reason to suspect that:

(i) The transaction involves funds derived from illegal activities or is intended or conducted in order to hide or disguise funds or assets derived from illegal activities (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any law or regulation or to avoid any transaction reporting requirement under federal law;

(ii) The transaction is designed to evade any regulations promulgated under the Bank Secrecy Act; or

(iii) The transaction has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the bank knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

(d) *Time for reporting.* A state member bank is required to file a SAR no later than 30 calendar days after the date of initial detection of facts that may constitute a basis for filing a SAR. If no suspect was identified on the date of detection of the incident requiring the filing, a state member bank may delay filing a SAR for an additional 30 calendar days to identify a suspect. In no case shall reporting be delayed more than 60 calendar days after the date of initial detection of a reportable transaction. In situations involving violations requiring immediate attention, such as when a reportable violation is on-going, the financial institution shall immediately notify, by telephone, an appropriate law enforcement authority and the Board in addition to filing a timely SAR.

(e) *Reports to state and local authorities.* State member banks are encouraged to file a copy of the SAR with state and local law enforcement agencies where appropriate.

(f) *Exceptions.* (1) A state member bank need not file a SAR for a robbery or burglary committed or attempted that is reported to appropriate law enforcement authorities.

(2) A state member bank need not file a SAR for lost, missing, counterfeit, or stolen securities if it files a report pursuant to the reporting requirements of 17 CFR 240.17f–1.

(g) *Retention of records.* A state member bank shall maintain a copy of any SAR filed and the original or business record equivalent of any supporting documentation for a period of five years from the date of the filing of the SAR. Supporting documentation shall be identified and maintained by the bank as such, and shall be deemed to have been filed with the SAR. A state member bank must make all supporting documentation available to appropriate law enforcement agencies upon request.

(h) *Notification to board of directors.* The management of a state member bank shall promptly notify its board of directors, or a committee thereof, of any report filed pursuant to this section.

(i) *Compliance.* Failure to file a SAR in accordance with this section and the instructions may subject the state member bank, its directors, officers, employees, agents, or other institution-affiliated parties to supervisory action.

(j) *Confidentiality of SARs.* SARs are confidential. Any state member bank subpoenaed or otherwise requested to disclose a SAR or the information contained in a SAR shall decline to produce the SAR or to provide any information that would disclose that a SAR has been prepared or filed citing this section, applicable law (e.g., 31 U.S.C. 5318(g)), or both, and notify the Board.

(k) *Safe harbor.* The safe harbor provisions of 31 U.S.C. 5318(g), which exempts any state member bank that makes a disclosure of any possible violation of law or regulation from liability under any law or regulation of the United States, or any constitution, law or regulation of any state or political subdivision, covers all reports of suspected or known criminal violations and suspicious activities to law enforcement and financial institution supervisory authorities, including supporting documentation, regardless of whether such reports are filed pursuant to this section or are filed on a voluntary basis.

PART 211—INTERNATIONAL BANKING OPERATIONS (REGULATION K)

1. The authority citation for 12 CFR Part 211 continues to read as follows:

Authority: 12 U.S.C. 221 *et seq.*, 1818, 1841 *et seq.*, 3101 *et seq.*, 3901 *et seq.*

§§ 211.8 and 211.24 [Amended]

2. In §§ 211.8 and 211.24(f), remove the words ''criminal referral form'' and add, in their place, the words ''suspicious activity report''.

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for 12 CFR Part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(l), 3106, 3108, 3310, 3331–3351, 3907, and 3909.

§ 225.4 [Amended]

2. In § 225.4, the heading of paragraph (f) is revised to read ''*Suspicious Activity Report.*''.

3. In § 225.4(f), remove the words ''criminal referral form'' and add, in their place, the words ''suspicious activity report''.

By order of the Board of Governors of the Federal Reserve System, January 30, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–2271 Filed 2–2–96 8:45 am]

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federal register

Monday
February 5, 1996

Part V

The President

Proclamation 6864—American Heart Month, 1996

Federal Register
Vol. 61, No. 24
Monday, February 5, 1996

Presidential Documents

Title 3—

The President

Proclamation 6864 of February 1, 1996

American Heart Month, 1996

By the President of the United States of America

A Proclamation

There are few among us whose lives have not been touched by the devastating effects of heart disease. Cardiovascular disease, which includes heart disease and stroke, takes one million of our citizens each year, and heart disease remains the single leading cause of death in this country. Millions of Americans suffer from high blood pressure, and millions more have high levels of blood cholesterol. Studies also show sharp increases in the number of people who are overweight and physically inactive.

It is, however, encouraging that public health efforts are raising awareness of the risk factors for cardiovascular disease. Though some—family history and age—are inescapable, the risks posed by high blood pressure and high cholesterol, lack of exercise, smoking, diabetes, and obesity can be greatly reduced through modifications to personal behavior. Advances in research have helped us to gain a better understanding of heart disease, provided new diagnostic methods, and helped develop treatments that save lives and vastly improve the outlook for stricken patients.

We can be proud that the Federal Government has contributed to the fight against heart disease by supporting the efforts of the National Heart, Lung, and Blood Institute, part of the National Institutes of Health, and by promoting new dietary and health guidelines. The American Heart Association, through research, education programs, and the work of its vital network of volunteers, has also played a crucial role.

As we observe American Heart Month, let us build on our achievements by learning more about the causes of heart disease and by making the changes we can to improve our cardiovascular health. Recognizing that even small adjustments to diet and exercise habits can yield significant benefits, we can help those who already suffer from heart disease and encourage those who are taking their first steps toward better, healthier lives.

In recognition of the need for all Americans to become involved in the work to stop heart disease, the Congress, by Joint Resolution approved December 30, 1963 (77 Stat. 843; 36 U.S.C. 169b), has requested that the President issue an annual proclamation designating February as ''American Heart Month.''

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim February 1996, as American Heart Month. I call upon the Governors of the several States, the Commonwealth of Puerto Rico, officials of other areas subject to the jurisdiction of the United States, and the American people to join me in reaffirming our commitment to combatting cardiovascular disease, including heart disease and stroke.

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

William J. Clinton

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Cable television services; definitions for purposes of cable television must-carry rules; comments due by 2-5-96; published 1-24-96

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Foreign banks home state selection under Interstate Act; comments due by 2-5-96; published 12-28-95

Truth in lending (Regulation Z):

Consumer credit; finance charges; comments due by 2-9-96; published 12-21-95

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Medicare:

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Physician fee schedule (1996 CY); payment policies and relative value unit adjustments; comments due by 2-6-96; published 12-8-95

Skilled nursing facilities and home health agencies; uniform electronic cost reporting requirements; comments due by 2-5-96; published 12-5-95

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Underground coal mines--

Flame-resistant conveyor belts; requirements for approval; comments due by 2-5-96; published 12-20-95

LABOR DEPARTMENT

Pension and Welfare Benefits Administration

Employee Retirement Income Security Act:

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Copyright Office, Library of Congress

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Employment:

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Social security benefits:

Elementary or secondary school students, full-time; revisions; comments due by 2-5-96; published 12-7-95

Living in the same household (LISH) and lump-sum death payment (LSDP) rules; revision; comments due by 2-5-96; published 12-6-95

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Income exclusions; comments due by 2-5-96; published 12-6-95

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British Aerospace; comments due by 2-7-96; published 1-3-96

Jetstream; comments due by 2-9-96; published 11-28-95

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Engineering and traffic operations:

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Fiscal Service

Financial management services:

Payments under Judgments and Private Relief Acts; claims procedures; comments due by 2-7-96; published 1-8-96

LIST OF PUBLIC LAWS

This is a list of public bills from the 104th Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as ''slip laws'') from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470).

H.R. 1606/P.L. 104–100

To designate the United States Post Office building located at 24 Corliss Street, Providence, Rhode Island, as the ''Harry Kizirian Post Office Building''. (Feb. 1, 1996; 110 Stat. 48)

H.R. 2061/P.L. 104–101

To designate the Federal building located at 1550 Dewey Avenue, Baker City, Oregon, as the ''David J. Wheeler Federal Building''. (Feb. 1, 1996; 110 Stat. 49)

Note: A cumulative list of Public Laws for the First Session of the 104th Congress was published in Part II of the **Federal Register** on February 1, 1996.

Last List January 30, 1996

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–026–00001–8)	$5.00	Jan. 1, 1995
3 (1994 Compilation and Parts 100 and 101)	(869–026–00002–6)	40.00	[1] Jan. 1, 1995
4	(869–026–00003–4)	5.50	Jan. 1, 1995
5 Parts:			
1–699	(869–026–00004–2)	23.00	Jan. 1, 1995
700–1199	(869–026–00005–1)	20.00	Jan. 1, 1995
1200–End, 6 (6 Reserved)	(869–026–00006–9)	23.00	Jan. 1, 1995
7 Parts:			
0–26	(869–026–00007–7)	21.00	Jan. 1, 1995
27–45	(869–026–00008–5)	14.00	Jan. 1, 1995
46–51	(869–026–00009–3)	21.00	Jan. 1, 1995
52	(869–026–00010–7)	30.00	Jan. 1, 1995
53–209	(869–026–00011–5)	25.00	Jan. 1, 1995
210–299	(869–026–00012–3)	34.00	Jan. 1, 1995
300–399	(869–026–00013–1)	16.00	Jan. 1, 1995
400–699	(869–026–00014–0)	21.00	Jan. 1, 1995
700–899	(869–026–00015–8)	23.00	Jan. 1, 1995
900–999	(869–026–00016–6)	32.00	Jan. 1, 1995
1000–1059	(869–026–00017–4)	23.00	Jan. 1, 1995
1060–1119	(869–026–00018–2)	15.00	Jan. 1, 1995
1120–1199	(869–026–00019–1)	12.00	Jan. 1, 1995
1200–1499	(869–026–00020–4)	32.00	Jan. 1, 1995
1500–1899	(869–026–00021–2)	35.00	Jan. 1, 1995
1900–1939	(869–026–00022–1)	16.00	Jan. 1, 1995
1940–1949	(869–026–00023–9)	30.00	Jan. 1, 1995
1950–1999	(869–026–00024–7)	40.00	Jan. 1, 1995
2000–End	(869–026–00025–5)	14.00	Jan. 1, 1995
8	(869–026–00026–3)	23.00	Jan. 1, 1995
9 Parts:			
1–199	(869–026–00027–1)	30.00	Jan. 1, 1995
200–End	(869–026–00028–0)	23.00	Jan. 1, 1995
10 Parts:			
0–50	(869–026–00029–8)	30.00	Jan. 1, 1995
51–199	(869–026–00030–1)	23.00	Jan. 1, 1995
200–399	(869–026–00031–0)	15.00	[6] Jan. 1, 1993
400–499	(869–026–00032–8)	21.00	Jan. 1, 1995
500–End	(869–026–00033–6)	39.00	Jan. 1, 1995
11	(869–026–00034–4)	14.00	Jan. 1, 1995
12 Parts:			
1–199	(869–026–00035–2)	12.00	Jan. 1, 1995
200–219	(869–026–00036–1)	16.00	Jan. 1, 1995
220–299	(869–026–00037–9)	28.00	Jan. 1, 1995
300–499	(869–026–00038–7)	23.00	Jan. 1, 1995
500–599	(869–026–00039–5)	19.00	Jan. 1, 1995
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13	(869–026–00041–7)	32.00	Jan. 1, 1995
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1–59	(869–026–00042–5)	33.00	Jan. 1, 1995
60–139	(869–026–00043–3)	27.00	Jan. 1, 1995
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15 Parts:			
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800–End	(869–026–00049–2)	21.00	Jan. 1, 1995
16 Parts:			
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150–999	(869–026–00051–4)	19.00	Jan. 1, 1995
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17 Parts:			
1–199	(869–026–00054–9)	20.00	Apr. 1, 1995
200–239	(869–026–00055–7)	24.00	Apr. 1, 1995
240–End	(869–026–00056–5)	30.00	Apr. 1, 1995
18 Parts:			
1–149	(869–026–00057–3)	16.00	Apr. 1, 1995
150–279	(869–026–00058–1)	13.00	Apr. 1, 1995
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19 Parts:			
1–140	(869–026–00061–1)	25.00	Apr. 1, 1995
141–199	(869–026–00062–0)	21.00	Apr. 1, 1995
200–End	(869–026–00063–8)	12.00	Apr. 1, 1995
20 Parts:			
1–399	(869–026–00064–6)	20.00	Apr. 1, 1995
400–499	(869–026–00065–4)	34.00	Apr. 1, 1995
500–End	(869–026–00066–2)	34.00	Apr. 1, 1995
21 Parts:			
1–99	(869–026–00067–1)	16.00	Apr. 1, 1995
100–169	(869–026–00068–9)	21.00	Apr. 1, 1995
170–199	(869–026–00069–7)	22.00	Apr. 1, 1995
200–299	(869–026–00070–1)	7.00	Apr. 1, 1995
300–499	(869–026–00071–9)	39.00	Apr. 1, 1995
500–599	(869–026–00072–7)	22.00	Apr. 1, 1995
600–799	(869–026–00073–5)	9.50	Apr. 1, 1995
800–1299	(869–026–00074–3)	23.00	Apr. 1, 1995
1300–End	(869–026–00075–1)	13.00	Apr. 1, 1995
22 Parts:			
1–299	(869–026–00076–0)	33.00	Apr. 1, 1995
300–End	(869–026–00077–8)	24.00	Apr. 1, 1995
23	(869–026–00078–6)	22.00	Apr. 1, 1995
24 Parts:			
0–199	(869–026–00079–4)	40.00	Apr. 1, 1995
200–219	(869–026–00080–8)	19.00	Apr. 1, 1995
220–499	(869–026–00081–6)	23.00	Apr. 1, 1995
500–699	(869–026–00082–4)	20.00	Apr. 1, 1995
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§§ 1.170–1.300	(869–026–00089–1)	24.00	Apr. 1, 1995
§§ 1.301–1.400	(869–026–00090–5)	17.00	Apr. 1, 1995
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§§ 1.441-1.500	(869-026-00092-1)	22.00	Apr. 1, 1995
§§ 1.501–1.640	(869–026–00093–0)	21.00	Apr. 1, 1995
§§ 1.641–1.850	(869–026–00094–8)	25.00	Apr. 1, 1995
§§ 1.851–1.907	(869–026–00095–6)	26.00	Apr. 1, 1995
§§ 1.908–1.1000	(869–026–00096–4)	27.00	Apr. 1, 1995
§§ 1.1001–1.1400	(869–026–00097–2)	25.00	Apr. 1, 1995
§§ 1.1401–End	(869–026–00098–1)	33.00	Apr. 1, 1995
2–29	(869–026–00099–9)	25.00	Apr. 1, 1995
30–39	(869–026–00100–6)	18.00	Apr. 1, 1995
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500–599	(869–026–00104–9)	6.00	[4] Apr. 1, 1990
600–End	(869–026–00105–7)	8.00	Apr. 1, 1995
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1–199	(869–026–00106–5)	37.00	Apr. 1, 1995
200–End	(869–026–00107–3)	13.00	[8] Apr. 1, 1994
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1-42	(869–026–00108–1)	27.00	July 1, 1995
43-end	(869-026-00109-0)	22.00	July 1, 1995
29 Parts:			
0–99	(869–026–00110–3)	21.00	July 1, 1995
100–499	(869–026–00111–1)	9.50	July 1, 1995
500–899	(869–026–00112–0)	36.00	July 1, 1995
900–1899	(869–026–00113–8)	17.00	July 1, 1995
1900–1910 (§§ 1901.1 to 1910.999)	(869–026–00114–6)	33.00	July 1, 1995
1910 (§§ 1910.1000 to end)	(869–026–00115–4)	22.00	July 1, 1995
1911–1925	(869–026–00116–2)	27.00	July 1, 1995
1926	(869–026–00117–1)	35.00	July 1, 1995
1927–End	(869–026–00118–9)	36.00	July 1, 1995
30 Parts:			
1–199	(869–026–00119–7)	25.00	July 1, 1995
200–699	(869–026–00120–1)	20.00	July 1, 1995
700–End	(869–026–00121–9)	30.00	July 1, 1995
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191–399	(869–026–00125–1)	38.00	July 1, 1995
400–629	(869–026–00126–0)	26.00	July 1, 1995
630–699	(869–026–00127–8)	14.00	[5] July 1, 1991
700–799	(869–026–00128–6)	21.00	July 1, 1995
800–End	(869–026–00129–4)	22.00	July 1, 1995
33 Parts:			
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125–199	(869–026–00131–6)	27.00	July 1, 1995
200–End	(869–026–00132–4)	24.00	July 1, 1995
34 Parts:			
1–299	(869–026–00133–2)	25.00	July 1, 1995
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86	(869–026–00149–9)	40.00	July 1, 1995
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260–299	(869–026–00153–7)	40.00	July 1, 1995
300–399	(869–026–00154–5)	21.00	July 1, 1995
400–424	(869–026–00155–3)	26.00	July 1, 1995
425–699	(869–026–00156–1)	30.00	July 1, 1995
700–789	(869–026–00157–0)	25.00	July 1, 1995
790–End	(869–026–00158–8)	15.00	July 1, 1995
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
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3–6		14.00	[3] July 1, 1984
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9		13.00	[3] July 1, 1984
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18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–026–00159–6)	9.50	July 1, 1995
101	(869–026–00160–0)	29.00	July 1, 1995
102–200	(869–026–00161–8)	15.00	July 1, 1995
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43 Parts:			
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1000–3999	(869–026–00167–7)	31.00	Oct. 1, 1995
4000–End	(869–026–00168–5)	15.00	Oct. 1, 1995
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45 Parts:			
1–199	(869–022–00170–7)	22.00	Oct. 1, 1995
200–499	(869–026–00171–5)	14.00	Oct. 1, 1995
500–1199	(869–026–00172–3)	23.00	Oct. 1, 1995
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46 Parts:			
1–40	(869–022–00171–0)	20.00	Oct. 1, 1994
*41–69	(869–026–00175–8)	17.00	Oct. 1, 1995
*70–89	(869–026–00176–6)	8.50	Oct. 1, 1995
*90–139	(869–026–00177–4)	15.00	Oct. 1, 1995
140–155	(869–026–00178–2)	12.00	Oct. 1, 1995
156–165	(869–022–00176–1)	17.00	[7] Oct. 1, 1993
166–199	(869–022–00177–9)	17.00	Oct. 1, 1994
200–499	(869–022–00178–7)	21.00	Oct. 1, 1994
500–End	(869–026–00182–1)	13.00	Oct. 1, 1995
47 Parts:			
*0–19	(869–026–00183–9)	25.00	Oct. 1, 1995
20–39	(869–026–00184–7)	21.00	Oct. 1, 1995
40–69	(869–022–00182–5)	14.00	Oct. 1, 1994
70–79	(869–026–00186–3)	24.00	Oct. 1, 1995
80–End	(869–022–00184–1)	26.00	Oct. 1, 1994
48 Chapters:			
1 (Parts 1–51)	(869–022–00185–0)	36.00	Oct. 1, 1994
1 (Parts 52–99)	(869–022–00186–8)	23.00	Oct. 1, 1994
2 (Parts 201–251)	(869–022–00187–6)	16.00	Oct. 1, 1994
*2 (Parts 252–299)	(869–026–00191–0)	13.00	Oct. 1, 1995
3–6	(869–022–00189–2)	23.00	Oct. 1, 1994
7–14	(869–022–00190–6)	30.00	Oct. 1, 1994
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29–End	(869–022–00192–2)	17.00	Oct. 1, 1994
49 Parts:			
1–99	(869–026–00196–1)	25.00	Oct. 1, 1995
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178–199	(869–022–00195–7)	21.00	Oct. 1, 1994
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1000–1199	(869–026–00201–1)	18.00	Oct. 1, 1995
1200–End	(869–026–00202–9)	15.00	Oct. 1, 1995
50 Parts:			
1–199	(869–022–00200–7)	25.00	Oct. 1, 1994
200–599	(869–026–00204–5)	22.00	Oct. 1, 1995
600–End	(869–022–00202–3)	27.00	Oct. 1, 1994

Title	Stock Number	Price	Revision Date
CFR Index and Findings Aids	(869–026–00053–1)	36.00	Jan. 1, 1995
Complete 1996 CFR set		883.00	1996
Microfiche CFR Edition:			
Subscription (mailed as issued)		264.00	1996
Individual copies		1.00	1996
Complete set (one-time mailing)		264.00	1995
Complete set (one-time mailing)		244.00	1994
Complete set (one-time mailing)		223.00	1993

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1995. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1995. The CFR volume issued July 1, 1991, should be retained.

[6] No amendments to this volume were promulgated during the period January 1, 1993 to December 31, 1994. The CFR volume issued January 1, 1993, should be retained.

[7] No amendments to this volume were promulgated during the period October 1, 1993, to September 30, 1994. The CFR volume issued October 1, 1993, should be retained.

[8] No amendments to this volume were promulgated during the period April 1, 1994 to March 31, 1995. The CFR volume issued April 1, 1994, should be retained.