2–15–96
Vol. 61 No. 32
Pages 5921–6094

federal register

Thursday
February 15, 1996

Briefings on How To Use the Federal Register
For information on briefing in Washington, DC, see announcement on the inside cover of this issue.

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the Federal Register as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the Federal Register shall be judicially noticed.

The Federal Register is published in paper, 24x microfiche and as an online database through *GPO Access*, a service of the U.S. Government Printing Office. The online database is updated by 6 a.m. each day the Federal Register is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/su__docs/, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then login as guest, (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required). For general information about *GPO Access*, contact the *GPO Access* User Support Team by sending Internet e-mail to help@eids05.eids gpo.gov; by faxing to (202) 512–1262; or by calling (202) 512–1530 between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except for Federal holidays.

The annual subscription price for the Federal Register paper edition is $494, or $544 for a combined Federal Register, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the Federal Register including the Federal Register Index and LSA is $433. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the Federal Register.

How To Cite This Publication: Use the volume number and the page number. Example: 61 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	202–512–1800
Assistance with public subscriptions	512–1806
General online information	202–512–1530
Single copies/back copies:	
Paper or fiche	512–1800
Assistance with public single copies	512–1803
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	523–5243
Assistance with Federal agency subscriptions	523–5243

For other telephone numbers, see the Reader Aids section at the end of this issue.

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

WHEN: 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)

RESERVATIONS: 202–523–4538

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register
Vol. 61, No. 32
Thursday, February 15, 1996

Agricultural Marketing Service
RULES
Tomatoes grown in Florida, 5924–5926
NOTICES
Poultry grade standards, voluntary:
Cooked, boneless-skinless products, 5975–5976

Agriculture Department
See Agricultural Marketing Service
See Animal and Plant Health Inspection Service
See Forest Service
NOTICES
Import quotas and fees:
Upland cotton, 5973–5975

Air Force Department
NOTICES
Environmental statements; availability, etc.:
Base realignment and disclosure—
Scott AFB, IL, 5989

Animal and Plant Health Inspection Service
RULES
Hawaiian and territorial quarantine notices:
Avocados from Hawaii, 5923–5924

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
Computer Associates International, Inc., et al., 6025–6032
Texas Television, Inc., et al., 6032–6038
National cooperative research notifications:
Allegheny-Singer Research Institute, 6038
Auto Body Consortium, Inc., 6038
Bay Area Multimedia Technology Alliance, 6038
Mobile Information Infrastructure for Digital Video and Multimedia Applications Joint Venture, 6039
Open DeviceNet Vendor Association, Inc., Joint Venture, 6039–6040
Petroleum Environmental Research Forum, 6040
Spray Drift Task Force, 6038–6039

Army Department
See Engineers Corps

Commerce Department
See Export Administration Bureau
See Foreign-Trade Zones Board
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration

Consumer Product Safety Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 5987

Copyright Office, Library of Congress
NOTICES
Cable loyalty funds for 1990, 1991, and 1992; distribution proceedings, 6040–6041

Corporation for National and Community Service
NOTICES
Grants and cooperative agreements; availability, etc.:
State commissions training and technical assistance support services, 5987–5988

Defense Department
See Air Force Department
See Engineers Corps
NOTICES
Meetings:
Defense Acquisition University Board of Visitors, 5988–5989
Privacy Act:
Systems of records, 5989

Education Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 5990–5992
Grantback arrangements; award of funds:
Connecticut, 6086–6088
Special education and rehabilitative services:
Blind vending facilities under Randolph-Sheppard Act—
Arbitration panel decisions, 5992–5993

Energy Department
See Federal Energy Regulatory Commission

Engineers Corps
NOTICES
Environmental statements; notice of intent:
North Dade, FL; canals and water control structures construction, 5989–5990

Environmental Protection Agency
RULES
Higher education institutions, hospitals, and nonprofit organizations; uniform administrative requirements for grants and agreements (Circular A-110), 6066–6083
NOTICES
Meetings:
Science Advisory Board, 6004–6006

Equal Employment Opportunity Commission
NOTICES
Meetings; Sunshine Act, 6063

Executive Office of the President
See Presidential Documents

Export Administration Bureau
RULES
Export licensing:
Commerce control list—
Items controlled for nuclear nonproliferation reasons; Argentina, New Zealand, Poland, South Africa, South Korea addition to eligibility list; correction, 6064
NOTICES
Export privileges, actions affecting:
Johansen, Leif Kare, 5980–5981
Scientific International, Inc., 5979–5980

Family Support Administration
See Refugee Resettlement Office

Federal Aviation Administration
RULES
Airworthiness standards:
Transport category airplanes—
Cabin interior materials; improved flammability standards, 5938–5939
Class B airspace, 5934–5935
Class D and E airspace, 5935–5937
Class E airspace, 5937–5938
PROPOSED RULES
Class D and E airspace, 5960–5962
Class E airspace, 5962–5963
NOTICES
Airport noise compatibility program:
Westover Metropolitan Airport/Air Reserve Base, MA, 6057–6058
Environmental statements; availability, etc.:
Bridgeport-Sikorsky Memorial Airport, CT, 6058
Meetings:
RTCA, Inc., 6058–6059

Federal Communications Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 6006–6007

Federal Deposit Insurance Corporation
RULES
Practice and procedure:
Golden parachute and indemnification payments limits, 5926–5934
PROPOSED RULES
General policy:
Fitness for employment; minimum standards, 5956–5960

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
New Jersey et al., 5947–5949
NOTICES
Disaster and emergency areas:
Connecticut, 6007–6008
Delaware, 6008
Kentucky, 6008–6009
Maryland, 6009
Massachusetts, 6009–6010
New York, 6010
Ohio, 6010
Pennsylvania, 6010–6011
Rhode Island, 6011
Virginia, 6011–6013
Washington, 6013
West Virginia, 6013

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
CMS Generation Yallourn Ltd. Duration Co. et al., 5994–5999
Duke/Louis Dreyfus, L.L.C., et al., 5999–6002
Hydroelectric applications, 6002–6003
Natural gas certificate filings:
Texas Gas Transmission Corp. et al., 6003–6004
Applications, hearings, determinations, etc.:
CNG Transmission Corp., 5993
Frontier Gas Storage Co., 5993
Northwest Pipeline Corp., 5993–5994
Williston Basin Interstate Pipeline Co., 5994
Wyoming Interstate Co., Ltd., 5994

Federal Reserve System
RULES
Extensions of credit by Federal Reserve banks (Regulation A):
Discount rate change, 5926
NOTICES
Applications, hearings, determinations, etc.:
Farmers State Corp. et al.; correction, 6013–6014
FCNB Corp., 6014
Magnolia Bancorp, Inc., 6014

Federal Trade Commission
PROPOSED RULES
Trade regulation rules:
Franchising and business opportunity ventures; disclosure requirements and prohibitions—
International franchise sales; public workshop conference, 5969–5970

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Findings on petitions, etc.—
Maryland darter, 5971–5972
NOTICES
Endangered and threatened species permit applications, 6021–6022

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
North Carolina
R.G. Barry Corp.; footwear and thermal comfort products distribution facility, 5981
Texas
R.G. Barry Corp.; footwear and thermal comfort products distribution facility, 5981–5982

Forest Service
NOTICES
Environmental statements; availability, etc.:
Boise National Forest, ID, 5976
Gypsy moth management, 5976–5977
Grants and cooperative agreements; availability, etc.:
Timber Bridge research joint venture agreements; wood in transportation structures, 5977–5979

Health and Human Services Department
See Health Care Financing Administration
See Inspector General Office, Health and Human Services Department
See Refugee Resettlement Office
See Substance Abuse and Mental Health Services Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 6014–6015
Organization, functions, and authority delegations:
Program Support Center, 6015

Health Care Financing Administration
See Inspector General Office, Health and Human Services Department

NOTICES
Agency information collection activities:
Proposed collection; comment request, 6015–6016
Submission for OMB review; comment request, 6016–6017

Inspector General Office, Health and Human Services Department
NOTICES
Program exclusions; list, 6017–6018

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See Surface Mining Reclamation and Enforcement Office

Internal Revenue Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 6060–6062

International Trade Administration
NOTICES
North American Free Trade Agreement (NAFTA); binational panel reviews:
Cold-rolled steel sheet from—
Canada, 5982
Hot-rolled steel sheet from—
Canada, 5982–5983
Rolled steel plate from—
Canada, 5983

International Trade Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 6022–6024
Import investigations:
Salinomycin biomass and preparations containing same, 6024

Justice Department
See Antitrust Division
NOTICES
Pollution control; consent judgments:
Amtel, Inc., et al., 6024–6025
Christopherson, Richard R., 6025
Southern Ohio Coal Co., 6032

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
Victory Bible Camp, AK; correction, 6019
Meetings:
Alaska Resource Advisory Council, 6019
Resource Advisory Councils; California, 6019
Realty actions; sales, leases, etc.:
California, 6019–6020
Utah, 6020
Withdrawal and reservation of lands:
California, 6020–6021

Library of Congress
See Copyright Office, Library of Congress

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
Air and hydraulic brake systems—
Antilock brake systems, medium and heavy vehicles; stability and control during braking, etc., 5949–5955

National Institute of Standards and Technology
NOTICES
Grants and cooperative agreements; availability, etc.:
Physics Laboratory 1996 Summer Undergraduate Research Fellowships, 5983–5986
Meetings:
Standards development for low-level light standards for luminometry, 5986

National Oceanic and Atmospheric Administration
RULES
Endangered and threatened species:
Sea turtle conservation; summer flounder trawling requirements—
Additional turtle excluder device requirements within statistical zones; correction, 6064
PROPOSED RULES
Ocean and coastal resource management:
Monterey Bay National Marine Sanctuary, CA—
White shark attraction by chum or other means; restriction or prohibition; hearing, 5969
NOTICES
Meetings:
Monterey Bay National Marine Sanctuary Advisory Council, 5986
Olympic Coast National Marine Sanctuary Advisory Council, 5986–5987

National Science Foundation
NOTICES
Antarctic Conservation Act of 1978; permit applications, etc., 6041
Meetings:
Advanced Scientific Computing Special Emphasis Panel, 6041
Astronomical Sciences Special Emphasis Panel, 6041
Bioengineering and Environmental Systems Special Emphasis Panel, 6041–6042
Biological Sciences Special Emphasis Panel, 6042
Elementary, Secondary and Informal Education Special Emphasis Panel, 6042
Human Resource Development Special Emphasis Panel, 6042
Microelectronic Information Processing Systems Special Emphasis Panel, 6042
Networking and Communications Research and Infrastructure Special Emphasis Panel, 6042–6043
Systemic Reform Special Emphasis Panel, 6043

Nuclear Regulatory Commission
NOTICES
Committees; establishment, renewal, termination, etc.:
Nuclear Safety Research Review Committee, 6043–6044
Nuclear Waste Advisory Committee, 6043
Environmental statements; availability, etc.:
Carolina Power & Light Co., 6044–6045
Meetings:
Medical Use of Isotopes Advisory Committee, 6045

Pension Benefit Guaranty Corporation
RULES
Single-employer plans:
Valuation of plan benefits—
Interest rates and factors, 5945–5947

Personnel Management Office
RULES
Prevailing rate systems, 5921–5922

Presidential Documents
EXECUTIVE ORDERS
Government agencies and employees:
Immigration and Naturalization Act provisions compliance in Government procurement (EO 12989), 6091–6093

Public Health Service
See Substance Abuse and Mental Health Services Administration

Railroad Retirement Board
PROPOSED RULES
Railroad Retirement Act:
Railroad employers' reports and responsibilities, 5970–5971

Refugee Resettlement Office
NOTICES
Grants and cooperative agreements; availability, etc.:
Preferred communities, unanticipated arrivals and ethnic community organizations, 6018

Securities and Exchange Commission
RULES
Organization, functions, and authority delegations:
Secretary, 5939
NOTICES
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 6050–6051
National Association of Securities Dealers, Inc., 6052–6053
Options Clearing Corp., 6053–6054
Philadelphia Stock Exchange, Inc., 6054–6056
Applications, hearings, determinations, etc.:
Public utility holding company filings, 6046–6047
UAM Funds, Inc., et al., 6047–6050

Social Security Administration
RULES
Authority citation revisions, 5939–5943
Supplemental security income:
Aged, blind, and disabled—
Natural disasters; lost, damaged or destroyed excluded resources repair or replacement funds; time period for not counting as resources, extension, 5943–5945

Substance Abuse and Mental Health Services Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Substance abuse prevention and treatment conference grants; application receipt date cancellation, 6018–6019

Surface Mining Reclamation and Enforcement Office
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 6022

Surface Transportation Board
NOTICES
Railroad operation, acquisition, construction, etc.:
Consolidated Rail Corp. et al., 6059–6060

Transportation Department
See Federal Aviation Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board
PROPOSED RULES
Large air carriers; international data submissions; changes, 5963–5968
NOTICES
Agency information collection activities:
Proposed collection; comment request, 6056
Meetings:
Cargo liability study, 6056–6057
Noncontiguous domestic maritime trades, competition; comment request, 6057

Treasury Department
See Internal Revenue Service

Separate Parts In This Issue

Part II
Environmental Protection Agency, 6066–6083

Part III
Department of Education, 6086–6088

Part IV
The President, 6091–6093

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR
Executive Order:
12989.....6091

5 CFR
532 (4 documents) 5921, 5922

7 CFR
300.....5923
318.....5923
966.....5924

12 CFR
201.....5926
303.....5926
359.....5926
Proposed Rules:
336.....5956

14 CFR
71 (3 documents) 5934, 5935, 5937
135.....5938
Proposed Rules:
71 (2 documents) 5960, 5962
217.....5963
241.....5963

15 CFR
799.....6064
Proposed Rules:
922.....5969

16 CFR
Proposed Rules:
436.....5969

17 CFR
200.....5939

20 CFR
401.....5939
404.....5939
416 (2 documents) 5939, 5943
422.....5939
423.....5939
Proposed Rules:
209.....5970

29 CFR
2619.....5945
2676.....5945

40 CFR
30.....6066
33.....6066

44 CFR
64.....5947

49 CFR
571.....5949

50 CFR
217.....6064
227.....6064
Proposed Rules:
17.....5971

Rules and Regulations

Federal Register
Vol. 61, No. 32
Thursday, February 15, 1996

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AH30

Prevailing Rate Systems; Abolishment of Merced, CA, Nonappropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing an interim rule to abolish the Merced, CA, nonappropriated fund (NAF) Federal Wage system (FWS) wage area and redefine the country having continuing FWS employment (Fresno County) as an area of application to the Kern, CA, NAF wage area for pay-setting purposes. The remaining Merced wage area county (Merced County) has no FWS employees and is being deleted.

DATES: This interim rule becomes effective on February 15, 1996. Comments must be received by March 18, 1996. Employees currently paid rates from the Merced, CA, NAF wage schedule will continue to be paid from that schedule until conversion to the Kern, CA, NAF wage schedule on April 4, 1996, 1 day before the effective date of the next Kern, CA, wage schedule.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Assistant Director for Compensation Policy, Human Resources Systems Service, Office of Personnel Management, Room 6H31, 1900 E Street NW., Washington, DC 20415, or FAX: (202) 606–0824.

FOR FURTHER INFORMATION CONTACT: Paul Shields, (202) 606–2848.

SUPPLEMENTARY INFORMATION: The Department of Defense recommended to the Office of Personnel Management that the Merced, CA, FWS NAF wage area be abolished and that the county having continuing FWS employment (Fresno County) be added as an area of application to the Kern, CA, NAF wage area. The remaining Merced wage area county (Merced County) is being deleted because it has no FWS employment. This change is necessary because the closing of the wage area host activity, Castle Air Force Base, leaves the Merced wage area without an activity having the capability to conduct a wage survey.

As required in regulation, 5 CFR 532.219, the following criteria were considered in redefining these wage areas:

(1) Proximity of largest activity in each county;

(2) Transportation facilities and commuting patterns; and

(3) Similarities of the counties in:

(i) Overall population;

(ii) Private employment in major industry categories; and

(iii) Kinds and sizes of private industrial establishments.

Proximity favors redefining Fresno County to the San Joaquin wage area. However, because of declining employment in the wage area and a limited capability for conducting a wage survey, the possible abolishment of the San Joaquin wage area is currently under study. The second and third criteria favor redefinition to the Kern wage area. An additional consideration favoring redefinition of Fresno County to the Kern wage area is the fact that Fresno County is contiguous to Kings County, an area of application to the Kern wage area. On balance, the recommended redefinition of Fresno County to the Kern wage area is supported.

The Federal Prevailing Rate Advisory Committee reviewed this recommendation and by consensus recommended approval.

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking. Also, pursuant to section 553(d)(3) of title 5, United States Code, I find that good cause exists for making this rule effective in less than 30 days. The notice is being waived and the regulation is being made effective in less than 30 days because preparations for the 1996 Merced, CA, NAF wage area survey must otherwise being immediately.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

Accordingly, OPM is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

Appendix B to Subpart B of Part 532 [Amended]

2. In appendix B to subpart B, the listing for the State of California is amended by removing the entry for Merced.

3. Appendix D to subpart B is amended by removing the wage area listing for Merced, California, and by revising the listing for Kern, California, to read as follows:

Appendix D to Subpart B of Part 532—Nonappropriated Fund Wage and Survey Areas

* * * * *

California

* * * * *

Kern

Survey Area

California: Kern

Area of Application. Survey Area Plus

California

Fresno (Effective date April 4, 1996)

Kings

* * * * *

[FR Doc. 96–3365 Filed 2–14–96; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 532

RIN 3206–AH20

Prevailing Rate Systems; Abolishment of Ocean, NJ, Nonappropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing a final rule to abolish the Ocean, NJ, nonappropriated fund (NAF) Federal Wage System wage area and redefine Ocean County as an area of application to the Burlington, NJ, NAF wage area for pay-setting purposes. No employee's wage rate will be reduced as a result of this change.

EFFECTIVE DATE: March 18, 1996.

FOR FURTHER INFORMATION CONTACT: Paul Shields, (202) 606–2848.

SUPPLEMENTARY INFORMATION: On November 1, 1995, OPM published an interim rule to abolish the Ocean, NJ, nonappropriated fund (NAF) Federal Wage System wage area and redefine Ocean County as an area of application to the Burlington, NJ, NAF wage area for paysetting purposes. On November 29, 1995, OPM published a correction of a typographical error in the interim rule. There are now two Burlington, NJ, wage area application area counties listed (Atlantic and Ocean)—not one ''Atlantic Ocean'' county as printed in the original interim rule. The interim rule provided 30-day period for public comment. OPM received no comments during the comment period. Therefore, the interim rule is being adopted as a final rule.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Accordingly, under the authority of 5 U.S.C. 5343, the interim rule amending 5 CFR part 532 published on November 1, 1995 (60 FR 55423), and corrected on November 29, 1995 (60 FR 61290), is adopted as final without any changes.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–3364 Filed 2–14–96; 8:45am]

BILLING CODE 6325–01–M

5 CFR Part 532

RIN 3206–AH16

Prevailing Rate Systems; Abolishment of Marin-Sonoma, CA, Nonappropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing a final rule to abolish the Marin-Sonoma, CA, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and redefine the two counties having continuing FWS employment (Marin and Sonoma Counties) as areas of application to the Solano, CA, NAF wage area for pay-setting purposes. No employee's wage rate will be reduced as a result of this change.

EFFECTIVE DATE: March 18, 1996.

FOR FURTHER INFORMATION CONTACT: Paul Shields, (202) 606–2848.

SUPPLEMENTARY INFORMATION: On October 30, 1995, OPM published an interim rule to abolish the Marin-Sonoma, CA, nonappropriated fund (NAF) Federal Wage System wage area and redefine the two counties having continuing FWS employment (Marin and Sonoma Counties) as areas of application to the Solano, CA, NAF wage area for pay-setting purposes. The interim rule provided a 30-day period for public comment. OPM received no comments during the comment period. Therefore, the interim rule is being adopted as a final rule.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Accordingly, under the authority of 5 U.S.C. 5343, the interim rule amending 5 CFR part 532 published on October 30, 1995 (60 FR 55174), is adopted as final without any changes.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–3363 Filed 2–14–96; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 532

RIN 3206–AG93

Prevailing Rate Systems; Redefinition of Guaynabo-San Juan, PR, Nonappropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing a final rule to redefine the Guaynabo-San Juan, Puerto Rico, nonappropriated fund Federal Wage System Wage area by adding Salinas Municipality as an area of application for pay-setting purspoes. No employee's wage rate will be reduced as a result of this change.

EFFECTIVE DATE: March 18, 1996.

FOR FURTHER INFORMATION CONTACT:

Paul Shields, (202) 606–2848.

SUPPLEMENTARY INFORMATION: On October 4, 1995, OPM published an interim rule to redefine the Guaynabo-San Juan, Puerto Rico, nonappropriated fund Federal Wage System wage area by adding Salinas Municipality as an area of applcation for pay-setting purposes. The interim rule provided a 30-day period for public comment. OPM received no comments during the comment period. Therefore, the interim rule is being adopted as a final rule.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Accordingly, under the authority of 5 U.S.C. 5343, the interim rule amending 5 CFR part 532 published on October 4, 1995 (60 FR 51881), is adopted as final without any changes.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–3362 Filed 2–14–96; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 300 and 318

[Docket No. 95–028–2]

Sharwil Avocados From Hawaii

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations to allow Sharwil avocados to be moved interstate from Hawaii after undergoing cold treatment for fruit flies under the supervision of an inspector of the Animal and Plant Health Inspection Service. This action will facilitate the interstate movement of Sharwil avocados from Hawaii while continuing to provide protection against the spread of injurious plant pests from Hawaii to other parts of the United States.

EFFECTIVE DATE: March 18, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Peter M. Grosser, Senior Staff Officer, Port Operations, PPQ, APHIS, 4700 River Road Unit 139, Riverdale, MD 20737–1236, (301) 734–8295.

SUPPLEMENTARY INFORMATION:

Background

The Hawaiian Fruits and Vegetables regulations, contained in 7 CFR 318.13 through 318.13–17 (referred to below as the regulations), govern, among other things, the interstate movement from Hawaii of avocados in a raw or unprocessed state. Regulation is necessary to prevent the spread of the Mediterranean fruit fly (*Ceratitis capitata*), the melon fly (*Dacus cucurbitae*), and the Oriental fruit fly (*Bactrocera dorsalis*). These types of fruit flies are collectively referred to as Trifly.

On October 2, 1995, we published in the Federal Register (60 FR 51373–51375, Docket No. 95–028–1) a proposal to amend the regulations to allow Sharwil avocados to be moved interstate from Hawaii after undergoing cold treatment for Trifly. In that document, we also proposed two nonsubstantive editorial changes to simplify the regulations.

We solicited comments concerning our proposal for 30 days ending November 1, 1995. We received two comments by that date. They were from a State agricultural agency and a representative of an avocado industry group. Both commenters requested additional information to substantiate the provisions of the proposed rule. The comments are discussed below.

Comment: The United States Department of Agriculture (USDA) must address the effect of a preconditioning heat treatment, prior to cold treatment, on Trifly eggs and larvae.

Response: The preconditioning heat treatment, which induces a tolerance to subsequent cold treatment in the Sharwil avocado variety, is recommended specifically for the purpose of maintaining fruit quality and not as a part of the quarantine treatment. However, research conducted by the Agricultural Research Service (ARS), USDA, indicates that the heat treatment does contribute to Trifly mortality. Additional information about this research may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Comment: The USDA must address the efficacy of cold treatment on eggs and larvae of the melon fly and the Oriental fruit fly, in addition to the Mediterranean fruit fly (Medfly). In addition, USDA must address the possible resistance of Medfly to cold treatment.

Response: Recent research conducted by ARS tested cold treatment against all three species of Trifly (see Armstrong, Silva, and Shishido, ''Quarantine cold treatment for Hawaiian carambola fruit infested with Mediterranean fruit fly, Melon fly, or Oriental fruit fly (Deptera:Tephritidae) eggs and larvae.'' Journal of Economic Entomology 88(3):683–687 (1995)). In this study, cold treatment disinfested carambola of Trifly eggs and larvae, including eggs and larvae of Medfly, the most cold-tolerant of the Trifly species, providing a Probit 9 level of quarantine security (99.8 percent mortality). Therefore, we have determined that cold treatment is effective against the eggs and larvae of all three Trifly species.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule without change.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

Hawaii produced approximately 500,000 pounds of avocados during 1993, down approximately 29 percent from the 1992 level due, in part, to the interruption of avocado shipments to the U.S. mainland because of Oriental fruit fly infestation in 1992. Sharwil variety accounted for 75 percent of this total, or 375,000 pounds. Shipments of Sharwil avocados from Hawaii to the U.S. mainland and to Canada before the 1992 suspension peaked at 100,000 pounds.

Total production of avocados in the United States, excluding Hawaii, was approximately 302.8 million pounds in 1993. Of this total, California accounted for approximately 97 percent of the production. California continues to supply the major share of the U.S. avocado market. Total Hawaiian avocado production in 1993 accounted for less than two-tenths of a percent of the total U.S. production.

The total value of Hawaiian avocado production ($220,000 in 1993) is less than three-tenths of a percent of the total U.S. production, and all of the Hawaiian entities involved are considered small. This rule could reverse the downward trend in Hawaiian avocado production by providing a commercially feasible method of treating Sharwil avocados to be moved interstate. This would have a positive economic effect on Hawaiian avocado producers. Although a major share of the U.S. market is supplied by California producers, the addition of a Hawaiian supply is unlikely to have a significant negative impact upon California producers, as the two dominant avocado varieties, Sharwil (Hawaii) and Hass (California) have different peak seasons of production. The peak season for the Sharwil variety is between November and May; the peak season for the Hass variety is April through October. As a result, this rule is expected to have a complementary rather than competitive effect. The change is not expected to have any significant impact upon supply and price. Nevertheless, it is expected to have a positive impact upon consumers by providing for a more continuous and varied avocado supply.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are

inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

7 CFR Part 300

Incorporation by reference, Plant diseases and pests, Quarantine.

7 CFR Part 318

Cotton, Cottonseeds, Fruits, Guam, Hawaii, Plant diseases and pests, Puerto Rico, Quarantine, Transportation, Vegetables, Virgin Islands.

Accordingly, 7 CFR parts 300 and 318 are amended as follows:

PART 300—INCORPORATION BY REFERENCE

1. The authority citation for part 300 continues to read as follows:

Authority: 7 U.S.C. 150ee, 154, 161, 162, and 167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 300.1, paragraph (a), introductory text, is revised to read as follows:

§ 300.1 Materials incorporated by reference; availability.

(a) *Plant Protection and Quarantine Treatment Manual.* The Plant Protection and Quarantine Treatment Manual, which was reprinted on November 30, 1992, and includes all revisions through November 1995, has been approved for incorporation by reference in 7 CFR chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

* * * * *

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

3. The authority citation for part 318 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, 164a, and 167; 7 CFR 2.22, 2.80, and 371.2(c).

4. Section 318.13–1 is amended by revising the definition for *Inspector* to read as follows:

§ 318.13–1 Definitions.

* * * * *

Inspector. An inspector of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, United States Department of Agriculture.

* * * * *

5. Section 318.13–4d is revised to read as follows:

§ 318.13–4d Administrative instructions concerning the interstate movement of avocados from Hawaii.

(a) Subject to the requirements of §§ 318.13–3 and 318.13–4 and all other applicable provisions of this subpart, avocados may be moved interstate from Hawaii only if they are treated under the supervision of an inspector with a treatment authorized by the Administrator for the following pests: the Mediterranean fruit fly (*Ceratitis capitata*), the melon fly (*Dacus cucurbitae*), and the Oriental fruit fly (*Bactrocera dorsalis*).

(b) Treatments authorized by the Administrator are listed in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

§ 318.13–4e [Removed and Reserved]

6. Section 318.13–4e is removed and reserved.

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

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–3381 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–34–P

Agricultural Marketing Service

7 CFR Part 966

[Docket No. FV95–966–2FIR]

Tomatoes Grown in Florida; Exemption of Specialty Packed Red Ripe Tomatoes From Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule which exempted shipments of specialty packed red ripe tomatoes from the container net weight requirements in the Florida tomato handling regulation. This exemption was unanimously recommended by the Florida Tomato Committee (committee) which locally administers the marketing order. This rule continues that exemption and allows handlers to ship specialty packed red ripe tomatoes in containers with different net weights than those currently authorized under the order. This rule will continue to facilitate the movement of such tomatoes, further the development of this relatively new market, and is expected to improve returns to producers of Florida tomatoes.

EFFECTIVE DATE: March 18, 1996.

FOR FURTHER INFORMATION CONTACT: Aleck Jonas, Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883–2276; telephone: 941–299–4770, or FAX: 941–299–5169; or Mark Kreaggor, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2431, or FAX: 202–720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 125 and Order No. 966 (7 CFR Part 966), both as amended, regulating the handling of tomatoes grown in Florida, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

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

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has

considered the economic impact of this action on small entities.

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

There are approximately 75 handlers of tomatoes who are subject to regulation under the marketing order and approximately 90 producers of tomatoes in the regulated area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. The majority of handlers and producers of Florida tomatoes may be classified as small entities.

Under the Florida tomato marketing order, tomatoes produced in the production area and shipped to fresh market channels outside of the regulated area are required to meet certain handling requirements specified in § 966.323. Current requirements include a minimum grade of U.S. No. 3 and a minimum size of 2 8/32 inches in diameter. Pack and container specifications are also in effect. In addition, all lots are required to be inspected and certified as meeting these grade, size, pack and container requirements by authorized representatives of the Federal or Federal-State Inspection Service. The regulated area is defined as the portion of the State of Florida which is bounded by the Suwannee River, the Georgia border, the Atlantic Ocean, and the Gulf of Mexico. Basically, it is the entire State of Florida, except the panhandle. The production area is part of the regulated area.

Prior to publication of the interim final rule in the Federal Register on November 24, 1995 (60 FR 57906), handlers were not allowed to ship specialty packed red ripe tomatoes exempt from container net weight requirements in § 966.323(a)(3)(i). To provide such an exemption, the interim final rule amended paragraph (d)(1) of § 966.323. The exemption is the same as the exemption provided for yellow meated tomatoes in paragraph (d)(1). This rule finalizes the interim final rule and continues to allow handlers to ship specialty packed red ripe tomatoes exempt from the container net weight requirements in § 966.323(a)(3)(i). The specialty packed red ripe tomatoes are still subject to all other provisions of the handling regulation, including established grade, size, container marking, condition and inspection requirements.

Section 966.52 of the Florida tomato marketing order provides authority for the modification, suspension, and termination of regulations. Section 966.323(a)(3)(i) currently requires certain types of tomatoes packed by registered handlers to be packed in containers of 10, 20, and 25 pounds designated net weights. The net weight of the contents cannot be less than the designated weight and cannot exceed the designated weight by more than two pounds. Section 51.1863 of the U.S. Standards for Grades of Fresh Tomatoes (7 CFR Part 51.1855 through 51.1877, hereafter referred to as the ''standards'') applies.

Specialty packed red ripe tomatoes are a product recently available from Florida. They are shipped in relatively small volume and marketed as a specialty item.

The interim final rule added a definition for specialty packed red ripe tomatoes to paragraph (g) of § 966.323. Specialty packed red ripe tomatoes are defined as tomatoes which, at the time of inspection, are light red (#5 color) or red (#6 color) according to color classification requirements in the standards, have their calyx ends and stems attached, and are cell packed in a single layer container.

Cell packed tomatoes are placed in containers with fiber board or plastic compartments for such tomatoes to provide separation and reduce bruising during transport and handling. This is especially important in shipping tomatoes at an advanced stage of ripeness when tomatoes have their calyx ends and stems attached. The separation provided by the individual compartments permits the tomatoes from moving around inside the shipping container during transport and handling, thus ensuring arrival at destination with tomato calyx ends and stems attached and no tomato stem punctures.

Most tomatoes shipped from Florida are shipped at the mature green stage without calyx ends and stems, and are packed in volume fill containers. When volume fill containers are packed, the tomatoes are placed by hand or machine into the container until the required net weight is reached. Mature green tomatoes are not as susceptible to bruising and other damage during transport as red ripe tomatoes. These specialty tomatoes have to be packaged so that they do not touch each other. If volume fill containers were used by registered handlers in Florida to ship specialty tomatoes, serious product bruising and stem punctures would result, which would detract from the unique appearance and marketability of these tomatoes.

However, the cell pack method of packaging needed to ensure that these specialty tomatoes arrive at markets in good condition does not lend itself well when packing to meet a required net weight. Normally, such packs are used when the product is packed by count per container. The tomatoes have to be properly sized to fit snugly in the container.

During the harvesting season, the weight of equal size tomatoes or the shape of tomatoes of equal weight may vary dramatically. If the red ripe tomatoes are light in weight, handlers cannot add extra tomatoes because all cells are full, or if the tomatoes are heavier than normal, the removal of a tomato by a handler results in an empty cell. Because the buyer expects a full tray, empty cells are viewed suspiciously and a marketing problem results.

To overcome this problem and allow this market to be further developed, the committee unanimously recommended that shipments of specialty packed red ripe tomatoes, as defined herein, be exempt from the container net weight requirements of the order. As stated earlier, all other order requirements will continue to apply to such shipments.

This rule reflects the committee's and the Department's appraisal of the need to exempt specialty packed red ripe tomatoes from the net weight requirements for tomatoes grown in Florida. The Department's view is that continuation of the exemption will have a beneficial impact on producers and handlers since it will allow tomato handlers to make additional supplies of tomatoes available to meet consumer needs consistent with crop and market conditions.

As stated earlier, the interim final rule on this matter was published in the Federal Register on November 24, 1995 (60 FR 57960). That rule provided that interested persons could file comments through December 26, 1995. No comments were received.

Based on these considerations, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material presented, including the Committee's recommendation, and other available information, it is found

that this final rule will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 966 is amended as follows:

PART 966—TOMATOES GROWN IN FLORIDA

Accordingly, the interim final rule amending 7 CFR Part 966 which was published at 60 FR 57906 on November 24, 1995, is adopted as a final rule without change.

Dated: February 8, 1996.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–3349 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A]

Extensions of Credit by Federal Reserve Banks; Change in Discount Rate

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A on Extensions of Credit by Federal Reserve Banks to reflect its approval of a decrease in the basic discount rate at each Federal Reserve Bank. The Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks.

EFFECTIVE DATE: The amendments to part 201 (Regulation A) were effective February 5, 1996. The rate changes for adjustment credit were effective on the dates specified in 12 CFR 201.51.

FOR FURTHER INFORMATION CONTACT: William W. Wiles, Secretary of the Board (202/452–3257); for users of Telecommunications Device for the Deaf (TDD), please contact Dorothea Thompson, (202/452–3544), Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of sections 10(b), 13, 14, 19, et.al., of the Federal Reserve Act, the Board has amended its Regulation A (12 CFR part 201) to incorporate changes in discount rates on Federal Reserve Bank extensions of credit. The discount rates are the interest rates charged to depository institutions when they borrow from their district Reserve Banks.

The ''basic discount rate'' is a fixed rate charged by Reserve Banks for adjustment credit and, at the Reserve Banks' discretion, for extended credit. In decreasing the basic discount rate, the Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks. The new rates were effective on the dates specified below. Moderating economic expansion in recent months has reduced potential inflationary pressures going forward. In this environment, the decrease in rates is consistent with continued inflation and sustainable growth.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the change in the basic discount rate will not have a significant adverse economic impact on a substantial number of small entities. The rule does not impose any additional requirements on entities affected by the regulation.

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. No collections of information pursuant to the Paperwork Reduction Act are contained in the rule.

Administrative Procedure Act

The provisions of 5 U.S.C. 553(b) relating to notice and public participation were not followed in connection with the adoption of the amendment because the Board for ''good cause'' finds that delaying the change in the basic discount rate in order to allow notice and public comment on the change is impracticable, unnecessary, and contrary to the public interest in fostering sustainable economic growth.

The provisions of 5 U.S.C. 553(d) that prescribe 30 days prior notice of the effective date of a rule have not been followed because section 553(d) provides that such prior notice is not necessary whenever there is good cause for finding that such notice is contrary to the public interest. As previously stated, the Board determined that delaying the changes in the basic discount rate is contrary to the public interest.

List of Subjects in 12 CFR Part 201

Banks, banking, Credit, Federal Reserve System.

For the reasons set out in the preamble, 12 CFR Part 201 is amended as set forth below:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

1. The authority citation for 12 CFR part 201 continues to read as follows:

Authority: 12 U.S.C. 343 *et. seq.*, 347a, 347b, 347c, 347d, 348 *et. seq.*, 357, 374, 374a and 461.

2. Section 201.51 is revised to read as follows:

§ 201.51 Adjustment credit for depository institutions.

The rates for adjustment credit provided to depository institutions under § 201.3(a) are:

Federal Reserve Bank	Rate	Effective
Boston	5.00	February 1, 1996.
New York	5.00	January 31, 1996.
Philadelphia .	5.00	January 31, 1996.
Cleveland	5.00	January 31, 1996.
Richmond	5.00	February 1, 1996.
Atlanta	5.00	January 31, 1996.
Chicago	5.00	February 1, 1996.
St. Louis	5.00	February 5, 1996.
Minneapolis ..	5.00	January 31, 1996.
Kansas City ..	5.00	February 1, 1996.
Dallas	5.00	January 31, 1996.
San Francisco.	5.00	January 31, 1996.

By order of the Board of Governors of the Federal Reserve System, February 9, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–3389 Filed 2–14–96; 8:45 a.m.]

BILLING CODE 6210–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303 and 359

RIN 3064–AB11

Regulation of Golden Parachutes and Other Benefits Which May Be Subject to Misuse

AGENCY: Federal Deposit Insurance Corporation (FDIC or Corporation).

ACTION: Final rule.

SUMMARY: The FDIC is adopting a rule limiting golden parachute and indemnification payments to institution-affiliated parties by insured depository institutions and depository institution holding companies. The

purpose of this rule is to prevent the improper disposition of institution assets and to protect the financial soundness of insured depository institutions, depository institution holding companies, and the federal deposit insurance funds.

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Robert F. Miailovich, Associate Director, Division of Supervision, (202) 898–6918, 550 17th Street, N.W., Washington, D.C.; Michael D. Jenkins, Examination Specialist, Division of Supervision, (202) 898–6896, 1776 F Street, N.W., Washington, D.C. 20429; Jeffrey M. Kopchik, Counsel, Legal Division, (202) 898–3872; Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

No collection of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is contained in this rule. Consequently, no information was submitted to the Office of Management and Budget for review.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), it is certified that this rule will not have a significant impact on a substantial number of small entities.

Background

On March 29, 1995, the FDIC published for public comment a notice of proposed rulemaking entitled ''Regulation of Golden Parachutes and Other Benefits Which May Be Subject to Misuse''. 60 FR 16069 (1995). This proposal (the Second Proposal) followed an earlier notice of proposed rulemaking concerning the same topic (the First Proposal), which was published in the Federal Register on October 7, 1991. 56 FR 50529 (1991). Both the First and Second Proposals were efforts to implement section 18(k) of the Federal Deposit Insurance Act (12 U.S.C. 1828(k)) (FDI Act). Section 18(k) provides that the FDIC may prohibit or limit, by regulation or order, any golden parachute or indemnification payment.

The FDIC received 23 comment letters in response to the Second Proposal. The comment letters were submitted by major financial institution trade associations, insured depository institutions, insured depository institution holding companies, a law firm and a trade association representing life insurance underwriters. Virtually all of the commenters expressed the view that the Second Proposal represented a significant improvement over the First Proposal in terms of the burden that the proposed regulation would place on the industry. In fact, the majority of commenters expressed support for the Second Proposal, while submitting well thought-out suggestions. These suggestions encompassed technical revisions to the regulation as well as broader proposals aimed at making it easier for insured depository institutions and holding companies to make golden parachute and indemnification payments in certain limited circumstances.

Issues Raised by the Commenters—Golden Parachute Payments

The FDIC has carefully reviewed and analyzed the comment letters it received in response to the Second Proposal. With respect to the golden parachute portion of the Second Proposal, the most significant issues raised by the comment letters and the FDIC's responses are discussed below.

1. Bona Fide Deferred Compensation Plans

The Second Proposal includes a definition of ''bona fide deferred compensation plan or arrangement'' that was created specifically for this regulation. This definition, which appears in § 359.1(d) of the Second Proposal, includes a provision that allows plans to provide for the crediting of a reasonable investment return on elective deferrals of compensation, wages or fees. Several commenters suggested that the definition of ''bona fide deferred compensation plan or arrangement'' should be expanded to further define the term ''reasonable investment return''. One comment letter included suggested language to be incorporated into the regulation. The FDIC is of the opinion that including an additional definition of ''reasonable investment return'' would not provide any advantage to the industry and would only serve to make the regulation more complicated. This provision is provided in the definition to permit financial institutions to follow normal business practices. It is not intended to have the regulators make close distinctions of what is a reasonable investment return. It is intended merely to prevent the inclusion of exorbitant returns that would result in a circumvention of the primary purpose of this regulation. The suggested definitions provided by the commenters are considered to clearly fit the requirements of this term; however, the FDIC also recognizes that there are several other definitions of ''reasonable investment return'' that also fit these requirements.

Several commenters asked whether a finding by the FDIC that a bona fide deferred compensation plan provided for an unreasonable investment return on elective deferrals would invalidate the entire plan. The FDIC is of the view that such a finding would not invalidate such a plan which otherwise conforms to § 359.1(d). However, that portion of the investment return which is found to be unreasonable would be a prohibited golden parachute payment.

2. Nondiscriminatory Severance Pay Plans

Section 359.1(f)(2) of the Second Proposal contains certain exceptions to the definition of ''golden parachute payment''. One of those exceptions is for nondiscriminatory severance pay plans. Second Proposal § 359.1(f)(2)(v). Several commenters suggested that the FDIC delete the requirement that the exception apply only in cases of a reduction in force (RIF). This section of the Second Proposal also would require 30 days prior written notice to the appropriate federal banking agency and the FDIC prior to making such a severance payment to a senior executive officer. Several commenters also urged the deletion of the prior notice requirement. After careful consideration, the FDIC agrees with these suggestions. If a nondiscriminatory severance pay plan conforms to the other requirements set forth in § 359.1(f)(2)(v), it should not be necessary that an employee's involuntary termination be part of a RIF in order for that employee to collect severance pay. This section's other requirements are more than adequate protection that the exception will not be used to circumvent the regulation's primary purpose, *i.e.*, the prohibition of golden parachute payments. Also, the advantages of the prior notice provision for severance payments to senior executive officers do not outweigh the burden such a requirement would place on the industry, so this requirement has been deleted.

3. Definition of Nondiscriminatory

Section 359.1(j) of the Second Proposal contains the definition of ''nondiscriminatory'' as it relates to severance pay plans or arrangements. These are the only type of severance pay plans or arrangements that may qualify as an exception to the regulation's prohibition. In order to be considered nondiscriminatory, a severance pay plan must apply to all employees of an

insured depository institution or depository institution holding company who meet reasonable and customary eligibility requirements applicable to all employees, such as minimum length of service requirements. The Second Proposal provides that a nondiscriminatory severance pay plan may provide different benefits to IAPs based only upon length of service and/or position. In the event that an employee's position is used as a basis for providing a different level of benefits, employees who are not senior executive officers shall be treated more favorably than senior executive officers.

The reason for this approach was the FDIC's concern that severance pay plans could be designed in such a way that they would circumvent the basic purpose of the regulation. In other words, as an example, to permit severance payments of one year's salary to the top five senior executive officers of an insured depository institution in contrast to one week's salary to all tellers on the basis that such payments are made pursuant to a *bona fide* severance pay plan, a recognized exception to the golden parachute prohibition, would undermine the purpose of FDI Act section 18(k). However, several commenters noted that many existing severance plans do pay somewhat more generous benefits to higher ranking IAPs. These commenters suggested that a modest disparity in severance benefits linked to objective criteria like job title or length of service should be permitted by the regulation since such plans are common in the financial services industry and do not violate the basic premise of FDI Act section 18(k). The FDIC has been persuaded that this position represents a good compromise between preventing the payment of prohibited golden parachutes and permitting insured depository institutions and holding companies to offer severance benefits that conform to well-established industry norms.

Based upon suggestions made in the comment letters, the definition of ''nondiscriminatory'' contained in § 359.1(j) of the Second Proposal has been amended to provide that a nondiscriminatory severance plan may provide for different levels of benefits based only on objective criteria such as salary, total compensation, length of service, job grade or classification. In addition, any group of employees which is designated for a different level of benefits based upon such acceptable objective criteria must consist of the lesser of not less than 33 percent of all employees or 1,000 employees. Furthermore, the differential in benefits between the groups shall not be more than plus or minus 10 percent.

4. White Knight Exception

Both the First and Second Proposals contained a provision which would permit a troubled depository institution or holding company to hire an individual and agree to pay him/her a golden parachute payment upon termination of employment, provided that the amount and terms of the payment receive the prior written consent of the appropriate federal banking agency and the FDIC. Second Proposal § 359.4(a)(2). All commenters that discussed the issue were supportive of the FDIC's ''white knight'' exception to the golden parachute prohibition. They were particularly supportive of the revisions to the exception that were made in response to comment letters concerning the First Proposal. However, a number of commenters reiterated the suggestion that the FDIC broaden the exception to include current officers and employees who are promoted to executive positions at a time when the institution is troubled.[1] The FDIC has carefully considered this suggestion once again and remains unconvinced that the regulation should be amended in this way. White knight severance payments will be approved in limited circumstances as a way to entice competent management to sever established ties with their current employer and take a calculated risk that they can assist in bringing a troubled institution back to financial health. This rationale does not apply to the case of a current employee of a troubled institution since he/she does not need to be enticed to give up an established, stable career with another employer.

5. Change In Control Exception

Section 359.4(a)(3) of the Second Proposal contains the change in control exception to the golden parachute prohibition. This exception permits an insured depository institution or holding company to make a reasonable severance payment, not to exceed twelve months salary, to an IAP in the event of a change in control with the prior consent of the appropriate federal banking agency. Once again, every commenter who discussed this exception expressed their support. However, a substantial number of those recommended that the FDIC delete the one year's salary cap.

This exception was added to the Second Proposal in response to comment letters received concerning the First Proposal. While the FDIC considers this to be an important exception, we believe that certain limits need to be placed on such payments. One year's salary appears to be a reasonable compromise between a prohibition on any payment and more generous payments. The FDIC is of the opinion that one year's salary will provide ample incentive for an IAP (usually a senior executive officer) to objectively consider a takeover bid which may result in the loss of that IAP's job. It must be remembered that this exception is relevant only in the event of the takeover of a troubled depository institution or holding company.

6. Condition of the Institution at Time of Termination

The FDIC specified in the preamble to the Second Proposal that a golden parachute payment which is prohibited from being paid at the time of an IAP's termination due to the troubled condition of the insured depository institution or holding company cannot be paid to that IAP at some later point in time once the institution or holding company is no longer troubled. See Second Proposal § 359.1(f)(1)(iii). Several commenters requested that the FDIC reconsider its position on this point.

The FDIC believes the position taken in the Second Proposal is consistent with the language and spirit of the statute. The language of section 18(k)(4)(A)(ii) of the FDI Act provides that any payment which is contingent on the termination of an IAP's employment and is received on or after an institution or holding company becomes troubled is a prohibited golden parachute. If this payment is prohibited under the prescribed circumstances, it is prohibited forever. However, the regulation contains several exceptions and procedures for affected individuals to avoid an undeserved prohibition on a potential golden parachute payment. Thus, the final regulation is consistent with the Second Proposal in this regard.

Issues Raised by the Commenters—Indemnification Payments

The vast majority of commenters were very supportive of the changes which the FDIC made to the indemnification payments portion of the First Proposal in response to the first set of comment letters. While most commenters indicated they thought the Second Proposal set forth a rational and fair scheme for determining indemnification, many commenters urged the FDIC to further amend the

[1] In the course of this preamble, the term ''troubled'' shall be used to refer to any of the criteria listed in § 359.1(f)(ii) of this final regulation.

regulation to make it somewhat easier for IAPs to be indemnified. The FDIC has decided to adopt some, but not all, of the suggestions it received as discussed below.

1. Partial Indemnification

The most prevalent comment with regard to the indemnification portion of the Second Proposal noted that the proposed regulation would not permit partial indemnification in instances where it has been determined that an IAP has not violated certain banking laws or regulations or has not engaged in certain unsafe or unsound banking practices or breaches of fiduciary duty for which the individual has been charged. The FDIC has carefully considered this point and agrees with the commenters that indemnification should not be an ''all or nothing'' proposition. Therefore, the final regulation has been revised to permit partial indemnification for legal or professional expenses specifically attributable to particular charges for which there has been a formal and final adjudication or finding in connection with a settlement that the IAP has not violated certain banking laws or regulations or engaged in certain unsafe or unsound banking practices or breaches of fiduciary duty. Thus, in any administrative proceeding or civil action instituted by any federal banking agency which results in a final order or settlement pursuant to which the IAP is assessed a civil money penalty or is subject to a cease and desist order, indemnification will be permitted only for that portion of the liability or legal expenses incurred which relate to the particular charges for which an adjudication or finding in connection with a settlement in favor of the IAP has been made. Partial indemnification will not be permitted in cases where an IAP is removed from office and/or prohibited from participating in the affairs of an institution. Under no circumstances shall an IAP be indemnified for the amount of a civil money penalty or judgement assessed against him/her. See Final Regulation §§ 359.1(*l*) and 359.5(a). The FDIC recognizes that in many cases the appropriate amount of any partial indemnification will be difficult to ascertain with certainty.

2. Prior Notification of Indemnification Payments

Several commenters suggested that the FDIC delete the § 359.5(a)(5) requirement that the institution or holding company give the FDIC and the primary federal regulator prior written notification of the granting of any indemnification. The commenters pointed out that, in view of the limitations which the Second Proposal would place on the granting of indemnification payments and the various safeguards incorporated into the proposed regulation, prior notification would be unnecessary and burdensome. The FDIC agrees and this requirement has been deleted.

3. Prevention of Double Payments

Several commenters pointed out that § 359.5(a)(4) of the Second Proposal is worded in such a way that it could result in double payments to the institution in the event that a liability or legal expense incurred by the institution is reimbursed by insurance or a fidelity bond. The commenters are correct that the FDIC did not intend this result and the final regulation has been amended to make it clear that an IAP will not be obligated to reimburse the depository institution or holding company for indemnification payments made for his/her benefit to the extent that the institution or holding company is reimbursed by an insurance policy or fidelity bond.

4. Definition of Independent Counsel

A few comment letters noted that the Second Proposal does not contain a definition of the term ''independent legal counsel'', utilized in §§ 359.5 (c) and (d). The FDIC considered including such a definition when the Second Proposal was being written, but decided against it in an effort to shorten and simplify the regulation. The Corporation was of the opinion that the term ''independent legal counsel'' was not overly technical and could be determined on a case-by-case basis. Also, the preamble to the Second Proposal provided that:

> The FDIC would regard legal counsel as being ''independent'' (for purposes of this regulation) if the attorney(s) is not a member of the depository institution's or holding company's in-house legal staff, does not have an ongoing relationship with the depository institution or holding company and no other conflict of interest is present.

60 FR 16076 (1995). Thus, the FDIC has elected not to define this term in the final regulation.

5. Standard for Indemnification

In response to comments received with regard to the First Proposal, the FDIC made significant modifications to the indemnification portion of the proposed regulation in an effort to make it easier for an institution's or holding company's board of directors to approve IAPs to be indemnified for expenses incurred in administrative or civil actions commenced by a federal banking agency. Those modifications were discussed in great detail in the preamble to the Second Proposal. See 60 FR 16075–16076 (1995).

While all the commenters who raised the issue were supportive of these revisions, some commenters urged the FDIC to further revise the Second Proposal to make it even easier for IAPs to be indemnified. Several of these commenters referred to the Model Business Corporation Act (MBCA) and recommended that the FDIC adopt the indemnification standard set forth in section 8.51 thereof.

The Office of the Comptroller of the Currency (OCC) published a Notice of Proposed Rulemaking on March 3, 1995 concerning proposed modifications to 12 CFR part 7. See 60 FR 11924 (1995). This OCC proposal contained suggested revisions to OCC interpretive rulings concerning, among other topics, the indemnification of directors, officers and employees of national banks. Several of those who commented on the Second Proposal urged the FDIC and the OCC to adopt consistent regulations. In an effort to achieve inter-agency conformity, the FDIC and OCC have consulted with each other and have agreed to adopt consistent regulations.

While the Corporation understands the commenters' desires to make indemnification as easy as would be reasonable and to utilize the standard set forth in the MBCA, the FDIC Board has concluded that it is not required to follow the MBCA and that a slightly more stringent standard for insured depository institutions and their holding companies makes sense in view of the fact that this indemnification prohibition only applies to actions brought by the federal banking agencies. Such actions are only brought after substantial investigation and as part of a strict regulatory scheme. Such actions are intended to protect and maintain the solvency and integrity of the federal deposit insurance funds. Moreover, the FDIC Board is of the opinion that the indemnification standard set forth in the Second Proposal, with the revisions described above, appropriately balances the need to indemnify IAPs for actions taken in their official capacities with the necessity of making sure that they are held accountable for substantive violations of law or regulation. The standard also serves the purpose of protecting the financial viability of the insured depository institution or holding company which may make the indemnification payment. Thus, no further modifications to the standards are considered warranted.

6. Commencement of an Administrative Action

Several commenters suggested that the FDIC clarify when an administrative action is commenced by a federal banking agency. This time frame is important in view of the FDIC's position that expenses incurred prior to the commencement of a formal action are not subject to the regulation. See 60 FR 16077. The FDIC considers a formal administrative action to be commenced by the issuance of a ''Notice of Charges''. See *e.g.*, 12 CFR 308.18.

List of Subjects

12 CFR Part 303

Administrative practice and procedure, Authority delegations (Government agencies), Bank deposit insurance, Banks, banking, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 359

Banks, banking, Golden parachute payments, Indemnity payments.

For the reasons set out in the preamble, the FDIC Board of Directors hereby amends part 303 and adds part 359 of title 12, chapter III, of the Code of Federal Regulations as follows:

PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, DELEGATIONS OF AUTHORITY, AND NOTICES REQUIRED TO BE FILED BY STATUTE OR REGULATION

1. The authority citation for part 303 continues to read as follows:

Authority: 12 U.S.C. 378, 1813, 1815, 1816, 1817(j), 1818, 1819(''Seventh'' and ''Tenth''), 1828, 1831e, 1831o, 1831p-1; 15 U.S.C. 1607.

2. In § 303.7, a new paragraph (g) is added to read as follows:

§ 303.7 Delegation of authority to the Director (DOS) and to the associate directors, regional directors and deputy regional directors to act on certain applications, requests, and notices of acquisition of control.

* * * * *

(g) *Requests pursuant to section 18(k) of the Act.* Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to approve or deny requests pursuant to section 18(k) of the Act to make:

(1) Excess nondiscriminatory severance plan payments as provided by 12 CFR 359.1(f)(2)(v); and

(2) Golden parachute payments permitted by 12 CFR 359.4.

3. New part 359 is added to read as follows:

PART 359—GOLDEN PARACHUTE AND INDEMNIFICATION PAYMENTS

Sec.
359.0 Scope.
359.1 Definitions.
359.2 Golden parachute payments prohibited.
359.3 Prohibited indemnification payments.
359.4 Permissible golden parachute payments.
359.5 Permissible indemnification payments.
359.6 Filing instructions.
359.7 Applicability in the event of receivership.

Authority: 12 U.S.C. 1828(k).

§ 359.0 Scope.

(a) This part limits and/or prohibits, in certain circumstances, the ability of insured depository institutions, their subsidiaries and affiliated depository institution holding companies to enter into contracts to pay and to make golden parachute and indemnification payments to institution-affiliated parties (IAPs).

(b) The limitations on golden parachute payments apply to troubled insured depository institutions which seek to enter into contracts to pay or to make golden parachute payments to their IAPs. The limitations also apply to depository institution holding companies which are troubled and seek to enter into contracts to pay or to make golden parachute payments to their IAPs as well as healthy holding companies which seek to enter into contracts to pay or to make golden parachute payments to IAPs of a troubled insured depository institution subsidiary. A ''golden parachute payment'' is generally considered to be any payment to an IAP which is contingent on the termination of that person's employment and is received when the insured depository institution making the payment is troubled or, if the payment is being made by an affiliated holding company, either the holding company itself or the insured depository institution employing the IAP, is troubled. The definition of golden parachute payment does not include payments pursuant to qualified retirement plans, nonqualified *bona fide* deferred compensation plans, nondiscriminatory severance pay plans, other types of common benefit plans, state statutes and death benefits. Certain limited exceptions to the golden parachute payment prohibition are provided for in cases involving the hiring of a white knight and unassisted changes in control. A procedure is also set forth whereby an institution or IAP can request permission to make what would otherwise be a prohibited golden parachute payment.

(c) The limitations on indemnification payments apply to all insured depository institutions, their subsidiaries and affiliated depository institution holding companies regardless of their financial health. Generally, this part prohibits insured depository institutions, their subsidiaries and affiliated holding companies from indemnifying an IAP for that portion of the costs sustained with regard to an administrative or civil enforcement action commenced by any federal banking agency which results in a final order or settlement pursuant to which the IAP is assessed a civil money penalty, removed from office, prohibited from participating in the affairs of an insured depository institution or required to cease and desist from or take an affirmative action described in section 8(b) (12 U.S.C. 1818(b)) of the Federal Deposit Insurance Act (FDI Act). However, there are exceptions to this general prohibition. First, an institution or holding company may purchase commercial insurance to cover such expenses, except judgments and penalties. Second, the institution or holding company may advance legal and other professional expenses to an IAP directly (except for judgments and penalties) if its board of directors makes certain specific findings and the IAP agrees in writing to reimburse the institution if it is ultimately determined that the IAP violated a law, regulation or other fiduciary duty.

§ 359.1 Definitions.

(a) *Act* means the Federal Deposit Insurance Act, as amended (12 U.S.C. 1811, *et seq.*).

(b) *Appropriate federal banking agency, bank holding company, depository institution holding company* and *savings and loan holding company* have the meanings given to such terms in section 3 of the Act.

(c) *Benefit plan* means any plan, contract, agreement or other arrangement which is an ''employee welfare benefit plan'' as that term is defined in section 3(1) of the Employee Retirement Income Security Act of 1974, as amended (29 U.S.C. 1002(1)), or other usual and customary plans such as dependent care, tuition reimbursement, group legal services or cafeteria plans; provided however, that such term shall not include any plan intended to be subject to paragraphs (f)(2) (iii) and (v) of this section.

(d) *Bona fide deferred compensation plan or arrangement* means any plan, contract, agreement or other arrangement whereby:

(1) An IAP voluntarily elects to defer all or a portion of the reasonable compensation, wages or fees paid for services rendered which otherwise would have been paid to such party at the time the services were rendered (including a plan that provides for the crediting of a reasonable investment return on such elective deferrals) and the insured depository institution or depository institution holding company either:

(i) Recognizes compensation expense and accrues a liability for the benefit payments according to generally accepted accounting principles (GAAP); or

(ii) Segregates or otherwise sets aside assets in a trust which may only be used to pay plan and other benefits, except that the assets of such trust may be available to satisfy claims of the institution's or holding company's creditors in the case of insolvency; or

(2) An insured depository institution or depository institution holding company establishes a nonqualified deferred compensation or supplemental retirement plan, other than an elective deferral plan described in paragraph (e)(1) of this section:

(i) Primarily for the purpose of providing benefits for certain IAPs in excess of the limitations on contributions and benefits imposed by sections 415, 401(a)(17), 402(g) or any other applicable provision of the Internal Revenue Code of 1986 (26 U.S.C. 415, 401(a)(17), 402(g)); or

(ii) Primarily for the purpose of providing supplemental retirement benefits or other deferred compensation for a select group of directors, management or highly compensated employees (excluding severance payments described in paragraph (f)(2)(v) of this section and permissible golden parachute payments described in § 359.4); and

(3) In the case of any nonqualified deferred compensation or supplemental retirement plans as described in paragraphs (d) (1) and (2) of this section, the following requirements shall apply:

(i) The plan was in effect at least one year prior to any of the events described in paragraph (f)(1)(ii) of this section;

(ii) Any payment made pursuant to such plan is made in accordance with the terms of the plan as in effect no later than one year prior to any of the events described in paragraph (f)(1)(ii) of this section and in accordance with any amendments to such plan during such one year period that do not increase the benefits payable thereunder;

(iii) The IAP has a vested right, as defined under the applicable plan document, at the time of termination of employment to payments under such plan;

(iv) Benefits under such plan are accrued each period only for current or prior service rendered to the employer (except that an allowance may be made for service with a predecessor employer);

(v) Any payment made pursuant to such plan is not based on any discretionary acceleration of vesting or accrual of benefits which occurs at any time later than one year prior to any of the events described in paragraph (f)(1)(ii) of this section;

(vi) The insured depository institution or depository institution holding company has previously recognized compensation expense and accrued a liability for the benefit payments according to GAAP or segregated or otherwise set aside assets in a trust which may only be used to pay plan benefits, except that the assets of such trust may be available to satisfy claims of the institution's or holding company's creditors in the case of insolvency; and

(vii) Payments pursuant to such plans shall not be in excess of the accrued liability computed in accordance with GAAP.

(e) *Corporation* means the Federal Deposit Insurance Corporation, in its corporate capacity.

(f) *Golden parachute payment.* (1) The term *golden parachute payment* means any payment (or any agreement to make any payment) in the nature of compensation by any insured depository institution or an affiliated depository institution holding company for the benefit of any current or former IAP pursuant to an obligation of such institution or holding company that:

(i) Is contingent on, or by its terms is payable on or after, the termination of such party's primary employment or affiliation with the institution or holding company; and

(ii) Is received on or after, or is made in contemplation of, any of the following events:

(A) The insolvency (or similar event) of the insured depository institution which is making the payment or bankruptcy or insolvency (or similar event) of the depository institution holding company which is making the payment; or

(B) The appointment of any conservator or receiver for such insured depository institution; or

(C) A determination by the insured depository institution's or depository institution holding company's appropriate federal banking agency, respectively, that the insured depository institution or depository institution holding company is in a troubled condition, as defined in the applicable regulations of the appropriate federal banking agency (§ 303.14(a)(4) of this chapter); or

(D) The insured depository institution is assigned a composite rating of 4 or 5 by the appropriate federal banking agency or informed in writing by the Corporation that it is rated a 4 or 5 under the Uniform Financial Institutions Rating System of the Federal Financial Institutions Examination Council, or the depository institution holding company is assigned a composite rating of 4 or 5 or unsatisfactory by its appropriate federal banking agency; or

(E) The insured depository institution is subject to a proceeding to terminate or suspend deposit insurance for such institution; and

(iii)(A) Is payable to an IAP whose employment by or affiliation with an insured depository institution is terminated at a time when the insured depository institution by which the IAP is employed or with which the IAP is affiliated satisfies any of the conditions enumerated in paragraphs (f)(1)(ii) (A) through (E) of this section, or in contemplation of any of these conditions; or

(B) Is payable to an IAP whose employment by or affiliation with an insured depository institution holding company is terminated at a time when the insured depository institution holding company by which the IAP is employed or with which the IAP is affiliated satisfies any of the conditions enumerated in paragraphs (f)(1)(ii)(A), (C) or (D) of this section, or in contemplation of any of these conditions.

(2) *Exceptions.* The term *golden parachute payment* shall not include:

(i) Any payment made pursuant to a pension or retirement plan which is qualified (or is intended within a reasonable period of time to be qualified) under section 401 of the Internal Revenue Code of 1986 (26 U.S.C. 401) or pursuant to a pension or other retirement plan which is governed by the laws of any foreign country; or

(ii) Any payment made pursuant to a benefit plan as that term is defined in paragraph (c) of this section; or

(iii) Any payment made pursuant to a *bona fide* deferred compensation plan or arrangement as defined in paragraph (d) of this section; or

(iv) Any payment made by reason of death or by reason of termination caused by the disability of an institution-affiliated party; or

(v) Any payment made pursuant to a nondiscriminatory severance pay plan

or arrangement which provides for payment of severance benefits to all eligible employees upon involuntary termination other than for cause, voluntary resignation, or early retirement; *provided, however,* that no employee shall receive any such payment which exceeds the base compensation paid to such employee during the twelve months (or such longer period or greater benefit as the Corporation shall consent to) immediately preceding termination of employment, resignation or early retirement, and such severance pay plan or arrangement shall not have been adopted or modified to increase the amount or scope of severance benefits at a time when the insured depository institution or depository institution holding company was in a condition specified in paragraph (f)(1)(ii) of this section or in contemplation of such a condition without the prior written consent of the appropriate federal banking agency; or

(vi) Any severance or similar payment which is required to be made pursuant to a state statute or foreign law which is applicable to all employers within the appropriate jurisdiction (with the exception of employers that may be exempt due to their small number of employees or other similar criteria); or

(vii) Any other payment which the Corporation determines to be permissible in accordance with § 359.4.

(g) *Insured depository institution* means any bank or savings association the deposits of which are insured by the Corporation pursuant to the Act, or any subsidiary thereof.

(h) *Institution-affiliated party (IAP)* means:

(1) Any director, officer, employee, or controlling stockholder (other than a depository institution holding company) of, or agent for, an insured depository institution or depository institution holding company;

(2) Any other person who has filed or is required to file a change-in-control notice with the appropriate federal banking agency under section 7(j) of the Act (12 U.S.C. 1817(j));

(3) Any shareholder (other than a depository institution holding company), consultant, joint venture partner, and any other person as determined by the appropriate federal banking agency (by regulation or case-by-case) who participates in the conduct of the affairs of an insured depository institution or depository institution holding company; and

(4) Any independent contractor (including any attorney, appraiser, or accountant) who knowingly or recklessly participates in: Any violation of any law or regulation, any breach of fiduciary duty, or any unsafe or unsound practice, which caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the insured depository institution or depository institution holding company.

(i) *Liability or legal expense* means:

(1) Any legal or other professional fees and expenses incurred in connection with any claim, proceeding, or action;

(2) The amount of, and any cost incurred in connection with, any settlement of any claim, proceeding, or action; and

(3) The amount of, and any cost incurred in connection with, any judgment or penalty imposed with respect to any claim, proceeding, or action.

(j) *Nondiscriminatory* means that the plan, contract or arrangement in question applies to all employees of an insured depository institution or depository institution holding company who meet reasonable and customary eligibility requirements applicable to all employees, such as minimum length of service requirements. A nondiscriminatory plan, contract or arrangement may provide different benefits based only on objective criteria such as salary, total compensation, length of service, job grade or classification, which are applied on a proportionate basis (with a variance in severance benefits relating to any criterion of plus or minus ten percent) to groups of employees consisting of not less than the lesser of 33 percent of employees or 1,000 employees.

(k) *Payment* means:

(1) Any direct or indirect transfer of any funds or any asset;

(2) Any forgiveness of any debt or other obligation;

(3) The conferring of any benefit, including but not limited to stock options and stock appreciation rights; and

(4) Any segregation of any funds or assets, the establishment or funding of any trust or the purchase of or arrangement for any letter of credit or other instrument, for the purpose of making, or pursuant to any agreement to make, any payment on or after the date on which such funds or assets are segregated, or at the time of or after such trust is established or letter of credit or other instrument is made available, without regard to whether the obligation to make such payment is contingent on:

(i) The determination, after such date, of the liability for the payment of such amount; or

(ii) The liquidation, after such date, of the amount of such payment.

(l) *Prohibited indemnification payment.* (1) The term *prohibited indemnification payment* means any payment (or any agreement or arrangement to make any payment) by any insured depository institution or an affiliated depository institution holding company for the benefit of any person who is or was an IAP of such insured depository institution or holding company, to pay or reimburse such person for any civil money penalty or judgment resulting from any administrative or civil action instituted by any federal banking agency, or any other liability or legal expense with regard to any administrative proceeding or civil action instituted by any federal banking agency which results in a final order or settlement pursuant to which such person:

(i) Is assessed a civil money penalty;

(ii) Is removed from office or prohibited from participating in the conduct of the affairs of the insured depository institution; or

(iii) Is required to cease and desist from or take any affirmative action described in section 8(b) of the Act with respect to such institution.

(2) *Exceptions.* (i) The term *prohibited indemnification payment* shall not include any reasonable payment by an insured depository institution or depository institution holding company which is used to purchase any commercial insurance policy or fidelity bond, provided that such insurance policy or bond shall not be used to pay or reimburse an IAP for the cost of any judgment or civil money penalty assessed against such person in an administrative proceeding or civil action commenced by any federal banking agency, but may pay any legal or professional expenses incurred in connection with such proceeding or action or the amount of any restitution to the insured depository institution, depository institution holding company or receiver.

(ii) The term *prohibited indemnification payment* shall not include any reasonable payment by an insured depository institution or depository institution holding company that represents partial indemnification for legal or professional expenses specifically attributable to particular charges for which there has been a formal and final adjudication or finding in connection with a settlement that the IAP has not violated certain banking laws or regulations or has not engaged in certain unsafe or unsound banking practices or breaches of fiduciary duty, unless the administrative action or civil

proceeding has resulted in a final prohibition order against the IAP.

§ 359.2 Golden parachute payments prohibited.

No insured depository institution or depository institution holding company shall make or agree to make any golden parachute payment, except as provided in this part.

§ 359.3 Prohibited indemnification payments.

No insured depository institution or depository institution holding company shall make or agree to make any prohibited indemnification payment, except as provided in this part.

§ 359.4 Permissible golden parachute payments.

(a) An insured depository institution or depository institution holding company may agree to make or may make a golden parachute payment if and to the extent that:

(1) The appropriate federal banking agency, with the written concurrence of the Corporation, determines that such a payment or agreement is permissible; or

(2) Such an agreement is made in order to hire a person to become an IAP either at a time when the insured depository institution or depository institution holding company satisfies or in an effort to prevent it from imminently satisfying any of the criteria set forth in § 359.1(f)(1)(ii), and the institution's appropriate federal banking agency and the Corporation consent in writing to the amount and terms of the golden parachute payment. Such consent by the FDIC and the institution's appropriate federal banking agency shall not improve the IAP's position in the event of the insolvency of the institution since such consent can neither bind a receiver nor affect the provability of receivership claims. In the event that the institution is placed into receivership or conservatorship, the FDIC and/or the institution's appropriate federal banking agency shall not be obligated to pay the promised golden parachute and the IAP shall not be accorded preferential treatment on the basis of such prior approval; or

(3) Such a payment is made pursuant to an agreement which provides for a reasonable severance payment, not to exceed twelve months salary, to an IAP in the event of a change in control of the insured depository institution; *provided, however,* that an insured depository institution or depository institution holding company shall obtain the consent of the appropriate federal banking agency prior to making such a payment and this paragraph (a)(3) shall not apply to any change in control of an insured depository institution which results from an assisted transaction as described in section 13 of the Act (12 U.S.C. 1823) or the insured depository institution being placed into conservatorship or receivership; and

(4) An insured depository institution, depository institution holding company or IAP making a request pursuant to paragraphs (a)(1) through (3) of this section shall demonstrate that it does not possess and is not aware of any information, evidence, documents or other materials which would indicate that there is a reasonable basis to believe, at the time such payment is proposed to be made, that:

(i) The IAP has committed any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the depository institution or depository institution holding company that has had or is likely to have a material adverse effect on the institution or holding company;

(ii) The IAP is substantially responsible for the insolvency of, the appointment of a conservator or receiver for, or the troubled condition, as defined by applicable regulations of the appropriate federal banking agency, of the insured depository institution, depository institution holding company or any insured depository institution subsidiary of such holding company;

(iii) The IAP has materially violated any applicable federal or state banking law or regulation that has had or is likely to have a material effect on the insured depository institution or depository institution holding company; and

(iv) The IAP has violated or conspired to violate section 215, 656, 657, 1005, 1006, 1007, 1014, 1032, or 1344 of title 18 of the United States Code, or section 1341 or 1343 of such title affecting a federally insured financial institution as defined in title 18 of the United States Code.

(b) In making a determination under paragraphs (a) (1) through (3) of this section, the appropriate federal banking agency and the Corporation may consider:

(1) Whether, and to what degree, the IAP was in a position of managerial or fiduciary responsibility;

(2) The length of time the IAP was affiliated with the insured depository institution or depository institution holding company, and the degree to which the proposed payment represents a reasonable payment for services rendered over the period of employment; and

(3) Any other factors or circumstances which would indicate that the proposed payment would be contrary to the intent of section 18(k) of the Act or this part.

§ 359.5 Permissible indemnification payments.

(a) An insured depository institution or depository institution holding company may make or agree to make reasonable indemnification payments to an IAP with respect to an administrative proceeding or civil action initiated by any federal banking agency if:

(1) The insured depository institution's or depository institution holding company's board of directors, in good faith, determines in writing after due investigation and consideration that the institution-affiliated party acted in good faith and in a manner he/she believed to be in the best interests of the institution;

(2) The insured depository institution's or depository institution holding company's board of directors, respectively, in good faith, determines in writing after due investigation and consideration that the payment of such expenses will not materially adversely affect the institution's or holding company's safety and soundness;

(3) The indemnification payments do not constitute prohibited indemnification payments as that term is defined in § 359.1(l); and

(4) The IAP agrees in writing to reimburse the insured depository institution or depository institution holding company, to the extent not covered by payments from insurance or bonds purchased pursuant to § 359.1(l)(2), for that portion of the advanced indemnification payments which subsequently become prohibited indemnification payments, as defined in § 359.1(l)

(b) An IAP requesting indemnification payments shall not participate in any way in the board's discussion and approval of such payments; *provided, however,* that such IAP may present his/her request to the board and respond to any inquiries from the board concerning his/her involvement in the circumstances giving rise to the administrative proceeding or civil action.

(c) In the event that a majority of the members of the board of directors are named as respondents in an administrative proceeding or civil action and request indemnification, the remaining members of the board may authorize independent legal counsel to review the indemnification request and provide the remaining members of the board with a written opinion of counsel as to whether the conditions delineated in paragraph (a) of this section have been met. If independent legal counsel

opines that said conditions have been met, the remaining members of the board of directors may rely on such opinion in authorizing the requested indemnification.

(d) In the event that all of the members of the board of directors are named as respondents in an administrative proceeding or civil action and request indemnification, the board shall authorize independent legal counsel to review the indemnification request and provide the board with a written opinion of counsel as to whether the conditions delineated in paragraph (a) of this section have been met. If independent legal counsel opines that said conditions have been met, the board of directors may rely on such opinion in authorizing the requested indemnification.

§ 359.6 Filing instructions.

Requests to make excess nondiscriminatory severance plan payments pursuant to § 359.1(f)(2)(v) and golden parachute payments permitted by § 359.4 shall be submitted in writing to the FDIC regional director (Supervision) for the region in which the institution is located. The request shall be in letter form and shall contain all relevant factual information as well as the reasons why such approval should be granted. In the event that the consent of the institution's primary federal regulator is required in addition to that of the FDIC, the requesting party shall submit a copy of its letter to the FDIC to the institution's primary federal regulator. In the case of national banks, such written requests shall be submitted to the OCC. In the case of state member banks and bank holding companies, such written requests shall be submitted to the Federal Reserve district bank where the institution or holding company, respectively, is located. In the case of savings associations and savings association holding companies, such written requests shall be submitted to the OTS regional office where the institution or holding company, respectively, is located. In cases where the prior consent of only the institution's primary federal regulator is required and that agency is not the FDIC, a written request satisfying the requirements of this section shall be submitted to the primary federal regulator as described in this section.

§ 359.7 Applicability in the event of receivership.

The provisions of this part, or any consent or approval granted under the provisions of this part by the FDIC (in its corporate capacity), shall not in any way bind any receiver of a failed insured depository institution. Any consent or approval granted under the provisions of this part by the FDIC or any other federal banking agency shall not in any way obligate such agency or receiver to pay any claim or obligation pursuant to any golden parachute, severance, indemnification or other agreement. Claims for employee welfare benefits or other benefits which are contingent, even if otherwise vested, when the FDIC is appointed as receiver for any depository institution, including any contingency for termination of employment, are not provable claims or actual, direct compensatory damage claims against such receiver. Nothing in this part may be construed to permit the payment of salary or any liability or legal expense of any IAP contrary to 12 U.S.C. 1828(k)(3).

By order of the Board of Directors, dated at Washington, DC, this 6th day of February, 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–3273 Filed 2–14–96; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–AWA–1]

Revision to the Miami Class B Airspace Area; Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: This action corrects the legal description of the Miami, FL, Class B airspace area. This action is necessary due to the decommissioning of two principal navigational aids (NAVAIDS), Biscayne Bay, FL, Very High Frequency Omnidirectional Range (VOR) and Miami, FL, VOR, used to describe the lateral limits of the present Miami, FL, Class B airspace area. This action does not alter the vertical or lateral limits of the existing Miami, FL, Class B airspace area.

EFFECTIVE DATE: February 15, 1996.

FOR FURTHER INFORMATION CONTACT: Patricia P. Crawford, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–3075.

SUPPLEMENTARY INFORMATION: This action is the last in a series of regulatory and nonregulatory actions that began in 1992 with Hurricane Andrew. In the summer of 1992, the Biscayne Bay (BSY) VOR was rendered inoperative by Hurricane Andrew and was replaced by the Andrew (AEW) Nondirectional Radio Beacon (NDB). The AEW NDB provided navigational guidance for air traffic operations in south Florida until March 30, 1995. At that time, the Virginia Keys (VKZ) Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME) was commissioned to replace the AEW NDB.

In anticipation of changes to the airspace in South America and the Caribbean, the FAA initiated action to decommission and relocate another primary NAVAID, the Miami VOR, to support users of the airspace and the air traffic system. A new NAVAID, replacing the Miami VOR, was commissioned as the Dolphin (DHP) VOR on November 9, 1995.

The commissioning or decommissioning of these NAVAIDS prompted rulemaking action to realign Federal airways, jet routes, and revisions to standard instrument departure and arrival routes. Associated publications were updated subsequently to the rulemaking actions. However, the Miami, FL, visual flight rules Terminal Area Chart was not updated and as a result of this oversight, the published chart contained obsolete data.

This action will update the description of the Miami, FL, Class B airspace area and associated navigational charts by removing all notations relating to BSY and MIA VOR's. Since this action involves the removal of obsolete terms from the airspace designation and does not alter the vertical or lateral boundaries or operating requirements of the Miami Class B airspace area, the FAA finds that notice and public procedure under 5 U.S.C. 553(b), are not practicable. Also, because there is an immediate need to remove any reference to obsolete NAVAIDS from the airspace designation to avoid pilot confusion, the FAA finds that, good cause, pursuant to 5 U.S.C.(d), exists for making this amendment effective in less than 30 days.

Further, the FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It,

therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic aeronautical charts, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The Amendment

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) redefines the current Miami, FL, Class B airspace designation due to the decommissioning of the Biscayne Bay, FL, and the Miami, FL, VOR's.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71, as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 3000—Subpart B-Class B Airspace

* * * * *

ASO FL B Miami, FL [Revised]

Miami International Airport (Primary Airport)
(lat. 25°47′35″ N., long. 80°17′25″ W.)
Miami, Kendall-Tamiami Executive Airport, FL
(lat. 25°38′52″ N., long. 80°25′58″ W.)
Dolphin VORTAC
(lat. 25°48′00″ N., long. 80°20′57″ W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within a 6-mile radius of Miami International Airport, excluding that airspace north of lat. 25°52′03″ N., (N.W. 103rd Street/49th Street in the City of Hialeah), and within and underlying Area F described hereinafter.

Area B. That airspace extending upward from 1,500 feet MSL to and including 7,000 feet MSL within a 10-mile radius of Miami International Airport, excluding that airspace north of lat. 25°52′03″ N., that airspace south of lat. 25°40′19″ N., Area A previously described, and within Areas C and F described hereinafter.

Area C. That airspace extending upward from 2,000 feet MSL to and including 7,000 feet MSL within an area bounded on the northeast by a 4.3-mile radius arc of Kendall-Tamiami Executive Airport, on the south by the lat. 25°40′19″ N., and on the southwest by a 10-mile radius arc of Miami International Airport.

Area D. That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL beginning northwest of Miami International Airport at the intersection of a 20-mile radius arc of Miami International Airport and lat. 25°57′48″ N., thence east along lat. 25°57′48″ N., to the intersection of a 15-mile radius arc of Miami International Airport, thence clockwise along the 15-mile radius arc to lat. 25°57′48″ N., thence east along lat. 25°57′48″ N., to the intersection of a 20-mile radius arc of Miami International Airport, thence clockwise along the 20-mile radius arc to the Dolphin VORTAC 151° radial, thence northwest along the Dolphin VORTAC 151° radial to the intersection of a 15-mile radius arc of Miami Internaitonal Airport, thence clockwise along the 15-mile radius arc to lat. 25°40′19″ N., thence west along lat. 25°40′19″ N., to the intersection of a 20-mile radius arc of Miami International Airport, thence clockwise along the 20-mile radius arc to the point of beginning, excluding the airspace within Areas A, B, and C previously described, and within Areas F and G described hereinafter.

Area E. That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL bounded on the south by lat. 25°57′48″ N., on the northwest by a 20-mile radius arc of Miami International Airport, on the northeast by a line from lat. 26°05′56″ N., long. 80°26′23″ W., to lat. 26°01′32″ N., long. 80°23′40″ W., and on the southeast by a 15-mile radius arc of Miami International Airport.

Area F. That airspace extending upward from but not including 1,000 feet MSL to and including 7,000 feet MSL bounded on the east by a 6-mile radius arc of Miami International Airport, and on the west by the west shoreline of Biscayne Bay.

Area G. That airspace extending upward from 5,000 feet MSL to and including 7,000 feet MSL bounded on the north by lat. 25°40′19″ N., on the southwest by a 15-mile radius arc of Miami International Airport, and on the east by U.S. Route 1.

Area H. That airspace extending upward from 2,000 feet MSL to and including 7,000 feet MSL bounded on the northeast by U.S. Route 27, on the south by lat. 25°52′03″ N., and on the northwest by a 10-mile radius arc of Miami International Airport.

* * * * *

Issued in Washington, DC, on February 8, 1996.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 96–3491 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–13–P

---

14 CFR Part 71

[Airspace Docket No. 95–ANE–60]

Amendment to Class D and Class E Airspace; New England Region

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class D airspace areas at Beverly, MA (BVY); Bedford, MA (BED); Danbury, CT (DXR); Norwood, MA (OWD); Lebanon, NH (LEB); and Nashua, NH (ASH); and the associated Class E airspace areas at Beverly (BVY), Lebanon (LEB), and Nashua (ASH). The FAA has determined after a review of the elevation of the surrounding terrain in the vicinity of these airports that the lateral limits of the Class D areas at these airports may be reduced and the appropriate changes made to the Class E airspace areas.

EFFECTIVE DATE: 0901 UTC, April 25, 1996.

FOR FURTHER INFORMATION CONTACT: Raymond Duda, System Management Branch, ANE–533, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7533; fax (617) 238–7596.

SUPPLEMENTARY INFORMATION:

History

On December 18, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by reducing the lateral limits of the Class D airspace areas at Beverly, MA (BVY); Bedford, MA (BED); Danbury, CT (DXR); Norwood, MA (OWD); Lebanon, NH (LEB); and Nashua, NH (ASH); and, as a consequence to those changes, by making the necessary changes to the associated Class E airspace areas at Beverly (BVY), Lebanon (LEB), and Nashua (ASH) (60 FR 65041). The proposed action was the result of an extensive review of the elevation of the surrounding terrain at airports in the New England region with Class D airspace areas. That review came in response to concerns expressed by operators and other interested parties over recent changes to the lateral limits of Class D airspace areas in the New

England region. By using more detailed topographical charts and more precise calculations, the FAA determined that reductions in the lateral limits of the Class D airspace areas at BVY, BED, DXR, OWD, LEB, and ASH were appropriate and would not affect aviation safety. As a result of the reductions to the Class D airspace areas at BVY, LEB, and ASH, the FAA determined that minor adjustments to the associated Class E areas at those airports were necessary.

Interested parties were invited to participate in this rulemaking by submitting written comments on the proposal to the FAA. One comment was received from the National Oceanic and Atmospheric Administration's Charting Division which noted some needed typographical corrections. The FAA has incorporated those corrections into this final rule. In addition, since the issuance of the Notice of Proposed Rulemaking, the FAA has determined that the proposed northerly extension to the LEB Class D airspace areas running to 6 miles north of the extended centerline of Runway 36 at LEB may be eliminated because that airspace is encompassed by the proposed Class E extensions to the LEB Class D airspace. Class D airspace designations, and Class E airspace designations for airspace areas extending upward from the surface of the earth defined as extensions to Class D airspace areas, are published in paragraphs 5000 and 6004, respectively, of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document would be published subsequently in this Order.

The Rule

The amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the Class D airspace areas at BVY, BED, DXR, OWD, LEB, and ASH, by reducing the lateral limits of those airspace areas, and by making the necessary changes to the associated Class E airspace areas at BVY, LEB, and ASH. The FAA has determined that these amendments only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, these regulations—(1) are not ''significant regulatory actions'' under Executive Order 12866; (2) are not ''significant rules'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) do not warrant preparation of a Regulatory Evaluation as the anticipated impact will be so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that these rules will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 5000—Class D Airspace

* * * * *

ANE MA D Beverly, MA [Revised]

Beverly Municipal Airport, MA
(Lat. 42°35′03″ N, long. 70°54′59″ W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 4.1-mile radius of Beverly Municipal Airport, excluding that airspace within the Boston, MA, Class B airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ANE MA D Bedford, MA [Revised]

Bedford, Lawrence G. Hanscom Field, MA
(Lat. 42°28′12″ N, long. 71°17′20″ W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 4.7-mile radius of Lawrence G. Hanscom Field, excluding that airspace within the Boston, MA, Class B airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ANE CT D Danbury, CT [Revised]

Danbury Municipal Airport, CT
(Lat. 41°22′17″ N, long. 73°28′56″ W)
Carmel VORTAC
(Lat. 41°16′48″ N, long. 73°34′53″ W)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 6-mile radius of Danbury Municipal Airport, and within 1.2 miles on each side of the Carmel VORTAC 039° radial, extending from the 6-mile radius to the Carmel VORTAC. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ANE MA D Norwood, MA [Revised]

Norwood Memorial Airport, MA
(Lat. 42°11′27″ N, long. 71°10′23″ W)

That airspace extending upward from the surface to and including 2,600 MSL within a 4.5-mile radius of the Norwood Memorial Airport, excluding that airspace within the Boston, MA, Class B airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ANE NH D Lebanon, NH [Revised]

Lebanon Municipal Airport, NH
(Lat. 43°37′35″ N, long. 72°18′15″ W)

That airspace extending upward from the surface to and including 3,100 feet MSL within a 4.8-mile radius of Lebanon Municipal Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ANE NH D Nashua, NH [Revised]

Nashua Boire Field, NH
(Lat. 42°46′54″ N, long. 71°30′53″ W)
Sports Center Airport, Pepperell
(Lat. 42°41′46″ N, long. 71°33′00″ W)

That airspace extending upward from the surface to and including 2,700 feet MSL within a 5-mile radius of Boire Field; excluding that airspace within a 2-mile radius of Sports Center Airport, Pepperell, and that airspace within the Manchester Airport, NH, Class C airspace areas. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Subpart E—Class E Airspace

* * * * *

Paragraph 6004—Class E airspace areas extending from the surface of the earth defined as extensions to Class D airspace areas.

* * * * *

ANE MA E4 Beverly, MA [Revised]

Beverly Municipal Airport, MA
(Lat. 42°35′03″ N, long. 70°54′59″ W)

That airspace extending upward from the surface within 3.2 miles on each side of the Topsfield NDB 317° bearing extending from a 4.1-mile radius of Beverly Municipal Airport to 7 miles northwest of the Topsfield NDB. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ANE NH E4 Lebanon, NH [Revised]

Lebanon Municipal Airport, NH
(Lat. 43°37′35″ N, long. 72°18′15″ W)
BURGR OM
(Lat. 43°43′57″ N, long. 72°20′00″ W)
Hanover NDB
(Lat. 43°42′08″ N, long. 72°10′39″ W)

That airspace extending upward from the surface within 3.3 miles each side of the BURGR OM 352° bearing from a 4.8-mile radius of Lebanon Municipal Airport to 8 miles north of the BURGR OM, and within 2.4 miles each side of the Hanover NDB 051° bearing extending from the 4.8-mile radius to 7 miles northeast of the Hanover NDB. This Class E airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ANE NH E4 Nashua, NH [Revised]

Nashua, Boire Field, NH
(Lat. 42°46′54″ N, long. 71°30′53″ W)
CHERN NDB
(Lat. 42°49′24″ N, long. 71°36′08″ W)
Manchester VORTAC
(Lat. 42°52′06″ N, long. 71°22′10″ W)

That airspace extending upward from the surface within 2.6 miles on each side of the CHERN NDB 303° bearing extending from a 5-mile radius of Boire Field to 7 miles northwest of the CHERN NDB, and that airspace extending upward from the surface within 1.1 miles on each side of the Manchester VORTAC 231° radial extending from the 5-mile radius to 8.4 miles northeast of Boire Field. This Class E airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Burlington, MA, on February 8, 1996.

David J. Hurley,

Manager, Air Traffic Division, New England Region.

[FR Doc. 96–3492 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 71

[Airspace Docket No. 96–ANE–01]

Removal of Class E Airspace; Fort Devens, MA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment removes the Class E airspace at Moore Army Air Field, Fort Devens, MA. With the closing of Fort Devens, the U.S. Army decommissioned the airport traffic control tower at Moore Army Air Field, and cancelled all the Standard Instrument Approach Procedures (SIAP's) to that airport. This action is necessary to remove the Class E airspace area at Fort Devens, which is no longer required.

DATES: Effective Date: 0901 UTC, April 25, 1996.

Comments must be received on or before March 18, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, ANE–530, Federal Aviation Administration, Docket No. 95–ANE–60, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7530; fax (617) 238–7596.

The official docket file may be examined in the Office of the Assistant Chief Counsel, New England Region, ANE–7, Room 401, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7040; fax (617) 238–7055.

An informal docket may also be examined during normal business hours in the Air Traffic Division, Room 408, by contacting the Manager, System Management Branch at the first address listed above.

FOR FURTHER INFORMATION CONTACT: Raymond Duda, System Management Branch, ANE–533, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7533; fax (617) 238–7596.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is a final rule, which involves removing the Class E airspace area at Fort Devens, MA, and was not preceded by notice and an opportunity for public comment, comments are invited on the rule. This rule will become effective on the date specified in the **DATES** section. However, after the review of any comments and, if the FAA finds that further changes are appropriate, it may initiate rulemaking proceedings to extend the effective date or to amend the regulation.

Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule, and in determining whether additional rulemaking is required. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule, which might suggest the need to modify the rule.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) removes the Class E airspace area at Moore Army Air Field, Fort Devens, MA. Since the closure of Fort Devens in 1993, the U.S. Army has decommissioned the airport traffic control over (ATCT) at Moore Army Air Field and cancelled all the Standard Instrument Approach Procedures (SIAP's) to that airport. Controlled airspace in the vicinity of Moore Army Air Field is, therefore, no longer required. This action removes the Class E airspace area at Fort Devens, MA. Class E airspace designations for airspace areas extending from 700 or more feet above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The removal of the Class E airspace designation listed in this document will be published subsequently in this Order.

Under the circumstances presented, the FAA concludes that notice and an opportunity for prior public comment under 5 U.S.C. 553(b) is unnecessary and contrary to the public interest. In addition, the FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated

impact will be so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Subpart E—Class E Airspace

* * * * *

Paragraph 6005 Class E surface areas extending from 700 or more feet above the surface of the earth.

* * * * *

ANE MA E5 Fort Devens, MA [Removed]

* * * * *

Issued in Burlington, MA, on February 8, 1996.

David J. Hurley,

Manager, Air Traffic Division, New England Region.

[FR Doc. 96–3493 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 135

[Docket No. 26192; Amdt. No. 135–56]

RIN 2120–AD28

Improved Flammability Standards for Materials Used in the Interiors of Airplane Cabins

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of disposition of comments on final rule.

SUMMARY: On March 6, 1995, the Federal Aviation Administration (FAA) issued Amendment 135–56 which removed an unintended requirement in the previously issued Amendment 135–55 of part 135 of the Federal Aviation Regulations (FAR) (60 FR 13010). Amendment 135–56 was effective on March 6, 1995, however, the FAA invited public comments on the subject until April 10, 1995. Although the FAA has determined that there is no need for any further amendment to part 135, this document responds to the comments submitted by the public.

ADDRESSES: The complete docket for the final rule on Improved Flammability Standards for Materials Used in the Interiors of Airplane Cabins may be examined at the Federal Aviation Administration, Office of the Chief Counsel (AGC–10), Rules Docket, Room 915G, 800 Independence Avenue SW., Washington, DC 20591, weekdays, except Federal holidays between 8:30 a.m. and 5:00 p.m. In addition, the FAA is maintaining an information docket of comments in the Transport Airplane Directorate (ANM–100), FAA, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments in the information docket may be inspected weekdays, except Federal holidays, between 7:30 a.m., and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Gary L. Killion, Regulations Branch, ANM–114, Transport Airplane Directorate, Aircraft Certification Service, FAA 1601 Lind Avenue SW., Renton, WA 98055–4956; telephone (206) 227–2194.

SUPPLEMENTARY INFORMATION:

Background

On March 6, 1995, the FAA issued Amendment 135–56 (60 FR 13010, March 9, 1995), which removed an unintended requirement in the previously-issued Amendment 135–55 (60 FR 6616, February 2, 1995) to part 135 of the FAR. This action ensued that commuter category airplanes operated under part 135 would not be grounded for failing to comply with the unintended requirement which became effective on March 6, 1995.

Specifically, § 135.170(b), as revised by Amendment 135–55, stated that no person may operate a ''large'' airplane unless it meets the flammability requirements contained in §§ 135.170(b)(1) and (2). Section 135.170(b)(2) states, in turn, that seat cushions, except for flight crewmember seat cushions, must comply with the fire blocking standards of § 25.853(c) that became effective on November 26, 1984. (Although these standards are commonly referred to as ''fire blocking,'' § 25.853(c) actually provides the option of using a covering material, i.e., a ''fire-blocking'' layer, that isolates the cushion from a fire or using a seat cushion that can be shown by itself to provide the necessary fire resistance). Large airplanes are identified in part 1 of the FAR as those with ''more than 12,500 pounds maximum certificated takeoff weight.'' Commuter category airplanes type-certificated under part 23 of the FAR may have a maximum certificated takeoff weight as great as 19,000 pounds, and each of the commuter category airplanes currently in service does in fact have a maximum certificated takeoff weight greater than 12,500 pounds. They are, therefore, ''large'' airplanes as defined in part 1. Taking literally the wording of § 135.170(b), as revised by Amendment 135–55, operators of these airplanes would have had to comply with the seat cushion fire-blocking standards in addition to the applicable flammability standards of part 23.

Although including commuter category airplanes in the requirements of § 135.170(b) pertaining to seat cushion fire blocking standards was due to an editing error, the FAA has adopted separate rulemaking (Amendment 121–23, 60 FR 65832, December 20, 1995) which requires the seat cushions of those airplanes to comply with the seat cushion fire blocking standards by December 20, 2010. In the meantime, the operators of those airplanes must continue to have seat cushions that meet the applicable flammability standards of part 23.

Discussion of Comments

Two commenters responded to the request for comments on Amendment 135–56. One commenter, a pilots association, agrees the final rule (Amendment 135–55) was in error. However, the commenter feels that this is a safety issue for all aircraft passengers, regardless of the aircraft size. The FAA responded to the commenter noting that the comment more accurately applied to proposals contained in Notice 95–5, Docket No. 28154. The commenter was advised that his comments would be placed in Docket 28154 and considered along with any other comments received in response to Notice 95–5. The second commenter, a manufacturer, wrote only to indicate that the FAA's timely action in correcting this error was appreciated.

Conclusion

After carefully considering the comments submitted in response to Amendment 135–56, the FAA has determined that no further rulemaking action is necessary at this time. Accordingly, Amendment No. 135–56 remains in effect as prescribed by the

March 6, 1995, final rule. As noted above, the seat cushions in commuter category airplanes may, however, be required to meet the fire blocking standards at some future date as a result of separate rulemaking action.

Issued in Washington, DC, on February 8, 1996.

Thomas E. McSweeny,

Director, Aircraft Certification Service.

[FR Doc. 96–3490 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34–36824]

Delegation of Authority to the Secretary of the Commission

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules to delegate authority to the Secretary of the Commission to publish notice of proposed plans for distribution of funds ordered to be disgorged pursuant to an Order of the Commission. The delegation also provides authority to waive any of the requirements for a plan contained in Rule 611 of the Commission's Rules of Practice, and to issue an order approving the plan, if no negative comments or objections are submitted during the notice period. This delegation of authority will conserve the resources of the Commission as well as expedite the distribution of moneys paid in satisfaction of judgements.

EFFECTIVE DATE: February 15, 1996.

FOR FURTHER INFORMATION CONTACT: Jonathan G. Katz, Secretary, Office of the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549, telephone (202) 942–7070.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission (''Commission'') today announced amendments to its rules governing delegation of authority to the Office of the Secretary.

On June 9, 1995, the Commission adopted comprehensive revisions to its Rules of Practice for administrative proceedings. These rules, published in the Federal Register on June 23, 1995 (60 FR 32738), established procedures for the payment and distribution of penalties and disgorgements ordered in a Commission administrative proceeding.

The Commission is delegating to its Secretary the authority to publish the notice of proposed plans of disgorgement pursuant to Rule 612 of the Rules of Practice, and, if no comments opposing the proposed plan are received, to issue an order approving the proposed plan of distribution pursuant to Rule 613. The delegation also authorizes the Secretary to permit the staff to omit from the proposed plan of disgorgement any of the plan elements required by Rule 611, upon motion by the staff for good cause.

The Commission finds, in accordance with Section 553(b)(A) of the Administrative Procedure Act, 5 U.S.C. 553(b)(A), that this amendment relates solely to agency organization, procedure, or practice. Accordingly, notice and opportunity for public comment, as well as publication 30 days before its effective date, are unnecessary.

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Authority delegations (Government agencies).

Text of Amendment

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. The authority citation for Part 200, Subpart A, continues to read in part as follows:

Authority: 15 U.S.C. 77s, 78d–1, 78d–2, 78w, 78*ll*(d), 79t, 77sss, 80a–7, 80b–11, unless otherwise noted.

* * * * *

2. Section 200.30–7 is amended by removing the period at the end of paragraphs (a)(9) and (a)(10) and adding a semicolon in its place and by adding paragraph (a)(11) to read as follows:

§ 200.30–7 Delegation of authority to Secretary of the Commission.

* * * * *

(a) * * *

(11) To publish pursuant to Rule 612 of the Commission's Rules of Practice, § 201.612 of this chapter, notices of plans of disgorgement and, if no negative comments are received, to issue orders approving proposed plans of disgorgement pursuant to Rule 613 of the Commission's Rules of Practice, § 201.613 of this chapter. Upon the motion of the staff for good cause shown, to approve the publication of proposed plans of disgorgement that omit plan elements required by Rule 611 of the Commission's Rules of Practice, § 201.611 of this chapter.

* * * * *

By the Commission.

Dated: February 9, 1996.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–3359 Filed 2–14–96; 8:45 am]

BILLING CODE 8010–01–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 401, 404, 416, 422, and 423

[Regulation Nos. 1, 4, 16, 22, and 23]

RIN 0960–AE32

Revision of Authority Citations

AGENCY: Social Security Administration.

ACTION: Final rule with request for comments.

SUMMARY: The authority citations for the Social Security Administration (SSA) regulations are being revised. As of March 31, 1995, new regulatory authority was given to the Commissioner of Social Security by the Social Security Independence and Program Improvements Act of 1994 (the Independence Act). The authority citations are being revised where appropriate to reflect this change in authority and other changes in the law to provide updated citations for the public.

DATES: This rule is effective February 15, 1996. We will consider any comments received no later than April 15, 1996.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, MD 21235, sent by telefax to (410) 966–2830, sent by E-mail to ''regulations@ssa.gov'', or delivered to the Division of Regulations and Rulings, Social Security Administration, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Daniel T. Bridgewater, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–3298 for information about this rule. For information on eligibility or claiming benefits, call our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION: SSA is revising the statutory authority citations for the following parts under 20 CFR chapter III:

1. Part 401—*Disclosure of Official Records and Information;*
2. Part 404—*Federal Old-Age, Survivors and Disability Insurance (1950–);*
3. Part 416—*Supplemental Security Income for the Aged, Blind, and Disabled;*
4. Part 422—*Organization and Procedures;* and
5. Part 423—*Service of Process.*

Prior to March 31, 1995, the general regulatory authority for SSA programs and administration was vested in the Secretary of Health and Human Services (the Secretary) and was based on section 1102 of the Social Security Act (the Act)(42 U.S.C. 1302). However, the Independence Act, Public Law 103–296, established the Social Security Administration as an independent agency in the Executive Branch of the Federal government and provided general regulatory authority effective March 31, 1995, in the Commissioner of Social Security (the Commissioner) in section 702(a)(5) of the Act (42 U.S.C. 902(a)(5)).

Where current authority citations in parts 401, 404, 416, 422, and 423 refer to the Secretary's authority, SSA is revising them to refer solely to the Commissioner's authority. SSA is also updating the citations to remove obsolete references and reflect changes in the law since the citations were last revised.

Electronic Version

The electronic file of this document is available on the Federal Bulletin Board (FBB) at 9:00 A.M. on the date of publication in the Federal Register. To download the file, modem dial (202) 512–1387. The FBB instructions will explain how to download the file and the fee. This file is in WordPerfect and will remain on the FBB during the comment period.

Regulatory Procedures

Pursuant to section 702(a)(5) of the Act (42 U.S.C. 902(a)(5)), SSA follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its prior notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest.

We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures in this case. Good cause exists because these are minor technical changes which make no substantive change in the regulations and have no effect on the public. Therefore, opportunity for prior comment is unnecessary, and we are issuing these changes to our regulations as a final rule.

SSA is publishing these regulations as a final rule with a 60-day comment period. SSA will consider any timely comments and will revise and republish this rule if the public comments warrant.

In addition, SSA is not providing a 30-day delay in the effective date of this final rule under 5 U.S.C. 553(d). This is not a substantive rule, and there is no change in policy. Accordingly, the requirements of 5 U.S.C. 553(d) are inapplicable.

Executive Order 12866

SSA has consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, it was not subject to OMB review.

Regulatory Flexibility Act

SSA certifies that this final rule will not have a significant economic impact on a substantial number of small entities since it makes no changes in policy. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

This final rule imposes no additional reporting or recordkeeping requirements subject to OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001 Social Security-Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.003 Social Security—Special Benefits for Persons Aged 72 and Over; 96.004 Social Security—Survivors Insurance; 96.005 Special Benefits for Disabled Coal Miners; 96.006 Supplemental Security Income; 96.007 Social Security—Research and Demonstration)

List of Subjects

20 CFR Part 401

Administrative practice and procedure, Disclosure, Privacy, Social security, Supplemental Security Income (SSI).

20 CFR Part 404

Administrative practice and procedure, Blind, Old-Age, Survivors and Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI), Reporting and recordkeeping requirements.

20 CFR Part 422

Administrative practice and procedure, Freedom of information, Organization and functions (Government agencies), Social security.

20 CFR Part 423

Courts.

Dated: February 1, 1996.

Shirley S. Chater,

Commissioner of Social Security.

For the reasons set out in the preamble, 20 CFR chapter III is amended as follows:

PART 401—DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION

1. An authority citation is added after the table of contents for part 401 and before the regulatory text for part 401 to read as follows:

Authority: Secs. 205, 702(a)(5), 1106, and 1141 of the Social Security Act (42 U.S.C. 405, 902(a)(5), 1306, and 1320b–11); 5 U.S.C. 552 and 552a; 8 U.S.C. 1360; 26 U.S.C. 6103; 30 U.S.C. 923.

2. The authority citation for each subpart in part 401 is removed.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart A—[Amended]

1. The authority citation for subpart A of part 404 is revised to read as follows:

Authority: Secs. 203, 205(a), 216(j), and 702(a)(5) of the Social Security Act (42 U.S.C. 403, 405(a), 416(j), and 902(a)(5)).

Subpart B—[Amended]

2. The authority citation for subpart B of part 404 is revised to read as follows:

Authority: Secs. 205(a), 212, 213, 214, 216, 217, 223, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), 412, 413, 414, 416, 417, 423, and 902(a)(5)).

Subpart C—[Amended]

3. The authority citation for subpart C of part 404 is revised to read as follows:

Authority: Secs. 202(a), 205(a), 215, and 702(a)(5) of the Social Security Act (42 U.S.C. 402(a), 405(a), 415, and 902(a)(5)).

Subpart D—[Amended]

4. The authority citation for subpart D of part 404 is revised to read as follows:

Authority: Secs. 202, 203 (a) and (b), 205(a), 216, 223, 225, 228(a)–(e), and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403 (a) and (b), 405(a), 416, 423, 425, 428(a)–(e), and 902(a)(5)).

Subpart E—[Amended]

5. The authority citation for subpart E of part 404 is revised to read as follows:

Authority: Secs. 202, 203, 204 (a) and (e), 205 (a) and (c), 222(b), 223(e), 224, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403, 404 (a) and (e), 405 (a) and (c), 422(b), 423(e), 424a, 425, and 902(a)(5)).

Subpart F—[Amended]

6. The authority citation for subpart F of part 404 is revised to read as follows:

Authority: Secs. 204(a)–(d), 205(a), and 702(a)(5) of the Social Security Act (42 U.S.C. 404(a)–(d), 405(a), and 902(a)(5)); 31 U.S.C. 3720A.

Subpart G—[Amended]

7. The authority citation for subpart G of part 404 is revised to read as follows:

Authority: Secs. 202 (i), (j), (o), (p), and (r), 205(a), 216(i)(2), 223(b), 228(a), and 702(a)(5) of the Social Security Act (42 U.S.C. 402 (i), (j), (o), (p), and (r), 405(a), 416(i)(2), 423(b), 428(a), and 902(a)(5)).

Subpart H—[Amended]

8. The authority citation for subpart H of part 404 is revised to read as follows:

Authority: Secs. 205(a) and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a) and 902(a)(5)).

Subpart I—[Amended]

9. The authority citation for subpart I of part 404 is revised to read as follows:

Authority: Secs. 205(a), (c)(1), (c)(2)(A), (c)(4), (c)(5), (c)(6), and (p), 702(a)(5), and 1143 of the Social Security Act (42 U.S.C. 405(a), (c)(1), (c)(2)(A), (c)(4), (c)(5), (c)(6), and (p), 902(a)(5), and 1320b–13).

Subpart J—[Amended]

10. The authority citation for subpart J of part 404 is revised to read as follows:

Authority: Secs. 201(j), 205(a), (b), (d)–(h), and (j), 221, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 405(a), (b), (d)–(h), and (j), 421, 425, and 902(a)(5)); 31 U.S.C. 3720A; sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note).

Subpart K—[Amended]

11. The authority citation for subpart K of part 404 is revised to read as follows:

Authority: Secs. 202(v), 205(a), 209, 210, 211, 229(a), 230, 231, and 702(a)(5) of the Social Security Act (42 U.S.C. 402(v), 405(a), 409, 410, 411, 429(a), 430, 431, and 902(a)(5)).

Subpart M—[Amended]

12. The authority citation for subpart M of part 404 is revised to read as follows:

Authority: Secs. 205, 210, 218, and 702(a)(5) of the Social Security Act (42 U.S.C. 405, 410, 418, and 902(a)(5)); sec. 12110, Pub. L. 99–272, 100 Stat. 287 (42 U.S.C. 418 note); sec. 9002, Pub. L. 99–509, 100 Stat. 1970.

Subpart N—[Amended]

13. The authority citation for subpart N of part 404 is revised to read as follows:

Authority: Secs. 205(a) and (p), 210(l) and (m), 215(h), 217, 229, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a) and (p), 410(l) and (m), 415(h), 417, 429, and 902(a)(5)).

Subpart O—[Amended]

14. The authority citation for subpart O of part 404 is revised to read as follows:

Authority: Secs. 202(l), 205(a), (c)(5)(D), (i), and (o), 210(a)(9) and (l)(4), 211(c)(3), and 702(a)(5) of the Social Security Act (42 U.S.C. 402(l), 405(a), (c)(5)(D), (i), and (o), 410(a)(9) and (l)(4), 411(c)(3), and 902(a)(5)).

Subpart P—[Amended]

15. The authority citation for subpart P of part 404 is revised to read as follows:

Authority: Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5)).

Subpart Q—[Amended]

16. The authority citation for subpart Q of part 404 is revised to read as follows:

Authority: Secs. 205(a), 221, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), 421, and 902(a)(5)).

Subpart R—[Amended]

17. The authority citation for subpart R of part 404 is revised to read as follows:

Authority: Secs. 205(a), 206, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), 406, and 902(a)(5)).

Subpart S—[Amended]

18. The authority citation for subpart S of part 404 is revised to read as follows:

Authority: Secs. 205(a) and (n), 207, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a) and (n), 407, and 902(a)(5)).

Subpart T—[Amended]

19. The authority citation for subpart T of part 404 is revised to read as follows:

Authority: Secs. 205(a), 233, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), 433, and 902(a)(5)).

Subpart U—[Amended]

20. The authority citation for subpart U of part 404 is revised to read as follows:

Authority: Secs. 205 (a), (j), and (k), and 702(a)(5) of the Social Security Act (42 U.S.C. 405 (a), (j), and (k), and 902(a)(5)).

Subpart V—[Amended]

21. The authority citation for subpart V of part 404 is revised to read as follows:

Authority: Secs. 205(a), 222, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), 422, and 902(a)(5)).

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart A—[Amended]

1. The authority citation for subpart A of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5) and 1601–1635 of the Social Security Act (42 U.S.C. 902(a)(5) and 1381–1383d); sec. 212, Pub. L. 93–66, 87 Stat. 155 (42 U.S.C. 1382 note); sec. 502(a), Pub. L. 94–241, 90 Stat. 268 (48 U.S.C. 1681 note).

Subpart B—[Amended]

2. The authority citation for subpart B of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1110(b), 1602, 1611, 1614, 1615(c), 1619(a), 1631, and 1634 of the Social Security Act (42 U.S.C. 902(a)(5), 1310(b), 1381a, 1382, 1382c, 1382d(c), 1382h(a), 1383, and 1383c); secs. 211 and 212, Pub. L. 93–66, 87 Stat. 154 and 155 (42 U.S.C. 1382 note); sec. 502(a), Pub. L. 94–241, 90 Stat. 268 (48 U.S.C. 1681 note); sec. 2, Pub. L. 99–643, 100 Stat. 3574 (42 U.S.C. 1382h note).

Subpart C—[Amended]

3. The authority citation for subpart C of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1611, and 1631 (a), (d), and (e) of the Social Security Act (42 U.S.C. 902(a)(5), 1382, and 1383 (a), (d), and (e)).

Subpart D—[Amended]

4. The authority citation for subpart D of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1611 (a), (b), (c), and (e), 1612, 1617, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382 (a), (b), (c), and (e), 1382a, 1382f, and 1383).

Subpart E—[Amended]

5. The authority citation for subpart E of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1601, 1602, 1611 (c) and (e), and 1631 (a)–(d) and (g) of the Social Security Act (42 U.S.C. 902(a)(5), 1381, 1381a, 1382 (c) and (e), and 1383 (a)–(d) and (g)).

Subpart F—[Amended]

6. The authority citation for subpart F of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1631 (a)(2) and (d)(1) of the Social Security Act (42 U.S.C. 902(a)(5) and 1383 (a)(2) and (d)(1)).

Subpart G—[Amended]

7. The authority citation for subpart G of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1611, 1612, 1613, 1614, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382, 1382a, 1382b, 1382c, and 1383); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

Subpart H—[Amended]

8. The authority citation for subpart H of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1601, 1614(a)(1) and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381, 1382c(a)(1), and 1383).

Subpart I—[Amended]

9. The authority citation for subpart I of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1611, 1614, 1619, 1631(a), (c), and (d)(1), and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), and (d)(1), and 1383b); secs. 4(c) and 5, 6(c)–(e), 14(a) and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, 1382h note).

Subpart J—[Amended]

10. The authority citation for subpart J of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1614, 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382c, 1383, and 1383b).

Subpart K—[Amended]

11. The authority citation for subpart K of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

Subpart L—[Amended]

12. The authority citation for subpart L of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

Subpart M—[Amended]

13. The authority citation for subpart M of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1611–1615, 1619, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382–1382d, 1382h, and 1383).

Subpart O—[Amended]

14. The authority citation for subpart O of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5) and 1631(d) of the Social Security Act (42 U.S.C. 902(a)(5) and 1383(d)).

Subpart P—[Amended]

15. The authority citation for subpart P of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1614(a)(1)(B) and (e), and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382c(a)(1)(B) and (e), and 1383); 8 U.S.C. 1254a; sec. 502, Pub. L. 94–241, 90 Stat. 268 (48 U.S.C. 1681 note).

Subpart Q—[Amended]

16. The authority citation for subpart Q of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1611(e)(3), 1615, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382(e)(3), 1382d, and 1383).

Subpart R—[Amended]

17. The authority citation for subpart R of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1614(b), (c), and (d), and 1631(d)(1) and (e) of the Social Security Act (42 U.S.C. 902(a)(5), 1382c (b), (c), and (d), and 1383 (d)(1) and (e)).

Subpart S—[Amended]

18. The authority citation for subpart S of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5) and 1631 of the Social Security Act (42 U.S.C. 902(a)(5) and 1383).

Subpart T—[Amended]

19. The authority citation for subpart T of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1616, 1618, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382e, 1382g, and 1383); sec. 212, Pub. L. 93–66, 87 Stat. 155 (42 U.S.C. 1382 note); sec. 8(a), (b)(1)–(b)(3), Pub. L. 93–233, 87 Stat. 956 (7 U.S.C. 612c note, 1431 note and 42 U.S.C. 1382e note); secs. 1(a)–(c) and 2(a), 2(b)(1), 2(b)(2), Pub. L. 93–335, 88 Stat. 291 (42 U.S.C. 1382 note, 1382e note).

Subpart U—[Amended]

20. The authority citation for subpart U of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1106, 1631(d)(1), and 1634 of the Social Security Act (42 U.S.C. 902(a)(5), 1306, 1383(d)(1), and 1383c).

Subpart V—[Amended]

21. The authority citation for subpart V of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1615, and 1631(d)(1) and (e) of the Social Security Act (42 U.S.C. 902(a)(5), 1382d, and 1383(d)(1) and (e)); sec. 2344, Pub. L. 97–35, 95 Stat. 867 (42 U.S.C. 1382d note).

PART 422—ORGANIZATION AND PROCEDURES

1. The authority citation at the end of the table of contents is removed.

Subpart A—[Amended]

2. The authority citation for subpart A of part 422 is added after the heading and before the regulatory text for this subpart to read as follows:

Authority: Secs. 205, 218, 221, and 701–704 of the Social Security Act (42 U.S.C. 405, 418, 421, and 901–904).

Subpart B—[Amended]

3. The authority citation for subpart B of part 422 is revised to read as follows:

Authority: Secs. 205, 232, 702(a)(5), 1131, and 1143 of the Social Security Act (42 U.S.C. 405, 432, 902(a)(5), 1320b–1, and 1320b–13).

Subpart C—[Amended]

4. The authority citation for subpart C of part 422 is revised to read as follows:

Authority: Secs. 205, 221, and 702(a)(5) of the Social Security Act (42 U.S.C. 405, 421, and 902(a)(5)); 30 U.S.C. 923(b).

Subpart E—[Amended]

5. The authority citation for subpart E of part 422 is revised to read as follows:

Authority: Secs. 205(a), 702(a)(5), and 1106 of the Social Security Act (42 U.S.C. 405(a), 902(a)(5), and 1306); 5 U.S.C. 552 and 552a; 8 U.S.C. 1360; 26 U.S.C. 6103; 30 U.S.C. 923(b).

Subpart F—[Amended]

6. The authority citation for subpart F of part 422 is revised to read as follows:

Authority: Secs. 205 and 702(a)(5) of the Social Security Act (42 U.S.C. 405 and 902(a)(5)). Section 422.512 is also issued under 30 U.S.C. 901 *et seq.*

Subpart G—[Amended]

7. The authority citation for subpart G of part 422 is revised to read as follows:

Authority: 26 U.S.C. 9701–9708.

PART 423—SERVICE OF PROCESS

1. The authority citation for part 423 is revised to read as follows:

Authority: Sec. 701 and 702(a)(5) of the Social Security Act (42 U.S.C. 901 and 902(a)(5)).

[FR Doc. 96–3405 Filed 2–14–96; 8:45 am]

BILLING CODE 4190–29–P

---

20 CFR Part 416

[Regulations No. 16]

RIN 0960–AD87

Supplemental Security Income for the Aged, Blind, and Disabled; Extension of Time Period for Not Counting as Resources, Funds Received for Repair or Replacement of Damaged or Destroyed Excluded Resources in the Supplemental Security Income Program

AGENCY: Social Security Administration.

ACTION: Final rules.

SUMMARY: In the past several years, portions of the United States have experienced natural disasters that have had unprecedented effects on supplemental security income (SSI) recipients. To provide us with the flexibility to deal with these and future occurrences, we are modifying our current regulations regarding the period of time that cash and in-kind items received for the repair or replacement of certain destroyed or damaged excluded resources would not count toward the resource limit.

EFFECTIVE DATE: These rules are effective February 15, 1996.

FOR FURTHER INFORMATION CONTACT: Regarding this Federal Register document—Henry D. Lerner, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1762; regarding eligibility or filing for benefits—our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION: The regulations at § 416.1205(c) provide that SSI recipients can have no more than $2,000 in countable resources and SSI couples can have no more than $3,000. The regulations at § 416.1237 provide that assistance received under the Disaster Relief and Emergency Assistance Act or other assistance provided under a Federal statute because of a catastrophe which is declared to be a major disaster by the President of the United States or comparable assistance received from a State or local government, or from a disaster assistance organization, is excluded permanently under the SSI program in determining countable resources.

The regulations at § 416.1232 complement the disaster assistance exclusion by providing that cash or in-kind items for the repair or replacement of lost, stolen, or damaged excluded resources are not treated as resources for 9 months.

The regulations also provide for one extension for a reasonable period up to an additional 9 months for good cause if circumstances do not permit repair or replacement within the initial 9-month period and the individual intends to use the funds for repair or replacement.

Excluded resources generally include the individual's home, household goods and personal effects, and the automobile, as are described in §§ 416.1212, 416.1216 and 416.1218 respectively.

Private insurance payments do not qualify as disaster assistance and, therefore, cannot be permanently excluded from resources. For some SSI recipients affected by natural disasters, the maximum period of 18 months during which monies received to repair or replace excluded resources are not treated as resources will not be sufficient and some of these individuals will consequently lose SSI and Medicaid eligibility.

In the past several years, portions of the United States have experienced natural disasters that have had unprecedented effects on SSI recipients. In August 1992, Hurricane Andrew devastated south Florida causing damage estimated in excess of $18 billion. Because of the extent of the devastation, SSI recipients in the area were unable to use insurance payments to repair or replace their damaged property within the maximum 18-month period provided by regulations during which those payments would not be treated as resources. With the expiration of this period, the payments would have counted as resources for SSI purposes. On March 17, 1994 (59 FR 12544), we published interim final regulations with a request for comments which provided victims of Hurricane Andrew with an additional 12-month time period in which to repair or replace their property.

History has shown that current regulations generally provide a sufficient time period for individuals to repair or replace their excluded resources destroyed or damaged by natural disasters. However, in the event disasters of the magnitude of Hurricane Andrew occur, we wish to have the flexibility in regulations to extend the period that payments or in-kind assistance for the repair or replacement of affected excluded resources will not count as resources.

We are revising our regulations to provide us with the flexibility to provide individuals with additional time to repair or replace destroyed or damaged excluded resources when such disasters occur and certain other criteria are met. These regulations will extend the maximum 18-month period during which cash or in-kind replacement received from any source for purposes of repairing or replacing an excluded resource is not counted as a resource for up to an additional 12 months. This additional time period only applies in the case of Presidentially declared major disasters as long as the individual intends to repair or replace the property and good cause still exists.

These regulations were published in the Federal Register (60 FR 26387) as a notice of proposed rulemaking (NPRM) on May 17, 1995. Interested parties were given 60 days to submit comments. Public comments were received from two legal services organizations who were concerned about how the regulations would affect individuals who suffered losses in recent disasters. These comments raised an issue regarding how we will apply the additional 12-month extension. We address this issue by clarifying the scope of the regulation in the response below. With this clarification, we are adopting the regulations as proposed.

Comment: The additional 12-month extension for not counting certain funds as a resource under these regulations should apply to individuals for whom the original 18-month noncounting period (9 months and 9-month good

cause extension) has expired prior to the effective date of these regulations.

Response: Prior to the promulgation of these rules, our regulations provided that cash or in-kind replacement received for purposes of repairing or replacing an excluded resource would not be counted as a resource for a maximum period of 18 continuous months, commencing with the month following the month of receipt. These rules provide, under certain circumstances, for an additional 12-month extension to the former maximum noncounting period, thereby establishing a new 30-month maximum period during which such cash or in-kind replacement will not be considered resources. The total noncounting period may not exceed 30 months from the month of receipt because it is reasonable to expect individuals to begin rebuilding or repairing within that timeframe. We chose not to provide a full 12-month extension to individuals whose prior 18-month noncounting period had expired because to do so would provide a noncounting period in excess of the 30-month maximum established by this regulation.

Therefore, if the original 18-month noncounting period (9 months plus 9-month good cause extension under § 416.1232(b)) has expired prior to the effective date of these regulations, we will extend the period for not counting the funds as a resource if the requirements in § 416.1232(c) are met, but only within the limits of the new 30-month maximum (9-months plus 9-month good cause extension plus 12-month good cause extension provided under § 416.1232(c)). The extension would be applicable with the first day of the month which immediately follows the month these regulations become effective, and will remain applicable for a period not to exceed the number of months remaining in the 30-month period that commences with the month following the month of receipt of the funds.

For example, if the individual's 18-month noncounting period expired 6 months prior to the effective date of these regulations, we would extend the period for not counting the funds as resources prospectively for up to an additional 6 months. There will be no retroactive effect. The last month of the noncounting period cannot exceed the 30th (thirtieth) month following the month of receipt of any payment.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they are not subject to OMB review.

Paperwork Reduction Act of 1980

These regulations impose no new reporting or recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect eligibility for SSI payments of individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

Waiver of 30-Day Delay in Effective Date

These new SSI resource regulations are effective on publication, rather than 30 days after publication. Section 702(a)(5) of the Social Security Act makes the regulations we prescribe subject to the rulemaking procedures established under section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553. Section 553(d) of the APA requires that the effective date of a substantive rule be no less than 30 days after its publication, except in cases of: Rules which grant or recognize an exemption or relieve a restriction; interpretative rules and statements of policy; or as otherwise provided by the Agency for good cause found and published with the rule.

In accordance with 5 U.S.C. 553(d)(1), these rules grant or recognize an exemption or relieve a restriction because under certain circumstances, they remove from consideration as resources for a period, cash or in-kind replacement received for the repair or replacement of certain lost or damaged property. Furthermore, we have determined that under 5 U.S.C. 553(d)(3), good cause exists for dispensing with the minimum 30-day period between the publication date and the effective date. A delay in the application of these rules may result in the loss of SSI benefits for certain individuals who have been unable to repair or replace certain property lost or damaged as a result of a presidentially-declared disaster. We believe that making available to these individuals the relief provided by these rules as quickly as possible is good cause sufficient to dispense with the minimum 30-day period prescribed by 5 U.S.C. 553(d). Accordingly, these rules are effective on publication.

(Catalog of Federal Domestic Assistance Program No. 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income.

Dated: February 2, 1996.

Shirley S. Chater,

Commissioner of Social Security.

Part 416 of chapter III of title 20 of the Code of Federal Regulations is amended as follows:

PART 416—[AMENDED]

Subpart L—[Amended]

1. The authority citation for subpart L of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

2. Section 416.1232 is amended by revising paragraph (b), by redesignating paragraph (c) as paragraph (d) and by adding a new paragraph (c), to read as follows:

§ 416.1232 Replacement of lost, damaged, or stolen excluded resources.

* * * * *

(b) The initial 9-month time period will be extended for a reasonable period up to an additional 9 months where we find the individual had good cause for not replacing or repairing the resource. An individual will be found to have good cause when circumstances beyond his or her control prevented the repair or replacement or the contracting for the repair or replacement of the resource. The 9-month extension can only be granted if the individual intends to use the cash or in-kind replacement items to repair or replace the lost, stolen, or damaged excluded resource in addition to having good cause for not having done so. If good cause is found for an individual, any unused cash (and interest) is counted as a resource beginning with the month after the good cause extension period expires. *Exception: For victims of Hurricane Andrew only,* the extension period for good cause may be extended for up to an additional 12 months beyond the 9-month extension when we find that the individual had good cause for not replacing or repairing an excluded resource within the 9-month extension.

(c) The time period described in paragraph (b) of this section (except the time period for individuals granted an additional extension under the Hurricane Andrew provision) may be extended for a reasonable period up to an additional 12 months in the case of a catastrophe which is declared to be a major disaster by the President of the United States if the excluded resource is geographically located within the disaster area as defined by the Presidential order; the individual intends to repair or replace the excluded resource; and, the individual demonstrates good cause why he or she has not been able to repair or replace the excluded resource within the 18-month period.

* * * * *

[FR Doc. 96–3406 Filed 2–14–96; 8:45 am]

BILLING CODE 4190–29–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2619 and 2676

Valuation of Plan Benefits in Single-Employer Plans; Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Amendments Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulations on Valuation of Plan Benefits in Single-Employer Plans and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal. The former regulation contains the interest assumptions that the PBGC uses to value benefits under terminating single-employer plans. The latter regulation contains the interest assumptions for valuations of multiemployer plans that have undergone mass withdrawal. The amendments set out in this final rule adopt the interest assumptions applicable to single-employer plans with termination dates in March 1996, and to multiemployer plans with valuation dates in March 1996. The effect of these amendments is to advise the public of the adoption of these assumptions.

EFFECTIVE DATE: March 1, 1996.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024 (202–326–4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: This rule adopts the March 1996 interest assumptions to be used under the Pension Benefit Guaranty Corporation's regulations on Valuation of Plan Benefits in Single-Employer Plans (29 CFR part 2619, the ''single-employer regulation'') and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR part 2676, the ''multiemployer regulation'').

Part 2619 sets forth the methods for valuing plan benefits of terminating single-employer plans covered under title IV of the Employee Retirement Income Security Act of 1974, as amended. Under ERISA section 4041(c), all single-employer plans wishing to terminate in a distress termination must value guaranteed benefits and ''benefit liabilities,'' *i.e.*, all benefits provided under the plan as of the plan termination date, using the formulas set forth in part 2619, subpart C. (Plans terminating in a standard termination may, for purposes of the Standard Termination Notice filed with PBGC, use these formulas to value benefit liabilities, although this is not required.) In addition, when the PBGC terminates an underfunded plan involuntarily pursuant to ERISA section 4042(a), it uses the subpart C formulas to determine the amount of the plan's underfunding. Part 2676 prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of ERISA.

Appendix B to part 2619 sets forth the interest rates and factors under the single-employer regulation. Appendix B to part 2676 sets forth the interest rates and factors under the multiemployer regulation. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The PBGC issues two sets of interest rates and factors, one set to be used for the valuation of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. The same assumptions apply to terminating single-employer plans and to multiemployer plans that have undergone a mass withdrawal. This amendment adds to appendix B to parts 2619 and 2676 sets of interest rates and factors for valuing benefits in single-employer plans that have termination dates during March 1996 and multiemployer plans that have undergone mass withdrawal and have valuation dates during March 1996.

For annuity benefits, the interest rates will be 5.50% for the first 20 years following the valuation date and 4.75% thereafter. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 4.25% for the period during which benefits are in pay status, and 4.0% during all years preceding the benefit's placement in pay status. The above annuity interest assumptions represent an increase (from those in effect for February 1996) of .10 percent for the first 20 years following the valuation date and are otherwise unchanged. The lump sum interest assumptions are unchanged from those in effect for February 1996.

Generally, the interest rates and factors under these regulations are in effect for at least one month. However, the PBGC publishes its interest assumptions each month regardless of whether they represent a change from the previous month's assumptions. The assumptions normally will be published in the Federal Register by the 15th of the preceding month or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on these amendments are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates and factors can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in single-employer plans whose termination dates fall during March 1996, and in multiemployer plans that have undergone mass withdrawal and have valuation dates during March 1996, the PBGC finds that good cause exists for making the rates and factors set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

29 CFR Part 2676

Employee benefit plans and Pensions.

In consideration of the foregoing, parts 2619 and 2676 of chapter XXVI, title 29, Code of Federal Regulations, are hereby amended as follows:

PART 2619—[AMENDED]

1. The authority citation for part 2619 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

2. In appendix B to part 2619, Rate Set 29 is added to Table I, and a new entry is added to Table II, as set forth below. The introductory text of both tables is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 2619—Interest Rates Used To Value Lump Sums and Annuities

Lump Sum Valuations

In determining the value of interest factors of the form $v^{0:n}$ (as defined in § 2619.49(b)(1)) for purposes of applying the formulas set forth in § 2619.49(b) through (i) and in determining the value of any interest factor used in valuing benefits under this subpart to be paid as lump sums (including the return of accumulated employee contributions upon death), the PBGC shall employ the values of i_t set out in Table I hereof as follows:

(1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply.

(2) For benefits for which the deferral period is y years (y is an integer and $0 < y \leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years; thereafter the immediate annuity rate shall apply.

(3) For benefits for which the deferral period is y years (y is an integer and $n_1 < y \leq n_1 + n_2$), interest rate i_2 shall apply from the valuation date for a period of $y - n_1$ years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

(4) For benefits for which the deferral period is y years (y is an integer and $y > n_1 + n_2$), interest rate i_3 shall apply from the valuation date for a period of $y - n_1 - n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

TABLE I

[Lump Sum Valuations]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
* * *	*	*		*		*	*	
29	03–1–96	04–1–96	4.25	4.00	4.00	4.00	7	8

Annuity Valuations

In determining the value of interest factors of the form $v^{0:n}$ (as defined in § 2619.49(b)(1)) for purposes of applying the formulas set forth in § 2619.49 (b) through (i) and in determining the value of any interest factor used in valuing annuity benefits under this subpart, the plan administrator shall use the values of i_t prescribed in Table II hereof.

The following table tabulates, for each calendar month of valuation ending after the effective date of this part, the interest rates (denoted by i_1, i_2, * * *, and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.

TABLE II

[Annuity Valuations]

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
* * * *		*		*		*
March 1996	.0550	1–20	.0475	>20	N/A	N/A

PART 2676—[AMENDED]

3. The authority citation for part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), 1441(b)(1).

4. In appendix B to part 2676, Rate Set 29 is added to Table I, and a new entry is added to Table II, as set forth below. The introductory text of both tables is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 2676—Interest Rates Used To Value Lump Sums and Annuities

Lump Sum Valuations

In determining the value of interest factors of the form $v^{0:n}$ (as defined in § 2676.13(b)(1)) for purposes of applying the formulas set forth in § 2676.13(b) through (i) and in determining the value of any interest factor used in valuing benefits under this subpart to be paid as lump sums, the PBGC shall use the values of i_t prescribed in Table I hereof. The interest rates set forth in Table I shall be used by the PBGC to calculate benefits payable as lump sum benefits as follows:

(1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply.

(2) For benefits for which the deferral period is y years (y is an integer and $0 < y \leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years; thereafter the immediate annuity rate shall apply.

(3) For benefits for which the deferral period is y years (y is an integer and $n_1 < y \leq n_1 + n_2$), interest rate i_2 shall apply from the valuation date for a period of $y - n_1$ years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

(4) For benefits for which the deferral period is y years (y is an integer and $y > n_1 + n_2$), interest rate i_3 shall apply from the valuation date for a period of $y - n_1 - n_2$ years, interest rate i_2 shall apply for the

following n_2 years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

TABLE I

[Lump Sum Valuations]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
* *	*	*		*		*	*	
29	03–1–96	04–1–96	4.25	4.00	4.00	4.00	7	8

Annuity Valuations

In determining the value of interest factors of the form $v^{0:n}$ (as defined in § 2676.13(b)(1)) for purposes of applying the formulas set forth in § 2676.13(b) through (i) and in determining the value of any interest factor used in valuing annuity benefits under this subpart, the plan administrator shall use the values i_t prescribed in the table below.

The following table tabulates, for each calendar month of valuation ending after the effective date of this part, the interest rates (denoted by i_1, i_2, * * *, and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.

TABLE II

[Annuity Valuations]

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
* * * *		*		*		*
March 1996	.0550	1–20	.0475	>20	N/A	N/A

Issued in Washington, DC, on this 9th day of February 1996.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 96–3428 Filed 2–14–96; 8:45 am]

BILLING CODE 7708–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7634]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

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

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

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

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

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

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified

for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Acting Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

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

National Environmental Policy Act

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

Regulatory Flexibility Act

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

Regulatory Classification

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

Paperwork Reduction Act

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

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

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

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

§ 64.6 [Amended]

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

State/location	Community No.	Effective date of eligibility	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region II				
New Jersey:				
North Wildwood, city of, Cape May County	345308	July 24, 1970, Emerg; March 5, 1971, Reg; Feb. 16, 1996, Susp.	2–16–96	Feb. 16, 1996.
Wildwood, city of, Cape May County	345329	June 5, 1970, Emerg; Dec. 31, 1970, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Wildwood Crest, borough of, Cape May County.	345330	July 31, 1970, Emerg; Feb. 26, 1971, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Region VI				
Wisconsin:				
Verona, city of, Dane County	550092	June 24, 1975, Emerg; Aug. 1, 1980, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Watertown, city of, Dodge and Jefferson Counties.	550107	May 23, 1975, Emerg; April 1, 1981, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
.				
Region VI				
Texas:				
Balcones Heights, city of, Bexar County	481094	Oct. 9, 1975, Emerg; April 15, 1980, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Bexar County, unincorporated areas	480035	April 7, 1972, Emerg; Oct. 16, 1984, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Castle Hills, city of, Bexar County	480037	Oct. 31, 1973, Emerg; Sept. 30, 1980, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
China Grove, city of, Bexar County	481141	Jan. 26, 1978, Emerg; June 15, 1984, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Converse, city of, Bexar County	480038	March 26, 1974, Emerg; June 15, 1981, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Fair Oaks Ranch, city of, Bexar County	481644	Dec. 20, 1993, Reg; Feb. 16, 1996, Susp	2–16–96	Do.
Hollywood Park, town of, Bexar County	480040	Oct. 3, 1974, Emerg; Nov. 19, 1980, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.

State/location	Community No.	Effective date of eligibility	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Kirby, city of, Bexar County	480041	Nov. 6, 1974, Emerg; Aug. 15, 1980, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Leon Valley, city of, Bexar County	480042	June 25, 1973, Emerg; June 1, 1977, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Live Oak, city of, Bexar County	480043	Nov. 3, 1972, Emerg; May 16, 1977, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Shavano Park, city of, Bexar County	480047	Dec. 26, 1973, Emerg; Sept. 3, 1980, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Somerset, city of, Bexar County	481264	June 14, 1994, Emerg; Feb. 16, 1996, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Universal City, city of, Bexar County	480049	Feb. 14, 1974, Emerg; May 16, 1977, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Windcrest, city of, Bexar County	480689	Jan. 21, 1974, Emerg; Aug. 15, 1977, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.

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

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Issued: February 12, 1996.

Richard W. Krimm,

Acting Associate Director, Mitigation Directorate.

[FR Doc. 96–3441 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–05–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 92–29; Notice 10]

RIN 2127–AF96

Federal Motor Vehicle Safety Standards; Stability and Control of Medium and Heavy Vehicles During Braking

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

ACTION: Final rule, petitions for reconsideration.

SUMMARY: This document responds to petitions for reconsideration of final rules that amended FMVSS No. 105, *Hydraulic Brake Systems,* and FMVSS No. 121, *Air Brake Systems,* to require medium and heavy vehicles to be equipped with an antilock brake system (ABS). In response to the petitions, this document requires continuous power for trailer ABS systems, in place of the dedicated power and separate ground previously required, and delays the implementation date for the in-cab trailer malfunction indicator by four years. It also extends by three years the period in which exterior ABS failure indicators are required on trailers.

DATES: *Effective Dates:* The amendments to 49 CFR 571.121 are effective March 1, 1997.

Compliance Dates: Compliance with the amendments to paragraphs S5.1.6.2(b) and S5.2.3.2 of 49 CFR 571.121 will be required on and after March 1, 2001. Compliance with the amendments to paragraph S5.1.6.3 for truck tractors will be required on and after March 1, 1997 and for single unit vehicles will be required on and after March 1, 1998. Compliance with the amendments to paragraph S5.2.3.2 will be required on and after March 1, 2001. Compliance with the amendments to S5.2.3.3 will be required on and after March 1, 1998.

Petitions for Reconsideration: Any petitions for reconsideration of this rule must be received by NHTSA no later than April 1, 1996.

ADDRESSES: Petitions for reconsideration of this rule should refer to the above referenced docket numbers and should be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

For non-legal issues: Mr. Robert M. Clarke, Office of Crash Avoidance, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202) 366–5278.

For legal issues: Mr. Marvin L. Shaw, NCC–20, Rulemaking Division, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202) 366–2992.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Petitions for Reconsideration.
III. NHTSA's Decision and Analysis of Issues.
A. Agency's Decision.
B. Trailer Powering.
1. Background and Previous NHTSA Rulings.
2. Petitions for Reconsideration of December 1995 Final Rule
3. Agency's Decision
C. In-Cab Trailer Malfunction Indicators
D. External Trailer Malfunction Indicators

I. Background

Section 4012 of the Motor Carrier Act of 1991, a part of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, P.L. 102–240, directed the Secretary of Transportation to initiate rulemaking concerning methods for improving braking performance of new commercial motor vehicles, including truck tractors, trailers, and their dollies. Congress specifically directed that such a rulemaking examine antilock systems, means of improving brake compatibility, and methods of ensuring effectiveness of brake timing. The Act required that the rulemaking be consistent with the Motor Carrier Safety Act of 1984 (49 U.S.C. § 31136) and be carried out pursuant to, and in accordance with, the National Traffic and Motor Vehicle Safety Act of 1966 (now recodified as 49 U.S.C. § 30101 *et seq.* (Safety Act)).

On March 10, 1995 (60 FR 13216, 60 FR 13297), NHTSA issued final rules that required medium and heavy vehicles [1] to be equipped with an antilock brake system (ABS) to improve their directional stability and control during braking. The March 1995 final rules also reinstated stopping distance requirements for air-braked heavy vehicles and established stopping distance requirements for hydraulic-braked heavy vehicles.

In addition to the ABS requirement, the ABS final rule required truck

[1] Hereinafter referred to as ''heavy vehicles''

tractors and other towing vehicles to supply dedicated, full time electrical power to a trailer ABS and required truck tractors and other towing vehicles to be equipped with two separate in-cab lamps: one indicating malfunctions in the towing vehicle ABS and the other indicating malfunctions in the ABS on one or more towed trailers and/or dollies. The rule also required all trailers, including dollies, produced during an eight-year transition period, to be equipped with an external malfunction indicator. In response to petitions for reconsideration of these requirements, NHTSA published a final rule on December 13, 1995 (60 FR 63965) affirming its decision to require these features.

II. Petitions for Reconsideration of December 1995 Final Rule

NHTSA received petitions for reconsideration of the December 1995 amendments to the final rule from the American Trucking Associations (ATA) which represents trucking fleets, the National Private Truck Council (NPTC) which represents private trucking fleets, the Truck Manufacturers Association (TMA)[2], the Truck Trailer Manufacturers Association (TTMA) which represents trailer manufacturers, the Heavy Duty Brake Manufacturers Council (HDBMC)[3] which represents heavy duty brake component manufacturers, Midland-Grau, Kelsey-Hayes, Rockwell WABCO, Vehicle Enhancement Systems (VES), AlliedSignal, General Motors, Ford, and the Recreational Vehicle Industry Association (RVIA).[4]

As did the petitioners for reconsideration of the March 1995 final rule, all petitioners for reconsideration of the December 1995 final rule agreed with and supported NHTSA's decision and schedule requiring all heavy vehicles to be equipped with ABS. ATA, TMA, and TTMA reference what they refer to as the ATA/TMA/TTMA Industry Consensus Position ABS Reconsideration petition,[5] with which they have stated their concurrence. The Industry Consensus Position states that the agency should retain the current overall requirements and timing. Similarly, TMA stated that its companies ''continue to support the production, sale, and service of ABS within the specified time frames.'' Nevertheless, the Industry Consensus Position and each of the petitioners requested that the agency modify the requirements that address trailer ABS power and the in-cab trailer malfunction indicator. Specifically, the Industry Consensus Position is that the agency should (1) delete the requirement for continuous, dedicated power [6] to the trailer ABS and replace it with a requirement for continuous power but no dedicated circuit (with backup power on the stoplamp circuit) and delete the separate ABS ground requirement, and (2) delay the effective date for an in-cab trailer warning light, but specify another date that will accelerate the development of the specific means for achieving the goal of having that warning light. The petitioners supporting the Industry Consensus Position explained that the heavy vehicle manufacturers and users are working together and are committed to developing and deploying a satisfactory in-cab trailer warning light within the extended time period requested.

III. NHTSA's Decision and Analysis of Issues

As explained below, NHTSA has decided to amend FMVSS No. 121 consistent with the Industry Consensus Position and to replace the requirement for dedicated power to trailer ABS with a requirement for continuous power. Stoplamp power will continue to be required to provide back-up power for the ABS. In addition, the agency has decided to delete the requirement for a separate ABS ground and to allow a common ground for ABS trailer powering. The agency has also decided to delay the implemenation date for the in-cab trailer malfunction indicator until March 1, 2001.

A. Trailer Powering

1. Background and Previous NHTSA Rulings

A trailer's antilock brake system may receive its electrical power in one of the following ways: (1) intermittent power through the stoplamp circuit, (2) continuous power through a circuit that is shared and provides power to more than one electrical component or which is used to transmit one or more signals, or (3) continuous, dedicated power through a circuit whose sole function is to provide power to the trailer ABS. With stoplamp powering, electrical power to the ABS is only supplied when the brake pedal is applied and the stop lamp switch is activated. As a result, the trailer ABS must share power with stoplamp bulbs, which decreases the voltage available for powering the trailer ABS. With continuous powering, electrical power to the trailer ABS is present at all times, but other devices could be powered off the same circuit and multiplexed[7] communication signals could be carried on the circuit. With dedicated powering, electrical power to the trailer ABS is present at all times, but no other device can be powered off this circuit and communications signals cannot be carried on the circuit.

Trailers do not typically have their own electrical power source. Thus, an electrical connector is needed to provide electrical current between a tractor and a trailer. At present, the most common electrical connector used for this purpose in the United States is the SAE J560 plug/receptacle, which was developed in the 1950s and has been in widespread use ever since. This connector has seven pins, providing seven electrical paths: Pin one is used as a common ground for the other six positive power pins; pin two is used to power clearance and side marker lamps; pin three is used to power the left hand turn signal; pin four is used to power the stoplamp; pin five is used to power the right hand turn signal and hazard signal; pin six is used to power the taillamp, marker lamps, and license plate lamps; and pin seven is an auxiliary circuit that is not currently used in most vehicle combinations. In the past, it has been common practice to power trailer ABSs exclusively from pin 4, the stoplamp circuit. This involves sharing power with the stoplamp bulbs which are only activated when the brakes are applied.

In a fleet study[8] that NHTSA conducted to support the current ABS rulemaking, the agency evaluated other ABS powering approaches, including a single 13-pin connector, a separate six-pin connector, and another separate connector known as the International

[2] TMA member companies include Ford, Freightliner, General Motors, Mack Trucks, Navistar International, PACCAR, and Volvo GM Heavy Truck.

[3] HDBMC member companies include Abex, AlliedSignal, Eaton, Midland-Grau, Ferodo America, Haldex, Lucas, MGM Brakes, Motion Control/Carlisle, Rockwell, Rockwell WABCO, and Spicer/Dana.

[4] General Motors, Ford, Kelsey-Hayes, and the RVIA all address amendments to FMVSS No. 105. In this notice, the agency is responding to the issues relating to FMVSS No. 121. The agency will address the petitions raising FMVSS No. 105 issues in a future notice.

[5] Hereinafter referred to as ''Industry Consensus Position.''

[6] The terms continuous power, dedicated power, and connector are discussed in the next section.

[7] Multiplexing is defined by the Society of Automotive Engineers's (SAE's) Multiplex Subcommittee as ''The process of combining several messages for transmission over the same signal path.''

[8] ''An In-Service Evaluation of the Performance, Reliability, Maintainability, and Durability of Antilock Braking Systems for Semitrailers,'' U.S. Department of Transportation/ NHTSA Report No. DOT HS 808 059, October 1993

Standards Organization (''ISO'') connector. These other powering approaches used dedicated electrical circuits, including separate, fully dedicated positive and ground wires, to power the trailer ABS.

In the March 1995 final rule, NHTSA decided to require dedicated powering for trailer ABSs and to require that towing vehicles have a corresponding separate circuit. (60 FR 13248–13250) The agency explained that this requirement provides the most dependable source of electrical power from the tractor to ensure the functioning of the trailer's ABS.

In petitions for reconsideration of the March 1995 final rule, American Automobile Manufacturers Association (AAMA), Midland-Grau, and TTMA requested that NHTSA interpret the requirement for dedicated power so that the ABS powering circuit need not be exclusively used for ABS. AAMA and Midland-Grau requested the agency to allow other uses for this circuit, such as powering interior van trailer lights and multiplex signaling. ATA reasserted its concern that the requirement for a separate circuit would be costly and would create operational problems, because it would result in the use of a second tractor/trailer electrical connector, which would be used only infrequently, until the number of tractors and trailers with ABS increased, to the point where a high percentage of vehicles in combination would be ABS equipped. ATA stated a strong preference for a requirement that would allow the continued use of the SAE J560 connector. In a September 6, 1995 letter, ATA requested that the agency interpret the requirement for a separate electrical circuit in such a way as to allow the continued use of the SAE J560 connector.

In the December 1995 final rule responding to petitions for reconsideration, NHTSA denied the petitioners' request to permit other uses for the separate ABS circuit. Based on information available at that time, NHTSA concluded that it was necessary for the ABS on towed vehicles to receive full-time power through a dedicated circuit to reduce the possibility of the ABS being inoperative due to lack of power. The agency found no basis in the publicly available data on which to alter its view that the dedicated circuit was necessary.

2. Petitions for Reconsideration of December 1995 Final Rule

In response to the December 1995 final rule, each petitioner supported the Industry Consensus Position to permit continuous powering to the trailer ABS. TMA stated that new information and industry commitments support a decision to delete the dedicated powering requirement and replace it with a continuous powering requirement. TMA, Midland-Grau, ATA, AlliedSignal, HDBMC, and VES supplied data which indicated that adequate levels of electrical power could be supplied to trailer ABSs on non-dedicated circuits. Midland-Grau strongly supported the continuous powering requirement with the stoplamp circuit as a back up, provided that the ABS circuit could be used to power warning and other monitoring systems. ATA supported the Industry Consensus Position. That organization continues to believe that intermittent powering through the stoplamp circuit provides adequate electrical energy to power the trailer ABS, citing its analysis of additional data and industry commitments to upgrade tractor electrical systems. Nevertheless, ATA agreed to a requirement for continuous power instead of stoplamp power, if the trailer ABS power supply circuit could be used for other purposes.

All petitioners opposed the requirement for dedicated powering with a separate ground. TMA, ATA, Midland-Grau, AlliedSignal, and HDBMC stated that the separate ground requirement, which is an integral part of dedicated powering, requires the use of diodes in the trailer ABS's electrical control unit (ECU) which reduce the voltage available for trailer ABS. They further stated that requiring two grounds could create ''ground loop circuits,'' which may create unexpected voltage differences between various electrical systems on vehicles. This may result in electrical shorting and the possibility of electrical fires.

In support of their petitions, the petitioners provided new information relating to the voltage requirements of the new generation of ECUs, the amperage requirements of new modulators, and the voltage losses associated with dedicated power circuits. The petitions also stated that the petitioners are committed to meeting new voluntary powering standards and to completing the development of a new generation of electronic communications systems.

3. Agency's Decision

The agency's decisions are based on the new information provided in the public record by the petitioners, as described above and discussed more fully below. Based on this information, as well as recent studies [9] by the agency, NHTSA has decided to amend FMVSS No. 121 consistent with the Industry Consensus Position and to replace the requirement for dedicated power to the trailer ABS with a requirement for continuous power. Stoplamp power will continue to be required to provide back-up power for the trailer ABS. In addition, the agency has decided to delete the requirement for a separate ABS ground and to allow a common ground for ABS trailer powering. The agency emphasizes that continuous power rather than intermittent power through the stoplamp circuit is needed as a primary powering source to ensure the safe operation and reliability of trailer ABS and to provide the capability to signal a continuous warning of a trailer ABS malfunction to the cabs of towing units.

With respect to the safe operation of trailer ABS, an agency report [10] indicated that a problem can occur if power is interrupted to a trailer ABS while it is cycling. Specifically, under lightly loaded or empty trailer operating conditions on low coefficient of friction surfaces, if a brake application that activates the ABS is fully released and then fully applied again, the resulting interruption of electrical current through the stoplamp circuit can cause the reactivated ABS ECU to misinterpret the wheel speed signals it is receiving. The ECU could interpret the signals as meaning that the vehicle is stopped and thereupon allow the brakes to be fully applied. This would result in locked trailer wheels. Notwithstanding the fact that this type of brake application might occur infrequently in real-world operating conditions, this possibility underlines the importance of continuous powering as the primary method of powering trailer ABS, and indicates that the stoplamp circuit should not be relied on as more than a back-up to primary continuous powering. Data submitted by Midland-Grau support the agency's position.

With respect to the reliability of trailer ABS, NHTSA's decisions in earlier rulemakings focused on ensuring that the trailer ABS received adequate voltage. In the March 1995 final rule,

[9] Winkler, C.B., Bogard, S.E., Bowen, M.A., Ganduri, S.M., and Lindquist, D.J. ''An Operational Field Test of Long Combination Vehicles Using ABS and C-Dollies'', University of Michigan Transportation Research Institute Report No. 95–45–2, under USDOT/NHTSA Contract No. DTNH22–92–D–07003, November 1995

Flick, M. A., ''NHTSA's Heavy Duty Vehicles Brake Research Program Report Number 10—Evaluation of Trailer Antilock Braking Systems Electrical Powering'', USDOT Report No. HS 808 249, March 1995.

[10] USDOT Report No. HS 808 249, March 1995.

the agency specified a requirement for a dedicated trailer ABS power circuit as the best means to ensure adequate voltage levels (i.e., 9–10 volts) for trailer ABSs. The agency believed that a separate ground wire was also needed to ensure sufficient capacity to provide a return path for electrical current that would not be subject to excessive voltage drops because the ground wire carried too much current. This belief rested on data from the agency's fleet studies.

On the basis of this new information in the petitions for reconsideration, NHTSA has determined that a continuous, but non-dedicated, source of power and a shared ground will provide sufficient power to the trailer ABS. The HDBMC petition stated that all current versions of trailer ABSs function at levels as low as 8.5 volts, and that ABS modulators have now been designed to draw a maximum of 3 amps. The agency agrees with the HDBMC petition that the information previously available indicating that trailer ABSs require 9–10 volts to remain functional, and that ABS modulators draw 2–6 amps of current, has been superceded. This information about the lower power needs of new ABS systems indicates that a dedicated power source and a separate ground wire are not necessary for ABS power.

The agency agrees with petitioners that the addition of a separate ground wire would necessitate adding diodes to the trailer ECU powering circuitry to prevent inadvertent ground loops that may result in electrical short circuits or electrical fires. These added diodes would result in a 0.7 volt decrease to the trailer ECU, an outcome inconsistent with ensuring adequate power levels.

Based on the above considerations, NHTSA has decided to modify sections 5.1.6.3 and 5.5.2 to require continuous power to trailer ABSs, to permit the circuit to be shared with other devices and to allow trailer ABS powering circuits to share a common ground with other electrical powering circuits.

Powering electrical devices other than the trailer ABS from the ABS power circuit has the potential to compromise the circuit's ability to power the trailer ABS. A recently completed study on long combination-unit vehicles (LCVs) [11] highlights the need to design all the elements of tractor/trailer electrical system to ensure adequate electrical power levels. Among other things, that study considered whether sufficient voltage could be supplied to the rear trailers and dollies of multiple trailer combinations (especially triple trailer combinations) on the same circuit. The study found that even with special wiring and well maintained connectors, it was necessary for the electrical systems of tractors to supply 13.3 volts and for the ABS on dollies and trailers to operate on no more than 9.0 volts in order to ensure that sufficient electrical power could be supplied. Some of the tractors in the test program were not able to consistently provide the 13.3 volts of electrical power through the stoplamp circuit, and some of the ABSs needed more than 9.0 volts. In some cases, trailing unit ABSs ceased functioning. Accordingly, a manufacturer can ensure adequate powering for trailer ABSs by providing adequately sized electrical wiring in both towing and towed units, by providing towing units with heavy duty electrical charging systems, and by employing low voltage demand lighting systems.

The agency agrees with Midland-Grau's position that the only other devices which should share this circuit are warning, monitoring, or other signaling/communications devices. Additional uses that would not likely pose problems are low power demand components or devices which are powered when the vehicle is stopped or in reverse, conditions in which the ABS would not be in use. However, the agency has decided not to specify the devices that may share the use of the trailer ABS power circuit. The agency is confident heavy vehicle manufacturers and users recognize the need for appropriate restrictions and notes that industry is working, through various SAE and other technical committees, to establish performance standards for electrical systems that power tractor and trailer ABS systems. These anticipated industry standards are expected to include objective performance test procedures, measurement criteria, and, in some cases, target performance levels. Several of the petitioners specifically referenced SAE J2272, Truck Tractor Power Output for Trailer ABS, and its TMC equivalent, RP137, Antilock Electrical Supply for Tractors Through the SAE J560 Connector, and indicated that they were committed to designing and using products that meet these specifications. TTMA stated that it was developing a comparable companion standard for trailer electrical systems.

NHTSA will monitor these efforts to develop consensus industry standards and the commitment made by heavy vehicle manufacturers and users to meet these voluntary standards. Efforts to develop consensus on this topic have been under way since 1988, when WABCO submitted a petition on trailer ABS powering schemes (53 FR 39751, October 12, 1988). The agency anticipates that this powering issue can be resolved without further delays in the implementation schedule for the trailer powering and in-cab indicator requirements.

After evaluating these voluntary standards, NHTSA may consider further rulemaking to amend FMVSS No. 121 to require minimum voltage levels at the tractor or to limit the use of the ABS power circuit if such requirements appear necessary to ensure the adequacy of power to the trailer ABS. Such a rulemaking action would be consistent with the President's Regulatory Reinvention Initiative which encourages regulatory agencies, when appropriate, to adopt voluntary standards established and followed by the private sector.

B. Trailer Malfunction Indicators

FMVSS No. 101, *Controls and Displays*, sets forth requirements for the location, identification, and illumination of motor vehicle controls and displays. Table 2(a) of the standard lists various telltales that are required in a motor vehicle to advise the driver of the status of a variety of vehicle systems. For air brake equipped trucks, these include telltales for brake system air pressure and for ABS malfunction in the truck.

In the March 1995 final rule, NHTSA required lamps in the cab of truck tractors to indicate any malfunction with the ABS of any towed vehicles. (60 FR 13244, 13245) The agency also required trailers to supply trailer ABS malfunction signals to the tractor. The agency explained that it is essential that a driver be notified about an ABS malfunction in the trailer, so that the problem can be corrected. The agency cited results from the ABS fleet study which indicated that drivers are more likely to observe a tractor in-cab indication of a trailer ABS malfunction than they are a trailer-mounted lamp. The study also noted that some trailer ABS malfunctions were present for a long time, and not reported, because the drivers did not notice that the trailer-mounted malfunction lamps were activated. Based on these findings, the agency decided that it was necessary to require an in-cab trailer ABS malfunction warning light to adequately ensure that such malfunctions would be detected and corrected.

In response to the March 1995 final rule, ATA petitioned the agency to delete the requirement for in-cab indication of trailer ABS malfunctions.

[11] University of Michigan Transportation Research Institute Report No. 95–45–2, under USDOT/NHTSA Contract No. DTNH22–92–D–07003, November 1995

It argued that such a requirement was unnecessary and would needlessly complicate the electrical system of the tractor and the electrical connector arrangement between tractors and trailers.

In the December 1995 final rule, NHTSA denied ATA's request to delete the in-cab malfunction lamp for the trailer ABS. In explaining that the in-cab trailer malfunction lamp is necessary, the agency referenced a study that showed that an in-cab malfunction lamp is a more effective means of making the driver aware of an ABS malfunction, compared with an external malfunction lamp on the trailer.[12] NHTSA also disagreed with ATA's statement that the requirement for two malfunction indicators unreasonably complicates the electrical systems in combination vehicles, based on comments by brake and vehicle manufacturers stating that it was appropriate to have an indicator in the towing unit cab.

In response to the December 1995 final rule, the Industry Consensus Position stated that ultimately it is essential to provide drivers an in-cab indication of a trailer(s) ABS malfunction, but that requiring the in-cab indicator by 1997 would likely impede the implementation of a new high speed data transmission protocol SAE J1939 that is now being developed by the SAE. This new protocol is expected to become the recognized method for providing signaling capability between tractors and trailers for a wide variety and number of devices and systems, including trailer ABS malfunction indications. The Industry Consensus Position is that delaying the implementation date of the in-cab malfunction warning requirement for trailer ABS malfunctions to March 1, 2001, would provide sufficient time to fully develop the SAE J1939 protocol and would thus preclude the need for a two-step implementation process.

Based on information provided in the petitions, NHTSA has decided to grant the requested delay for the trailer in-cab malfunction indicator. By delaying the requirement, the agency will enable the manufacturers to move directly and promptly to in-cab failure indicators that will use the new SAE protocol, thereby saving the cost of installing indicators based on current technology. The delay will also avoid the compatibility problems between new and old tractors and trailers in the field and the associated costs and potential maintenance problems associated with such a transition. The petitions indicate a strong commitment to develop an SAE J1939-based final solution. The agency anticipates that heavy vehicle manufacturers and users will be able to develop and implement SAE J1939 and that further delays in the implementation of this requirement will neither be requested nor necessary.

NHTSA further notes that the external trailer indicator will still advise a driver about a trailer ABS malfunction during this interim period, when an in-cab indicator is not required. Notwithstanding the need to rely on the external trailer indicator during this interim period, NHTSA continues to view the in-cab trailer ABS malfunction indicator as the best method for informing a driver of a trailer ABS malfunction, based on the data and other information referenced in the final rule.

C. External Trailer Malfunction Indicator

In previous notices, NHTSA emphasized the interrelationship between the in-cab trailer malfunction indicator and the external trailer malfunction indicator. In the September 28, 1993, notice of proposed rulemaking (60 FR 13221, September 28, 1993) which led to the March 1995 final rule, the agency stated that the eight-year period for the interim external trailer requirement was intended to represent the average lifespan of a truck tractor and that

> The external lamp would not be necessary on new trailers manufactured after the end of that period because by that time, a significant majority of tractors in the heavy vehicle fleet, which would be responsible for the vast majority of miles driven by tractors, would be manufactured in compliance with the requirement for an in-cab lamp capable of receiving a malfunction signal from a trailer.

In the final rule, the agency reiterated this view, although it talked in terms of ''ABS and non-ABS equipped tractors'' as a shorthand for tractors equipped with ABS malfunction indicators.

NHTSA's decision to delay the in-cab malfunction indicator for trailer ABS from March 1, 1997 until March 1, 2001, will delay the entry of tractors equipped with such indicators into the fleet. To provide drivers of tractors without in-cab indicators with a warning of trailer ABS failure, the agency has decided to extend the transition period during which a trailer must be equipped with an external malfunction indicator. The external indicators will be required from March 1, 1998 until March 1, 2009, three years later than the date established in the December 1995 final rule. Accordingly, a trailer must still be equipped with an external ABS indicator during the time period in which there is no in-cab trailer ABS malfunction indicator requirement in effect as well as for an additional eight years after the in-cab trailer malfunction indicator requirement takes effect. As explained in previous notices, the additional eight-year transition period represents the typical life cycle of tractors. Based on these considerations, NHTSA has decided to amend S5.2.3.3 to require each trailer (including a trailer converter dolly) manufactured on or after March 1, 1998 and before March 1, 2009 to be equipped with an external ABS malfunction indicator lamp.

IV. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This notice has not been reviewed under Executive Order 12866. NHTSA has considered the impacts of this rulemaking action and determined that it is not ''significant'' within the meaning of the Department of Transportation's regulatory policies and procedures. In connection with the March 1995 final rules, the agency prepared a Final Economic Assessment (FEA) describing the economic and other effects of this rulemaking action. Summary discussions of those effects were provided in the ABS final rule. For persons wishing to examine the full analysis, a copy is in the docket.

The amendments in this final rule do not make those effects any more stringent, and in some respects make it easier for a manufacturer to comply with them. Specifically, by eliminating the requirement for the dedicated ABS circuit and delaying the trailer in-cab malfunction indicator by four years, tractor and trailer manufacturers will be able to develop new methods of communicating trailer ABS information to the tractor. Thus, for these four years, tractor manufacturers will not have to provide a trailer in-cab malfunction indicator. After this four year period, truck and trailer manufacturers will incur some additional cost associated with ABS communications. This cost will depend on the communication technique employed, i.e., multiplexing, Radio Frequency (RF) signaling, or a separate circuit.

B. Regulatory Flexibility Act

NHTSA has also considered the effects of both this final rule or the original final rule under the Regulatory Flexibility Act. I hereby certify that it will not have a significant economic impact on a substantial number of small

[12] ''An In-Service Evaluation of the Performance, Reliability, Maintainability, and Durability of Antilock Braking Systems for Semitrailers,'' U.S. Department of Transportation/NHTSA Report No. DOT HS 808 059, October 1993.

entities. Accordingly, the agency has not prepared a final regulatory flexibility analysis.

NHTSA concluded that the March 1995 final rule had no significant impact on a substantial number of small entities. Thus, the revised final rule, which temporarily reduces costs associated with the March 1995 final rule, will not have a significant economic impact on a substantial number of small entities.

C. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

D. Executive Order 12612 (Federalism)

NHTSA has analyzed this action under the principles and criteria in Executive Order 12612. The agency has determined that this notice does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. No State laws will be affected.

E. Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, the agency is amending Standard No. 121, *Air Brake Systems,* in title 49 of the Code of Federal Regulations at part 571 as follows:

PART 571—[AMENDED]

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

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166, delegation of authority at 49 CFR 1.50.

2. Section 571.121 is amended by revising S5.1.6.2(b), S5.1.6.3, S5.2.3.2, S5.2.3.3 and S5.5.2 to read as follows:

§ 571.121 Standard No. 121; Air brake systems.

* * * * *

S5.1.6.2 *Antilock malfunction signal.*

* * *

(b) Each truck tractor manufactured on or after March 1, 2001, and each single unit vehicle manufactured on or after March 1, 2001, that is equipped to tow another air-braked vehicle, shall be equipped with an electrical circuit that is capable of transmitting a malfunction signal from the antilock brake system(s) on one or more towed vehicle(s) (e.g., trailer(s) and dolly(ies)) to the trailer ABS malfunction lamp in the cab of the towing vehicle, and shall have the means for connection of this electrical circuit to the towed vehicle. Each such truck tractor and single unit vehicle shall also be equipped with an indicator lamp, separate from the lamp required in S5.1.6.2(a), mounted in front of and in clear view of the driver, which is activated whenever the malfunction signal circuit described above receives a signal indicating an ABS malfunction on one or more towed vehicle(s). The indicator lamp shall remain activated as long as an ABS malfunction signal from one or more towed vehicle(s) is present, whenever the ignition (start) switch is in the ''on'' (run) position, whether or not the engine is running. The indicator lamp shall also be activated as a check of lamp function whenever the ignition is turned to the ''on'' or ''run'' position. The indicator lamp shall be deactivated at the end of the check of lamp function unless a trailer ABS malfunction signal is present.

* * * * *

S5.1.6.3 *Antilock power circuit for towed vehicles.* Each truck tractor manufactured on or after March 1, 1997, and each single unit vehicle manufactured on or after March 1, 1998, that is equipped to tow another air-braked vehicle shall be equipped with one or more electrical circuits that provide continuous power to the antilock system on the towed vehicle or vehicles whenever the ignition (start) switch is in the ''on'' (run) position. Such a circuit shall be adequate to enable the antilock system on each towed vehicle to be fully operable.

* * * * *

S5.2.3.2 *Antilock malfunction signal.* Each trailer (including a trailer converter dolly) manufactured on or after March 1, 2001, that is equipped with an antilock brake system shall be equipped with an electrical circuit that is capable of signaling a malfunction in the trailer's antilock brake system, and shall have the means for connection of this antilock brake system malfunction signal circuit to the towing vehicle. The electrical circuit need not be separate or dedicated exclusively to this malfunction signaling function. The signal shall be present whenever there is a malfunction that affects the generation or transmission of response or control signals in the trailer's antilock brake system. The signal shall remain present as long as the malfunction exists, whenever power is supplied to the antilock brake system. Each message about the existence of such a malfunction shall be stored in the antilock brake system whenever power is no longer supplied to the system, and the malfunction signal shall be automatically reactivated whenever power is again supplied to the trailer's antilock brake system. In addition, each trailer manufactured on or after March 1, 2001, that is designed to tow another air-brake equipped trailer shall be capable of transmitting a malfunction signal from the antilock brake system(s) of additional trailers it tows to the vehicle towing it.

* * * * *

S5.2.3.3 *Antilock malfunction indicator.* In addition to the requirements of S5.2.3.2, each trailer (including a trailer converter dolly) manufactured on or after March 1, 1998, and before March 1, 2009, shall be equipped with an external indicator lamp that is activated whenever there is a malfunction that affects the generation or transmission of response or control signals in the trailer's antilock brake system. The indicator lamp shall remain activated as long as such a malfunction exists, whenever power is supplied to the antilock brake system. Each message about the existence of such a malfunction shall be stored in the antilock brake system whenever power is no longer supplied to the system, and the malfunction signal shall be automatically reactivated when power is again supplied to the trailer's antilock brake system. The indicator lamp shall also be activated as a check of lamp function whenever power is supplied to the antilock brake system and the vehicle is stationary. The indicator lamp shall be deactivated at the end of the check of lamp function unless there is a malfunction or a message about a malfunction that existed when power

was last supplied to the antilock brake system.

* * * * *

S5.5.2 *Antilock system power—trailers.* On a trailer (including a trailer converter dolly) manufactured on or after March 1, 1998 that is equipped with an antilock system that requires electrical power for operation, the power shall be obtained from the towing vehicle through one or more electrical circuits which provide continuous power whenever the powered vehicle's ignition (start) switch is in the ''on'' (run) position. The antilock system shall automatically receive power from the stoplamp circuit, if the primary circuit or circuits are not functioning. Each trailer (including a trailer converter dolly) manufactured on or after March 1, 1998 that is equipped to tow another air-braked vehicle shall be equipped with one or more circuits which provide continuous power to the antilock system on the vehicle(s) it tows. Such circuits shall be adequate to enable the antilock system on each towed vehicle to be fully operable.

* * * * *

Issued on: February 12, 1996.

Ricardo Martinez,

Administrator.

[FR Doc. 96–3382 Filed 2–13–96; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register
Vol. 61, No. 32
Thursday, February 15, 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.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 336

RIN 3064–AB43

Minimum Standards of Fitness for Employment With the Federal Deposit Insurance Corporation

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is proposing for public comment regulations to implement the requirements contained in section 19 of the Resolution Trust Corporation Completion Act, which amended the Federal Deposit Insurance Act to prohibit certain persons from becoming employed or providing services to the FDIC.

DATES: Written comments must be received on or before March 15, 1996.

ADDRESSES: Written comments should be addressed to Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. Comments may be hand delivered to Room F–402, 1776 F Street NW., Washington, DC 20429, on business days between 8:30 a.m. and 5:00 p.m. [Fax number: (202) 898–3838; Internet address: comments@fdic.gov]. Comments will be available for inspection and photocopying at the FDIC's Reading Room, Room 7118, 550 17th Street NW., Washington, DC between 9:00 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Joy Crosser, Personnel Management Specialist, Division of Administration, (202) 942–3314; Michelle Borzillo, Counsel, Legal Division, (202) 898–7400; or Gladys C. Gallagher, Counsel, Legal Division, (202) 898–3833.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this proposed rule has been submitted to the Office of Management and Budget (OMB) for review and approval pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Comments regarding the accuracy of the burden estimate, and suggestions for reducing the burden, should be addressed to the Office of Management and Budget, Paperwork Reduction Project (3064–0117), Washington, D.C. 20503, with copies of such documents sent to Steven F. Hanft, Assistant Executive Secretary (Administration), FDIC, Room F–400, 550 17th Street NW., Washington, D.C. 20429.

The collection of information in this proposed rule is found in § 336.4(b) and takes the form of a certification of compliance. However, in addition to the certification, the person applying for employment must provide an attachment to the certification describing any instance in the preceding five years in which the applicant, or a company under the applicant's control, has defaulted on a material obligation to an insured depository institution. The information will be used by the FDIC to identify those persons prohibited from becoming employed by or providing services to the FDIC.

The estimated annual reporting burden for the collection of information requirement in this proposed rule is summarized as follows:

Number of Respondents	200
Number of Responses per Respondent	1
Total Annual Responses	200
Hours per Response	[1] 20
Total Annual Burden Hours	66.6

[1] Minutes.

Regulatory Flexibility Act

The Board hereby certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). These regulations affect only those individuals who are employed or will become employed by the FDIC. Therefore, the provisions of that Act relating to an initial and final regulatory analysis (5 U.S.C. 603 and 604) do not apply here.

Background

The Resolution Trust Corporation Completion Act (hereafter referred to as the Completion Act), Pub. L. 103–204, enacted on December 17, 1993, amended section 12 of the Federal Deposit Insurance Act, 12 U.S.C. 1822, to prohibit any person from becoming employed or providing service to or on behalf of the FDIC who does not meet minimum standards of competence, experience, integrity, and fitness.

The Completion Act provides that FDIC employees are subject to title 18 of the U.S. Code, and are subject to the ethics and conflict of interest rules and regulations issued by the Office of Government Ethics, including those concerning employee conduct, financial disclosure, and post-employment activities. The statute also provides that the Corporation shall issue regulations implementing provisions that prohibit any person from becoming employed who: has been convicted of any felony; has been removed from, or prohibited from participating in the affairs of any insured depository institution pursuant to any final enforcement action by any appropriate federal banking agency; demonstrated a pattern or practice of defalcation regarding obligations to insured depository institutions; or caused a substantial loss to federal deposit insurance funds. The statute requires the collection from applicants for employment information describing any instance during the preceding 5 years in which the applicant or a company under the applicant's control defaulted on a material obligation to an insured depository institution, along with other information the Corporation may require by regulation. The Completion Act gives the Corporation sole discretion over any issues that arise as a result of these prohibitions, and any decisions made by the Corporation shall not be subject to review.

A. Scope of the Proposed Regulation

FDIC operates in a number of separate and distinct capacities and situations. This part will apply to all FDIC employees performing duties for or on behalf of the FDIC in any capacity.

This regulation is directed towards the implementation of the mandatory bars contained in section 19 of the Completion Act which amends 12

U.S.C. 1822(f)(4)(E). This part does not in any way modify other applicable rules and regulations governing employee conduct, ethics, or qualification standards. Further, there is no need to further augment in FDIC regulations the existing education and experience requirements defined in the U.S. Office of Personnel Management's (U.S. OPM) Operating Manual for General Schedule Qualification Standards.

B. Definitions

Section 336.3 contains definitions of terms used throughout this regulation.

Company: The proposed definition of company expands on that used in section 2(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(b)) to include firms, societies and joint ventures. These entities were included to amplify the original definition and for consistency with the application of the Completion Act to contractors providing services to the FDIC.

Default on a Material Obligation: The FDIC proposes to define this term to mean a delinquency of 90 or more days as to payment of principal or interest, or a combination thereof, on a loan or advance from an insured depository institution in any amount. As prescribed by the statute, this regulation requires that all applicants for employment submit a list and description of defaults on material obligations incurred by themselves or a company under their control during the 5 years preceding the submission. All defaults are to be listed regardless of whether or not they have been cured. The Corporation has set no minimum dollar value to this definition; information regarding the candidate's conduct in meeting obligations to insured depository institutions is significant in assessing the fitness and integrity of an individual for employment with the FDIC. Therefore, all defaults which meet this definition, regardless of outstanding balances, shall be reported, but are not automatic bars to employment in themselves.

Pattern or Practice of Defalcation Regarding Obligations: This proposed definition addresses two situations. The first concerns individuals who have a history of financial irresponsibility with regard to an open insured depository institution to such an extent that the FDIC's employment of such an individual reflects adversely on the FDIC's integrity and credibility. The second situation concerns individuals who have wrongfully refused to fulfill obligations to an insured depository institution.

In the first situation involving financial irresponsibility, a pattern or practice of defalcation regarding obligations exists when an employee has defaulted on obligations totalling in excess of $50,000 in the aggregate. Defaults caused by catastrophic events such as death, disability or illness, or loss of financial support will not be considered a violation of this standard. Examples are provided in the regulation's definition to clarify the meaning of ''financial irresponsibility'', including the example of failing to pay debts which were secured by uninsured property that was destroyed. Another example of such financial irresponsibility would be an abuse of credit cards or incurring excessive debt well beyond the individual's ability to repay.

The second part of this definition addresses individuals who wrongfully refuse to fulfill duties and obligations to insured depository institutions. Again, examples are provided, which illustrate the full scope of ''wrongful refusal to fulfill duties and obligations''. The examples include misconduct on the part of a borrower, such as use of false financial statements, misrepresentation of ability to repay a debt, or concealing assets. Additional examples focus on findings of misconduct on the part of officers, employees, contractors or others providing service to an insured depository institution, or who have committed fraud, embezzlement or similar misconduct.

Substantial Loss to Federal Deposit Insurance Funds: This proposed definition incorporates $50,000 as the threshold amount for establishing a substantial loss. This loss must have inured to one of the Federal Deposit Insurance Funds (Insurance Funds) maintained by the FDIC, the Resolution Trust Corporation (RTC), Federal Savings & Loan Insurance Corporation, or their successors. Two types of losses are addressed, which are: 1) debts in default for which there remain a legal obligation to pay; and 2) final judgments, regardless of whether forgiven in whole or in part in a bankruptcy proceeding.

C. Minimum Standards for Appointment to a Position With the FDIC

All applicants, including former employees of the FDIC who are reemployed after a break in service of more than 3 days, will be subject to this regulation for any noncompliance with the prohibitions which occurred either before or after the enactment of the Completion Act. Applicants will be required to submit a certification prior to employment which addresses each of the statutory prohibitions and further will be required to submit information regarding any default during the previous five years. Extending the statute's five-year reporting requirement by applicants was considered but was dismissed because investigations will be conducted on all new appointees to ascertain all relevant information regarding the individual's history of defaults. Regardless of the number of years for which an applicant is required to submit a written report regarding defaults, any pattern or practice of defalcation regarding obligations or substantial loss, as defined in this regulation, will be subject to these minimum standards. Similarly, any felony conviction and any removal from, or prohibition from participation in the affairs of, any insured depository institution by a federal banking agency will be subject to the prohibitions of this regulation without time limitation. A felony conviction that has been pardoned, as opposed to being overturned on appeal, remains a conviction and is therefore subject to the prohibition mandated by the Completion Act.

D. Minimum Standards for Employment With the FDIC

The Corporation finds sufficient support in the text of the statute for applying the terms of the Completion Act prospectively, and therefore will not require the enforcement of these minimum standards against incumbent employees of the FDIC under an appointment authorized by title 5 of the United States Code on or before June 17, 1994, for noncompliance which occurred prior to that date. However, any final enforcement action by any appropriate federal banking agency, any final judgment or any felony conviction which is finalized on or after June 18, 1994, even though the act or omission which is the basis of the action or judgment occurred prior to June 18, 1994, will be subject to the standards of this regulation. Additionally, eligibility for employment with the FDIC continues to be based on suitability standards for federal employment as measured from past and present conduct which determines whether or not an employee can perform his or her duties with efficiency and effectiveness.

All employees, regardless of date of first appointment or tenure, will be subject to this regulation for any noncompliance with the standards that occurs on or after June 18, 1994. Further, any noncompliance with the standards that first occurred prior to June 18, 1994, which meets the

definitions of causing a substantial loss to the Insurance Funds or a pattern or practice of defalcation regarding obligations to an insured depository institution based on financial irresponsibility and which resulted in indebtedness that remains uncured after June 18, 1994, cannot be excused.

Employees appointed prior to the June 18, 1994 effective date for section 19 of the Completion Act and who continue without a break in service of more than 3 days from one type of appointment with the FDIC to another will not be subject to the prohibitions for noncompliance prior to June 18, 1994. For example, an employee serving on an excepted-service temporary appointment who may be selected for a competitive-service time-limited or permanent appointment without a break in service would not be considered a new applicant for purposes of this regulation. This proposed regulation shall apply to all appointments, including co-operative student hires, experts and consultants, detailees from other agencies and any other individual appointed to provide service to or on behalf of the FDIC.

Employees assigned to the RTC were held to comparable minimum standards of fitness for employment in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. 101–73, as implemented by regulation in 12 CFR Part 1605, which were applied retroactively by statute. Therefore, unlike incumbent FDIC employees who were not covered by Pub. L. 101–73 minimum standards, any noncompliance with the standards by incumbent employees assigned to RTC prior to June 18, 1994, remain subject to the Pub. L. 101–73 minimum standards, and will not be excused.

Noncompliance occurring on or after June 18, 1994, with the standards contained in this regulation will be a basis for removal of the employee under the authority of the Completion Act.

E. Verification of Compliance

Under the authority provided by 12 U.S.C. 1819 and 1822, the FDIC will conduct background investigations to verify the information certified by applicants and to determine suitability for employment with the FDIC. In addition, the FDIC will screen the Financial Institutions Investigative and Enforcement Records System maintained internally by the FDIC's Division of Supervision regarding records of federal banking agency enforcement actions. The FDIC will also examine its own and other regulatory records systems for findings of a pattern or practice of defalcation regarding obligations and/or a substantial loss to the Insurance Funds as defined in this regulation.

F. Employee Responsibility, Counseling and Distribution of Regulation

Employees are required to familiarize themselves with the provisions of this regulation. Within ten days of the action or the discovery of the noncompliance, an employee shall report in writing to the Ethics Counselor regarding noncompliance with any of the prohibitions contained in § 336.5(a) (1) through (4) of this regulation. Also, if the employee receives a letter from the FDIC demanding payment on an obligation that was initially owed to an insured depository institution and is now owed to the FDIC, the employee must notify the Ethics Counselor within 10 days of receipt of such letter. Employees shall consult with the Ethics Counselor regarding the impact of this regulation on their continued employment. The Ethics Counselor shall provide counseling and guidance to employees regarding the statutes, regulations and Corporation's policies under this part. The Ethics Counselor will review all information presented by the employee and/or the employee's representative relevant to establishing responsibility for the debt and corrective actions taken. The employee has a duty to cooperate with the Ethics Counselor in providing the information that is necessary to the Ethics Counselor's determination of compliance or noncompliance.

G. Sanctions and Remedial Actions

There is no remedial action for an employee found in noncompliance with the standards at § 336.5(a) (1) and (2), for felony convictions and enforcement actions, as an employee is afforded the opportunity to remedy those findings through other proceedings. Also, there is no remedial action for an employee found in noncompliance with the standards of § 336.4(a)(4), as the Corporation's Division of Depositor and Asset Services provides the opportunity to work out debts owed to the Insurance Funds. Further, noncompliance with § 336.5(a)(3) based on wrongful refusal to fulfill duties on obligations to insured depository institutions cannot be remedied. However, employees will be provided a reasonable opportunity to remedy following notification of noncompliance with the prohibitions at § 336.5(a)(3) based on financial irresponsibility as defined in 336.3(i)(1). Such employees may establish an agreement to resolve the outstanding indebtedness that satisfies both the insured depository institution and the FDIC, or otherwise resolve the matter to the satisfaction of the FDIC. This remedial action provided employees will not be extended to applicants for employment. Filling a vacancy will not be delayed in order for an applicant to cure his or her debts that are deemed not in compliance with § 336.4(a) (3) through (4).

Individuals appointed by the President with the advice and consent of the Senate, which include both the appointed and *ex officio* members of the Board of Directors and the Inspector General, cannot be removed from their positions under the authority of the FDIC. Therefore, this regulation does not apply to individuals appointed to or serving on an acting basis in positions designated by Title 5 of the U.S. Code as officials of the Federal Executive Schedule. Federal employees who are serving the FDIC, but are employed by another agency, such as detailees or employees of the Office of Thrift Supervision or the Office of the Comptroller of the Currency, may be returned to the employing agency if found not to be in compliance with the minimum standards.

H. Finality of Determination

Section 336.9 of this proposed regulation tracks the language of the Federal Deposit Insurance Act, 12 U.S.C. 1822(f)(4)(D)(ii).

List of Subjects in 12 CFR Part 336

Conflict of interests.

For the reasons set out in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation proposes to revise part 336 of chapter III of title 12 of the Code of Federal Regulations as follows:

PART 336—FDIC EMPLOYEES

Subpart A—Employee Responsibilities and Conduct

Sec.

336.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Subpart B—Minimum Standards of Fitness for Employment With the Federal Deposit Insurance Corporation

336.2 Authority, purpose and scope.
336.3 Definitions.
336.4 Minimum standards for appointment to a position with the FDIC.
336.5 Minimum standards for employment with the FDIC.
336.6 Verification of compliance.
336.7 Employee responsibility, counseling and distribution of regulation.
336.8 Sanctions and remedial actions.
336.9 Finality of determination.

Subpart A—Employee Responsibilities and Conduct

Authority: 5 U.S.C. 7301; 12 U.S.C. 1819(a).

§ 336.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Employees of the Federal Deposit Insurance Corporation (Corporation) are subject to the Executive Branch-wide Standards of Ethical Conduct at 5 CFR part 2635, the Corporation regulation at 5 CFR part 3201 which supplements the Executive Branch-wide Standards, the Executive Branch-wide financial disclosure regulations at 5 CFR part 2634, and the Corporation regulation at 5 CFR part 3202, which supplements the Executive Branch-wide financial disclosure regulations.

Subpart B—Minimum Standards of Fitness for Employment With the Federal Deposit Insurance Corporation

Authority: 12 U.S.C. 1819(Tenth), 1822(f).

§ 336.2 Authority, purpose and scope.

(a) *Authority.* This part is adopted pursuant to section 12(f) of the Federal Deposit Insurance Act, 12 U.S.C. 1822, and the rulemaking authority of the Federal Deposit Insurance Corporation (FDIC) found at 12 U.S.C. 1819. This part is in addition to, and not in lieu of, any other statutes or regulations which may apply to standards for ethical conduct or fitness for employment with the FDIC and is consistent with the goals and purposes of 18 U.S.C. 201, 203, 205, 208, and 209.

(b) *Purpose.* The purpose of this part is to state the minimum standards of fitness and integrity required of individuals who provide service to or on behalf of the FDIC and provide procedures for implementing these requirements.

(c) *Scope.* (1) This part applies to applicants for employment with the FDIC under title 5 of the U.S. Code appointing authority in either the excepted or competitive service, including Special Government Employees. This part applies to all appointments, regardless of tenure, including intermittent, temporary, time-limited and permanent appointments.

(2) In addition, this part applies to all employees of the FDIC who serve under an appointing authority under chapter 21 of title 5 of the U.S. Code.

(3) Further, this part applies to any individual who, pursuant to a contract or any other arrangement, performs functions or activities of the Corporation, under the direct supervision of an officer or employee of the Corporation.

§ 336.3 Definitions.

For the purposes of this part:

(a) *Company* means any corporation, firm, partnership, society, joint venture, business trust, association or similar organization, or any other trust unless by its terms it must terminate within twenty-five years or not later than twenty-one years and ten months after the death of individuals living on the effective date of the trust, or any other organization or institution, but shall not include any corporation the majority of the shares of which are owned by the United States, any state, or the District of Columbia.

(b) *Control* means the power to vote, directly or indirectly, 25 percent or more of any class of the voting stock of a company, the ability to direct in any manner the election of a majority of a company's directors or trustees, or the ability to exercise a controlling influence over the company's management and policies. For purposes of this definition, a general partner of a limited partnership is presumed to be in control of that partnership. For purposes of this part, an entity or individual shall be presumed to have control of a company if the entity or individual directly or indirectly, or acting in concert with one or more entities or individuals, or through one or more subsidiaries, owns or controls 25 percent or more of its equity, or otherwise controls or has power to control its management or policies.

(c) *Default on a material obligation* means a loan or advance from an insured depository institution which is or was delinquent for 90 or more days as to payment of principal or interest, or any combination thereof.

(d) *Employee* means any officer or employee, including a liquidation graded or temporary employee, providing service to or on behalf of the FDIC who has been appointed to a position under an authority contained in title 5 of the U.S. Code. This definition excludes those individuals designated by title 5 of the U.S. Code as officials in the Federal Executive Schedule.

(e) *Federal banking agency* means the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation, or their successors.

(f) *Federal deposit insurance fund* means the Bank Insurance Fund, the Savings Association Insurance Fund, the Federal Savings and Loan Insurance Corporation (FSLIC) Resolution Fund, or the funds that were formerly maintained by the Resolution Trust Corporation (RTC) for the benefit of insured depositors.

(g) *FDIC* means the Federal Deposit Insurance Corporation, in its receivership and corporate capacities.

(h) *Insured depository institution* means any bank or savings association the deposits of which are insured by the FDIC.

(i) *Pattern or practice of defalcation regarding obligations* means:

(1) A history of financial irresponsibility with regard to debts owed to insured depository institutions which are in default in excess of $50,000 in the aggregate. Examples of such financial irresponsibility include, without limitation:

(i) Failure to pay a debt or debts totalling more than $50,000 secured by an uninsured property which is destroyed; or

(ii) Abuse of credit cards or incurring excessive debt well beyond the individual's ability to repay resulting in default(s) in excess of $50,000 in the aggregate.

(2) Wrongful refusal to fulfill duties and obligations to insured depository institutions. Examples of such wrongful refusal to fulfill duties and obligations include, without limitation:

(i) Any use of false financial statements;

(ii) Misrepresentation as to the individual's ability to repay debts;

(iii) Concealing assets from the insured depository institution;

(iv) Any instance of fraud, embezzlement or similar misconduct in connection with an obligation to the insured depository institution; and

(v) Any conduct described in any civil or criminal judgment against an individual for breach of any obligation, contractual or otherwise, or any duty of loyalty or care that the individual owed to an insured depository institution.

(3) Defaults shall not be considered a pattern or practice of defalcation where the defaults are caused by catastrophic events beyond the control of the employee such as death, disability, illness or loss of financial support.

(j) *Substantial loss to federal deposit insurance funds.* (1) *Substantial loss to federal deposit insurance funds* means:

(i) A loan or advance from an insured depository institution, which is now owed to the FDIC, RTC, FSLIC or their successors, or any federal deposit insurance fund, that is delinquent for ninety (90) or more days as to payment of principal, interest, or a combination thereof and on which there remains a

legal obligation to pay an amount in excess of $50,000; or

(ii) A final judgment in excess of $50,000 in favor of any federal deposit insurance fund, the FDIC, RTC, FSLIC, or their successors regardless of whether it becomes forgiven in whole or in part in a bankruptcy proceeding.

(2) For purposes of computing the $50,000 ceiling in paragraphs (j)(1) (i) and (ii) of this section, all delinquent judgments, loans, or advances currently owed to the FDIC, RTC, FSLIC or their successors, or any federal deposit insurance fund, shall be aggregated. In no event shall delinquent loans or advances from different insured depository institutions be separately considered.

§ 336.4 Minimum standards for appointment to a position with the FDIC.

(a) No person shall become employed on or after June 18, 1994, by the FDIC or otherwise perform any service for or on behalf of the FDIC who has:

(1) Been convicted of any felony;

(2) Been removed from, or prohibited from participating in the affairs of, any insured depository institution pursuant to any final enforcement action by any appropriate federal banking agency;

(3) Demonstrated a pattern or practice of defalcation regarding obligations to insured depository institutions; or

(4) Caused a substantial loss to federal deposit insurance funds.

(b) Prior to an offer of employment, any person applying for employment with the FDIC shall sign a certification of compliance with the minimum standards listed in paragraphs (a) (1) through (4) of this section. In addition, any person applying for employment with the FDIC shall provide as an attachment to the certification any instance in which the applicant, or a company under the applicant's control, defaulted on a material obligation to an insured depository institution within the preceding five years.

(c) Incumbent employees who separate from the FDIC and are subsequently reappointed after a break in service of more than three days are subject to the minimum standards listed in paragraphs (a) (1) through (4) of this section. The former employee is required to submit a new certification statement including attachments, as provided in paragraph (b) of this section, prior to appointment to the new position.

§ 336.5 Minimum standards for employment with the FDIC.

(a) No person who is employed by the FDIC shall continue in employment in any manner whatsoever or perform any service for or on behalf of the FDIC who, beginning June 18, 1994 and thereafter:

(1) Is convicted of any felony;

(2) Is prohibited from participating in the affairs of any insured depository institution pursuant to any final enforcement action by any appropriate federal banking agency;

(3) Demonstrates a pattern or practice of defalcation regarding obligations to insured depository institution(s); or

(4) Causes a substantial loss to federal deposit insurance funds.

(b) Any noncompliance with the standards listed in paragraphs (a) (1) through (4) of this section is a basis for removal from employment with the FDIC.

§ 336.6 Verification of compliance.

The FDIC's Division of Administration shall order appropriate investigations as authorized by 12 U.S.C. 1819 and 1822 on newly appointed employees, either prior to or following appointment, to verify compliance with the minimum standards listed under § 336.4(a) (1) through (4).

§ 336.7 Employee responsibility, counseling and distribution of regulation.

(a) Each employee is responsible for being familiar with and complying with the provisions of this part.

(b) The Ethics Counselor shall provide a copy of this part to each new employee within 30 days of initial appointment.

(c) An employee who believes that he or she may not be in compliance with the minimum standards provided under § 336.5(a) (1) through (4), or who receives a demand letter from the FDIC for any reason, shall make a written report of all relevant facts to the Ethics Counselor within ten (10) business days after the employee discovers the possible noncompliance, or after the receipt of a demand letter from the FDIC.

(d) The Ethics Counselor shall provide guidance to employees regarding the appropriate statutes, regulations and corporate policies affecting employee's ethical responsibilities and conduct under this part.

(e) The Ethics Counselor shall provide the Personnel Services Branch with notice of an employee's noncompliance.

§ 336.8 Sanctions and remedial actions.

(a) Any employee found not in compliance with the minimum standards except as provided in paragraph (b) of this section shall be terminated and prohibited from providing further service for or on behalf of the FDIC in any capacity. No other remedial action is authorized for sanctions for noncompliance.

(b) Any employee found not in compliance with the minimum standards under § 336.5(a)(3) based on financial irresponsibility as defined in § 336.3(i)(1) shall be terminated consistent with applicable procedures and prohibited from providing future services for or on behalf of the FDIC in any capacity, unless the employee brings him or herself into compliance with the minimum standards as provided in paragraphs (b) (1) and (2) of this section.

(1) Upon written notification by the Corporation of financial irresponsibility, the employee will be allowed a reasonable period of time to establish an agreement that satisfies the creditor and the FDIC as to resolution of outstanding indebtedness or otherwise resolves the matter to the satisfaction of the FDIC prior to the initiation of a termination action.

(2) As part of the agreement described in paragraph (b)(1) of this section, the employee shall provide authority to the creditor to report any violation by the employee of the terms of the agreement directly to the FDIC Ethics Counselor.

§ 336.9 Finality of determination.

Any determination made by the FDIC pursuant to this part shall be at the FDIC's sole discretion and shall not be subject to further review.

By Order of the Board of Directors.

Dated at Washington, D.C. this 6th day of February 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–3272 Filed 2–14–96; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–AEA–17]

Proposed Amendment of Class D Airspace; Utica, NY, and Proposed Amendment of Class D Airspace and Class E4 Airspace, Rome, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would modify Class D airspace designated as a surface area for Oneida County Airport, Utica, New York and Griffiss AFB,

Rome, New York. There is existing Class D airspace for each location. This proposal would redefine the boundaries of each area, and reduce the amount of of Class D airspace located to the east of these airports. The associated Class E4 airspace areas, at Griffiss AFB, designated as an extension to a Class D surface area, would also be modified and made effective only at the times the Griffiss AFB tower is operating. The actual use of the Class D airspace, by each airport, is based on the geographic division provided by the New York State Barge Canal; the modification would reflect this division.

DATES: Comments must be received on or before March 15, 1996.

ADDRESSES: Send comments on the rule in triplicate to: Manager, System Management Branch, AEA–530, Docket No. 95–AEA–17, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the System Management Branch, AEA–530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, System Management Branch, AEA–530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–AEA–17''. The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments received will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the System Management Branch, Air Traffic Division, AEA–530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71). This proposed rule would modify the Class D airspace at Oneida County Airport, Utica, NY to designate the surface airspace that is actually utilized for the Oneida County Airport when the tower is in operation. This proposed rule would modify the Class D airspace and associated Class E4 airspace designated as an extension to a Class D surface area at Griffiss AFB. The air traffic control tower is no longer operating 24 hours a day at Griffiss AFB, and a ''by NOTAM'' clause would be added to the Class D and Class E4 airspace descriptions. This would result in the airport having surface controlled airspace, Class D, for a period of time; then reverting to uncontrolled Class G airspace under a 700 foot Class E5 airspace area. The weather observations are only available during those same hours as the control tower operates. Class D and Class E4 airspace designations are published in Paragraph 5000 and 6004, respectively, of FAA Order 7400.9C, dated August 17, 1995 and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995 and effective September 16, 1995, is amended as follows:

Paragraph 5000—Subpart D—Class D airspace, areas designated as a surface area for an airport.

* * * * *

AEA NY D Utica, NY [Revised]

Oneida County Airport, Utica, NY
(Lat. 43°08′42″N., long. 75°23′02″W.)

That airspace extending upward from the surface to and including 3,200 feet MSL within a 4.2-mile radius of the Oneida County Airport, excluding the portion which is north and east of the New York State Barge Canal, along a line extending from lat. 43°12′02″N., long. 75°26′23″W. to lat. 43°11′56″N., long. 75°22′30″W. to lat 43°11′16″N., long. 75°20′53″W. to lat. 43°08′30″N., long. 75°17′22″W. This Class D airspace area is effective during the specific dates and times established in advance by a

Notice to Airmen. The effective date and time will thereafter be published in the Airport/Facility Directory.

* * * * *

AEA NY D Rome, NY [Revised]

Griffiss AFB, Rome, NY
(Lat. 43°14′02″N., long. 75°24′26″)

That airspace extending upward from the surface to and including 3000 feet MSL within a 4.5-mile radius of Griffiss AFB, excluding the portion within the Utica, NY, Class D airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004—Subpart E—Class E airspace areas designated as an extension to a Class D surface area.

* * * * *

AEA NY E4 Rome, NY [Revised]

Griffiss AFB, Rome, NY
(Lat. 43°14′02″N., long. 75°24′26″W.)

That airspace extending upward from the surface within 1.2 miles each side of a 314° bearing extending from the 4.5-mile radius of Griffiss AFB to 6.9 miles northwest of the airport and within 1.2 miles each side of a 134° bearing extending from the 4.5-mile radius of Griffiss AFB to 6.9 miles southeast of the airport, excluding that airspace within the Utica, NY, Class D airspace area. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Jamaica, New York, on January 29, 1996.

John S. Walker,

Manager, Air Traffic Division.

[FR Doc. 96–3489 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 71

[Airspace Docket No. 95–AEA–16]

Proposed Establishment of Class E5 Airspace; Rome, NY, and Proposed Amendment of Class E5 Airspace, Utica, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would modify Class E5 airspace extending upward from 700 feet above the earth for Oneida County Airport, New York and for Griffiss AFB, Rome, New York. The proposal would add controlled airspace to accommodate Standard Instrument Approach Procedures (SIAPs) and for Instrument Flight Rule (IFR) operations at the Oneida County Airport and the Griffis AFB. This proposal would also establish a separate Class E5 airspace description for Griffiss AFB and Oneida County Airport.

DATES: Comments must be received on or before March 15, 1996.

ADDRESSES: Send comments on the rule in triplicate to: Manager, System Management Branch, AEA–530, Docket No. 95–AEA–16, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building, #111, John F. Kennedy International Airport, Jamaica, New York 11430. An informal docket may also be examined during normal business hours in the System Management Branch, AEA–530, F.A.A. Eastern Region, Federal Building #111 John F. Kennedy International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, System Management Branch, AEA–530, F.A.A. Eastern Region, Federal Building #111 John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–AEA–16''. The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments received will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the System Management Branch, Air Traffic Division, AEA–530, F.A.A. Eastern Region, Federal Building, #111, John F. Kennedy International Airport, Jamaica, NY 11430.

Communications must identify the notice of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering amending part 71 of the Federal Aviation Regulations (14 CFR part 71) by modifying the Class E5 airspace at both Griffiss AFB and Oneida County Airport. This proposal would provide a Class E5 airspace description for each airport. The proposed modifications would accommodate SIAPs and instrument flight rules (IFR) operations at Oneida County Airport and provide additional controlled airspace for vectoring of aircraft. In addition, airspace efficiency would be enhanced by establishing additional controlled airspace at 700 feet above ground level on the northwest side of Griffiss AFB between 8.7 and 15 miles. Class E5 airspace areas extending upward from 700 feet or more above the earth are published in Paragraph 6005 of FAA Order 7400.9C, dated August 17, 1995 and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is routine matter that would

only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects In 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The Authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995 and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the earth.

* * * * *

AEA NY E5 ROME, NY [New]

Griffiss AFB, Rome, NY
(Lat. 43°14′02″ N. long. 75°24′26″ W.)

That airspace extending upward from 700 feet above the surface within an 8.7-mile radius of Griffiss AFB and within 5.0 miles each side of the 315° bearing from Griffiss AFB extending from the 8.7-mile radius to 15 miles northwest of the Griffiss AFB, excluding the portion that coincides with the Utica, NY, Class E airspace.

* * * * *

AEA NY E5 UTICA, NY [Revised]

Oneida County Airport, Utica, NY
(Lat. 43°08′42″ N., long. 75°23′02″ W.)

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of Oneida County Airport and within 113° bearing from Oneida County Airport, extending from the 10.5-mile radius of the Oneida County Airport to 23 miles southeast of the Oneida County Airport, then clockwise on the 23 mile radius to the 203° bearing of the Oneida County Airport.

* * * * *

Issued in Jamaica, New York, on January 29, 1996.

John S. Walker,

Manager, Air Traffic Division.

[FR Doc. 96–3488 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Parts 217 and 241

[Docket No. OST–96–1049; Notice No. 96–2]

RIN 2105–AC34

Changes to International Data Submissions by Large Air Carriers (Form 41 Schedules T–100, T–100(f), and P–1.2)

AGENCY: Office of the Secretary, Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Transportation (DOT or the Department) proposes to reduce the period of confidential treatment of international nonstop segment and on-flight market data from three years to immediately following the Department's determination that the database is complete, but no sooner than six months after the date of the data. The Department also proposes to collect aircraft capacity data from foreign air carriers and to rescind the requirement that Group III (large, U.S.) air carriers specify passenger revenues, passenger enplanements, passengers transported, and seating capacity by cabin configuration. This action is taken on the Department's initiative in order to make data available for planning and efficient resource allocation purposes, to ensure the accuracy of the data that are used by the Department in administering its program responsibilities, and to eliminate data that are no longer needed for regulatory purposes.

DATES: Comments are due April 15, 1996.

ADDRESSES: Comments should be directed to the Docket Clerk, Docket OST–96–1049, Room PL 401, Office of Secretary, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590. Comments should identify the regulatory docket number and seven copies should be submitted. The Department encourages commenters who wish to do so also to submit comments to the Department through the Internet; our Internet address is dot__dockets@postmaster.dot.gov.[1] Note, however, that at this time the Department considers only the paper copies filed with the Docket Clerk to be the official comments. Comments will be available for inspection at this address from 10:00 a.m. to 5:00 p.m., Monday through Friday both before and after the closing date for comments. Commenters wishing the Department to acknowledge receipt of their comments must submit with those comments a stamped, self-addressed postcard on which the following statement is made: Comments on Docket OST–96–1049. The postcard will be date/time stamped and returned to the commenter.

FOR FURTHER INFORMATION CONTACT: John Harman, Office of Aviation Analysis, or John Schmidt, Office of Aviation and International Economics, Office of the Assistant Secretary for Aviation and International Affairs, Office of the Secretary, U.S. Department of Transportation, 400 Seventh St. SW, Washington, DC 20590 at (202) 366–1059 or 366–5420, respectively.

SUPPLEMENTARY INFORMATION:

Program Requirements for and Importance of T–100 Data

The Department uses the traffic and capacity data reported on Schedules T–100 and T–100(f) to administer its aviation program responsibilities. In the original NPRM proposing the adoption of the T–100 data system (52 FR 26500–26502, July 15, 1987), the Department provided details of the 21 specific program areas that the T–100 data would support. The Department's responsibility in these program areas continues today and will continue into the future. Since the emphasis in this current rulemaking is on international T–100 data, the Department specifically recognizes the critical importance of accurate and reliable T–100 data that support evaluations of bilateral negotiations and international aviation developments. These data are also necessary in analyzing proposed operating plans in international air carrier selection cases, in developing international mail rates, and in establishing regulatory benchmarks for evaluating international fares and rates and International Air Transport Association agreements.

The availability and reliability of aviation data have recently taken on increased importance. The Department's *U.S. International Air Transportation Policy Statement* issued in April 1995 (60 FR 21841–21845, May 3, 1995) emphasized ''the importance of sound economic analysis based on sufficient data in developing policies and strategies for achieving our overall aviation goals.'' The General Accounting Office (GAO) also reflected this recent emphasis on aviation data in its April 1995 Report to Congressional Requesters, entitled *International Aviation, Airline Alliances Produce Benefits, but Effect on Competition is Uncertain.* In its assessment, GAO

[1] Our X.400 e-mail address is G=DOT/S=dockets/OU1=qmail/O=hq/p=gov+dot/a=attmail/c=us.

recommended, among other things, that the Secretary of Transportation ''direct the agency's new economic unit to analyze DOT's existing data * * * to determine if the U.S. airline industry or consumers have been negatively affected before reapproving all strategic alliances and any other alliance that the Secretary deems significant.'' Furthermore, in his July 11, 1995, testimony before the Senate Committee on Commerce, Science, and Transportation, the Secretary of Transportation reiterated the importance of quality data when he stated, ''we would emphasize the importance of sound economic analyses based on the best available data in developing policies and strategies for achieving our aviation goals.'' This present rulemaking is one means of achieving the Department's overall goal of requiring and using accurate, reliable, and consistent aviation data.

Background

When the Department instituted its Schedule T–100 reporting requirements for onboard traffic data, it granted a three-year confidentiality period to foreign carriers' data in order to address concerns by those carriers about disclosure of sensitive data. In order not to put U.S. carriers at a competitive disadvantage, the Department provided a three-year confidentiality period for U.S. carriers' international traffic data as well. The rule required U.S. air carriers to report capacity data, however, because of the concerns of foreign carriers and governments over the possible burden of reporting requirements, the Department elected not to require capacity data from foreign carriers, but to rely instead on commercial data sources.

After working with the data for five years, the Department and other users have found that three-year-old data are not relevant to the current conditions existing in the rapidly changing world of international commercial aviation. In addition, the Department has found the commercially available data on aircraft capacity to be unreliable for administering its program responsibilities.

Therefore, the Department proposes to narrow the confidentiality period on international data from three years to immediately following the Department's determination that the database is complete, but no earlier than six months. The Department also proposes to require foreign carriers to report two capacity data items already reported by U.S. air carriers: total available seats and available payload weight. The current international data reporting requirements for the largest (Group III) U.S. air carriers would be reduced by consolidating the data required into a smaller number of reporting elements. (Specifically, the reporting of cabin configuration (first, middle, and coach) data for the data elements of passengers enplaned, passengers transported, and available seats would be eliminated and a total by aircraft would be reported for each element. The reporting of corresponding transport revenue data by First Class and Coach on Schedule P–1.2, *Statement of Operations*, would also be eliminated. These data are not collected from foreign air carriers.)

Confidentiality of International T–100 Data

The Department published its final rule on November 16, 1988 (53 FR 46284), implementing the T–100 reporting system. The rule was effective January 1, 1990, and adopted a three-year confidentiality period for detailed nonstop segment and on-flight market data. By a separate final rule published January 25, 1991 (56 FR 2842), the Department eliminated the restrictions on disclosure of U.S. carriers' domestic Schedule T–100 data, making the data immediately available to the public after DOT validating, editing, and processing. Detailed international T–100 data submitted by U.S. and foreign air carriers continues to be withheld from public disclosure for a three-year period.

The Department has, as a matter of policy, consistently favored public release of information. This accords with the Administration's policy on dissemination of information. The President in his Freedom of Information memorandum of October 4, 1993, stated that, ''Each agency has a responsibility to distribute information on its own initiative and to enhance public access through the use of electronic information systems.'' T–100 international data are valuable resources to airline and airport planners, consumers, academics, and others interested in the functioning of air transport markets. Exchanges of these types of data are usually regarded as procompetitive.

With the increasing globalization of the airline industry in the late 1980's and the 1990's, the public need for these data has grown. Air travel markets have become more open: large markets now usually enjoy economic competition among several carriers of various nationalities. International cross-ownership and cooperative marketing agreements, including the use of capacity on a given flight by more than one airline and other code-sharing arrangements, have become commonplace. Air travel consumer choice in any given market is more and more determined by service and price competition without regard to the carriers' nationalities, and less and less by division of markets through international agreements.

Carriers have stated that they use traffic data extensively for route studies, passenger traffic forecasts, market share analyses, and other planning activities. The failure of the Department to release international traffic data may impede the ability of carriers to enter new markets and to continue efficient and responsive operations in existing markets. At least one carrier (Alaska Airlines, Docket 46101) has stated its belief that the unavailability of traffic data may very likely result in the misapplication of carrier resources, may decrease the number of carriers entering new markets, and may decrease the level of competition among carriers as market decisions are made on imperfect and incomplete information. The T–100 data are particularly useful since, with extremely limited exceptions, they cover all passengers and all carriers in the markets where they are collected, and because their collection is comparatively economical, efficient, and accurate. There are relatively few other traffic data available. The Immigration and Naturalization Service (INS) currently collects information concerning passengers on international flights into the United States, including whether they are U.S. citizens or aliens (I–92 report), which has been made publicly available to planners and analysts. These data are not comparable with T–100 data either in terms of market coverage, collection methodology, or reliability. Moreover, there is some concern on the part of the public that the INS data may no longer be made available because of budget restrictions.

With globalization of the airline industry, more carriers appear to be supporting the advantages of greater data availability and fewer appear to be concerned with the disadvantages of loss of confidentiality. Some shifts of position came to light in the comments on the 1991 rulemaking (Docket 46101). More recently, DOT staff involved in international air negotiations and aviation data collection have received similar informal comments from carriers that they would no longer have objections to their international data being released and would have an interest in using the data for planning.

DOT proposes to reduce the confidentiality period from three years to immediately following the

Department's determination that the database is complete, but no earlier than six months, for detailed international on-flight market and nonstop segment data in Schedules T–100 (U.S. carriers) and T–100(f) (foreign carriers). In order that U.S. air carriers not be placed at a competitive disadvantage because of data disclosure incomparability, DOT will continue to restrict availability of on-flight market and nonstop segment data for segments involving no U.S. points, for three years. (U.S. air carriers report all market and segment records, while foreign carriers only report those market and segment records that have a U.S. point.)

In sum, the benefits of changing the period of confidentiality from three years to six months are considerable. Six-month old data are much more relevant for planning and analysis than three-year old data. They also are significantly more useful than data released after one year since they would enable analysis and planning for the next season's schedules and operations (i.e., one year after the date of the data).

The impact on the reporting carriers will be minimal. Data released after six months are not so current as to allow day-to-day competitive strategies to be undermined. The requirement maintains a level playing field by reducing the time period for all carriers. Furthermore, the Department already makes domestic T–100 data immediately available to the public after DOT processing, and the T–100(f) data would enjoy greater protection. Because of the number and diversity of the carriers reporting international T–100 data (over 80 U.S. carriers and 170 foreign carriers), it would take a considerably longer time to edit and release them to the public even if they were to be made available immediately.

Reporting of Capacity Data by Foreign Air Carriers

Under the requirements of the final rule previously mentioned, 53 FR 46284, foreign air carriers are not required to report available seats and available payload weight. Instead, the Department decided that it would rely upon existing data sources in the private sector to estimate aircraft capacity data for foreign air carriers. At the time of issuing the final rule, the Department stated that these procedures for estimating capacity data would be effective for a trial period and, if they proved inadequate, the Department would employ *ad hoc* reporting requirements or would impose requirements to submit actual capacity data. As a result of its experience under this trial procedure, the Department has tentatively determined that the present methods for estimating capacity data are unreliable and proposes in this rulemaking to require foreign air carriers to report capacity data.

The Department's determination that the capacity estimates are unreliable is based, in part, upon the fact that use of the private sector sources for data on available aircraft seats has resulted in several instances of constructed load factors in excess of 100 percent for various foreign carriers, for various time periods, and in various markets. In constructing capacity figures from private sources, the Department encountered such problems as aircraft types not being on file or the same aircraft type for the same carrier having different capacities based on cabin configuration (first class, business, and coach, or all coach). In these scenarios, an estimate had to be used, which may not be close to the carrier's actual operation.[2]

Furthermore, the calculation of load factors in excess of 100 percent, while a definite indication of inaccurate data, does not enable the Department to evaluate how inaccurate the data are. DOT has also, on occasion, found reason to question whether a load factor may be too low, although it is obvious that the Department cannot reject it with the same degree of certainty that it would a load factor above 100 percent.

As with seat capacity data, the Department has tentatively decided that it no longer will depend upon commercially available data with regard to available payload weight for foreign air carriers to ensure that its program responsibilities are administered based on the most accurate data possible. The Department thus is proposing to require that the foreign air carriers report both available seats and available payload weight. Since U.S. air carriers now report those data, requiring foreign air carriers to report them will also further the Department's effort to achieve data reporting comparability.

Reduction of Capacity Detail Requirement for U.S. Carriers

The Department proposes to relax the current regulation requiring that Group III U.S. air carriers (those U.S. air carriers with total annual operating revenues of more than one billion dollars) report available seats, passenger enplanements, and passengers transported for each of three cabin configurations—first class cabin, middle class cabin, and coach class cabin—for all international operations. Thus, if this regulation is adopted, all carriers would report total available seats, total passenger enplanements, and total passengers transported by aircraft type. This action would reduce the reporting burden on U.S. air carriers while providing for data comparability among all reporting air carriers.

Form 41 Revenue Passenger Data by Fare Class

Since the Department is proposing not to collect passenger traffic and capacity data by cabin configuration, it is also proposing to collect a single passenger revenue figure rather than passenger revenue for first class and coach service on Form 41 Schedule P–1.2, *Statement of Operations*.

Rulemaking Analysis and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This notice of proposed rulemaking is not considered a significant regulatory action under section 3(f) of Executive Order 12866, and therefore it was not reviewed by the Office of Management and Budget.

The rule is not considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034), because it does not change Departmental policy concerning aviation information collection.

The economic impact of this regulation is not great. The proposed change in confidentiality restriction has no impact at all on the reporting burden of the carriers. The proposed changes in requirements for reporting capacity and revenue data by the eight largest U.S. air carriers will reduce the reporting burden for these air carriers by approximately 96 hours annually. On the other hand, the foreign air carriers will incur an increase in reporting burden. However, the Department does not believe that the increased reporting burden will be significant or onerous because this regulation adds only two capacity data items which are readily available from the carriers' computerized data files or other easily accessible reference documents. In order to quantify broadly the increased burden, the Department assumed that each of the 176 foreign air carriers would submit two new data items each month and that the process of collecting and transmitting the data would take no more than one hour each month. The

[2] For example, suppose a carrier had two seating configurations for a B–747–400 aircraft (three class configuration for a total of 350 seats and single class configuration of 425 seats), which means the Department has three choices—the high of 425 seats, the low of 350 seats, or an average of 388 seats. None of these choices may approximate the carrier's actual operations.

resulting hourly burden would not exceed 12 hours on an annual basis for any foreign air carrier, and the resulting total hourly burden on an annual basis for all the foreign air carriers as a group would be 2,112 hours. For all air carriers, this would be a net burden of 2,016 hours annually or $20,966 based on an estimated industry salary rate of about $10.40 an hour. (See 60 FR 61478, November 30, 1995.)

The benefits to the public, the industry, and the Department of accurate capacity data reported on a reliable and consistent basis, although unquantifiable, outweigh the limited increase in reporting burden.

Executive Order 12612

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

Regulatory Flexibility Act

I certify this proposed rule will not have a significant economic impact on a substantial number of small entities. The proposed amendments would affect only large U.S. certificated air carriers and foreign air carriers.

Paperwork Reduction Act

The reporting and recordkeeping requirement associated with this rule is being sent to the Office of Management and Budget for approval in accordance with 44 U.S.C. Chapter 35 under OMB NO: 2139-new, formerly OMB NO: 2138–0040; ADMINISTRATION: Office of the Secretary; TITLE: T–100 International Data; NEED FOR INFORMATION: Passenger and Capacity Information for Aviation Planning and Regulation; PROPOSED USE OF INFORMATION: Electronic Dissemination to Transportation Planners and Analysts; FREQUENCY: Monthly; BURDEN ESTIMATE: 2,016 annual hours; AVERAGE BURDEN HOURS PER RESPONDENT: 12 annual hours; ESTIMATED NUMBER OF RESPONDENTS: 184 Air Carriers; FOR FURTHER INFORMATION CONTACT: Copies of the information collection request submitted to OMB may be obtained from the IRM Strategies Division, M–32, Office of the Secretary of Transportation, 400 Seventh Street, SW, Washington, DC 20590–0001, (202) 366–4735. Comments on the proposed information collection request should be submitted to Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C., 20503, Attention: Desk Officer for the Department of Transportation. It is requested that comments sent to OMB also be sent to the Office of the Secretary Rulemaking Docket for this proposed action.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations, The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number 2105–AC34 contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 14 CFR Parts 217 and 241

Air Carriers, Air Transportation, Foreign Air Carriers.

Proposed Rule

PART 217—[AMENDED]

Accordingly, the Department of Transportation proposes to amend Chapter II of 14 CFR Part 217 *Reporting Traffic Statistics by Foreign Air Carriers in Civilian Scheduled, Charter, and Non-scheduled Services*, as follows:

1. The authority for Part 217 continues to read as follows:

Authority: 49 U.S.C. 329 and chapters 401, 413, 417.

2. Section 217.5 would be amended by adding paragraphs (b) (12) and (13) to read as follows:

§ 217.5 Data collected (data elements).

* * * * *

(b) * * *

(12) Available capacity-payload (Code 270) The available capacity is collected in kilograms. This figure shall reflect the available load (see *load, available in 14 CFR Part 241 Section 03*) or total available capacity for passengers, mail and freight applicable to the aircraft with which each flight stage is performed.

(13) Available seats (Code 310) The number of seats available for sale. This figure reflects the actual number of seats available, excluding those blocked for safety or operational reasons. Report the total available seats in item 310.

PART 241—[AMENDED]

Accordingly, the Department of Transportation proposes to amend Chapter II of 14 CFR Part 241 *Uniform System of Accounts and Reports for Large Certificated Air Carriers*, as follows:

1. The authority for Part 241 continues to read as follows:

Authority: 49 U.S.C. 329 and chapters 401, 411, 417.

2. Section 19–5(c) (7), (8) and (18) would be revised to read as follows:

Section 19–5 Air transport traffic and capacity elements.

* * * * *

(c) * * *

(7) *110 Revenue passengers enplaned*. The total number of revenue passengers enplaned at the origin point of a flight, boarding the flight for the first time; an unduplicated count of passengers in a market. Under the T–100 system of reporting, these enplaned passengers are the sum of the passengers in the individual on-flight markets. Report only the total revenue passengers enplaned in item 110. For all air carriers and all entities, item 110 revenue passengers enplaned is reported on Form 41 Schedule T–100 in column C–1, as follows.

	Col.	All carrier groups and entities
C–1	110	Revenue passengers enplaned.

(8) *130 Revenue passengers transported*. The total number of revenue passengers transported over single flight stage, including those already on board the aircraft from a previous flight stage. Report only the total revenue passengers transported in item 130. For all carriers and all entities, item 130 revenue passengers transported is reported on Form 41 Schedule T–100 in column B–7, as follows.

	Col.	All carrier groups and entities
B–7	130	Revenue passengers transported.

* * * * *

(18) *310 Available seats*. The number of seats available for sale. This figure reflects the actual number of seats available, excluding those blocked for safety or operational reasons. Report the total available seats in item 310. For all air carriers and all entities, item 310 available seats, total is reported on Form 41 Schedule T–100 in column B–4, as follows.

	Col.	All carrier groups and entities
B–4	310	Available seats, total.

* * * * *

3. Section 19–6 would be amended by revising paragraph (b) introductory text to read:

Section 19–6 Public disclosure of traffic data.

(a) * * *

(b) Detailed international on-flight market and nonstop segment data in schedule T–100 and Schedule T–100(f) reports shall be publicly available immediately following the Department's determination that the data base is complete, but no earlier than six months, with the exception of any data for on-flight markets and nonstop segments involving no U.S. points, which shall not be made publicly available for three years. Industry and carrier summary data may be made public before the end of six months provided there are three or more carriers in the summary data disclosed. The Department may, at any time, publish international summary statistics without carrier detail. Further, the Department may release nonstop segment and on-flight market detail data by carrier before the end of the confidentiality periods as follows:

* * * * *

4. In the appendix to section 241.25, Form 41, Schedule P–1.2, Statement of Operations, would be revised to read as shown below. Certain conventions have been used to highlight the proposed revision. New language is shown inside bold-faced arrows, while language that would be removed is set off with brackets.

BILLING CODE 4910–62–P

US Department of Transportation
Research and Special Programs Administration

Air Carrier _____

Operation _____

STATEMENT OF OPERATIONS

	Account No.	Quarter Ended _____, 19____	12 Months Ended _____, 19____
OPERATING REVENUES			
Passenger-First Class	3901.1		
Passenger-Coach	3901.2		
Transport Revenues-Passenger	3901		
Mail	3905		
Property-Freight	3906.1		
Property-Excess Passenger Baggage	3906.2		
Charter-Passenger	3907.1		
Charter-Property	3907.2		
Reservation Cancellation Fees	3919.1		
Miscellaneous Operating Revenues	3919.2		
Public Service Revenues (Subsidy)	4808		
Transport-Related Revenues	4898		
Total Operating Revenues	4999		
OPERATING EXPENSES			
Flying Operations	5100		
Maintenance	5400		
Passenger Service*	5500		
Aircraft and Traffic Servicing*	6400		
Promotion and sales*	6700		
General and Administrative*	6800		
General Services and Administration +	6900		
Depreciation and Amortization	7000		
Transport-Related Expenses	7100		
Total Operating Expenses	7199		
Operating Profit or Loss	7999		
NONOPERATING INCOME AND EXPENSE			
Interest on Long-Term Debt and Capital Leases	8181		
Other Interest Expense	8182		
Foreign Exchange Gains and Losses	8185		
Capital Gains and Losses-Op. Prop.	8188.5		
Capital Gains and Losses-Other	8188.6		
Other Income and Expenses-Net	8189		
Nonoperating Income and Expense	8199		
Income before Income Taxes	8999		
INCOME TAXES FOR CURRENT PERIOD	9100		
Income before discontinued operations, extraordinary items and accounting changes	9199		
DISCONTINUED OPERATIONS	9600		
EXTRAORDINARY ITEMS	9796		
Income taxes applicable to extraordinary items	9797		
ACCOUNTING CHANGES	9800		
Net Income	9899		

* Denotes inverse amount; in accounts 8100, 9800, 9700, and 9800 denotes debit amount.

\+ Group I Air Carriers Only.

* Group II and Group III Air Carriers Only.

RSPA Form 41 Schedule P-1.2 (1-88)

Issued in Washington, DC on January 26, 1996.

Mark L. Gerchick,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 96–3374 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–62–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

Regulation To Prohibit the Attraction of White Sharks in the Monterey Bay National Marine Sanctuary; Clarification of Exception To Discharge Prohibition; Public Hearing

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

ACTION: Proposed rule; public hearing.

SUMMARY: The National Oceanic and Atmospheric Administration's Sanctuaries and Reserves Division (SRD) has issued a proposed rule to amend the regulations for the Monterey Bay National Marine Sanctuary (MBNMS or Sanctuary) to prohibit the attracting of white sharks by the use of food, chum, bait, or other means in the nearshore (seaward to 3 miles) waters of the MBNMS. The proposed rule published February 12, 1996 (61 FR 5335), discusses the reasons SRD is proposing prohibiting this activity in the Sanctuary. A 30-day comment period closes on March 12, 1996. To maximize public input on this issue, a public hearing has been scheduled whereby the public will be allowed to provide written or oral comments. Individuals wishing to make a statement will be required to sign up at the door and will be limited to three minutes.

DATES: The public hearing will be held on Friday, March 1, 1996, starting at 6:30 p.m.

ADDRESSES: The public hearing will be held at the El Grenada Elementary School, 400 Santiago Avenue, El Grenada, California.

FOR FURTHER INFORMATION CONTACT:

Ed Ueber at (415) 556–3509 or Elizabeth Moore at (301) 713–3141.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: February 12, 1996.

David L. Evans,

Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 96–3440 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–08–M

FEDERAL TRADE COMMISSION

16 CFR Part 436

Franchise Rule Review Public Workshop Conference on the Application of the Franchise Rule to International Sales

AGENCY: Federal Trade Commission.

ACTION: Public Workshop Conference.

SUMMARY: The Federal Trade Commission (''Commission'') will hold a Public Workshop Conference on the application of the Commission's Trade Regulation Rule on Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures (''the Franchise Rule'' or ''Rule'') to international franchise sales. This Public Workshop Conference is being conducted as part of the Commission's ongoing regulatory review of the Franchise rule.

DATES: The Public Workshop Conference will be held on March 11, 1996, at the Federal Trade Commission, Room 332, Sixth Street and Pennsylvania Avenue, N.W., Washington, DC 20580. Notification of interest in participating in the Public Workshop Conference should be submitted in writing on or before March 4, 1996. Interested parties may submit written comments in lieu of participating in the Public Workshop Conference. Accordingly, the Rule Review record will remain open. The Commission staff encourages interested parties to submit any comments before March 8, 1996, so they can be considered during the Conference.

ADDRESSES: Notification of interest in participating in the Public Workshop Conference should be submitted in writing to Steven Toporoff, Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580. Written comments should be directed to: Secretary, Federal Trade Commission, Room H–159, Sixth Street and Pennsylvania Avenue, N.W., Washington, DC 20580. Comments should be identified as ''16 CFR Part 436—Comment.''

FOR FURTHER INFORMATION CONTACT: Steven Toporoff, (202) 326–3135, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: As part of its systematic review of trade regulations and guides, the Commission published a request for public comment on the Franchise Rule. 60 FR 17656 (April 7, 1995). In September 1995, the Commission held a Public Workshop Conference in Bloomington, Minnesota, to discuss the comments and issues raised during the Rule Review. *See* 60 FR 34485 (July 3, 1995).

Among other issues, the Commission solicited comment on what effects, it any, changes in relevant technology, economic conditions, and industry practices have had on the Rule. In response, the Commission received several comments noting that, since the Franchise Rule went into effect in the late 1970's, the market for franchises has grown both domestically and internationally. In the international arena, many American franchisors are selling territories and individual units to American and foreign investors to operate overseas. These commentors requested Commission guidance on whether the Franchise Rule applies to international sales and, if so, what form the disclosures should take.

A. The Public Workshop Conference

The Public Workshop Conference will afford Commission staff and interested parties an opportunity to discuss whether the Franchise Rule applies to international franchise sales transactions. Commission staff will consider the views and suggestions made during the Conference, as well as any written comments, in formulating its final recommendations to the Commission.

The Commission staff will select a limited number of parties to participate as panelists during the Conference. These parties will participate in an open discussion of the issues. It is contemplated that the panelists might ask and answer questions based upon their respective views.

In addition, the Conference will be open to the general public. Members of the general public who attend the Conference may have an opportunity to make a brief oral statement presenting their views on the application of the Franchise Rules to international sales transactions. Oral statements of views by members of the general public will be limited to a few minutes. The time allotted for these statements will be determined on the basis of the time available and the number of persons who wish to make statements. This discussion will be transcribed and placed on the public record. In addition, written submissions of views, or any other written or visual materials, will be accepted during the Conference and will be made part of the public record.

To the extent possible, Commission staff will select parties to represent the following affected interests: franchisors; franchisees; franchise brokers and consultants; economists and academicians; federal, state, and foreign

law enforcement and regulatory authorities; and any other interests that Commission staff may identify and deem appropriate for representation.

Parties representing the above-referenced interests will be selected on the basis of the following criteria:

1. The party notifies Commission staff in writing of its interest on or before March 4, 1996;

2. The party's participation would promote a balance of interests being represented at the Conference;

3. The party's participation would promote the consideration and discussion of a variety of issues raised;

4. The party has experience or expertise in international franchise sales transactions or related issues; and

5. The number of parties selected will not be so large as to inhibit effective discussion among them.

The Conference will be facilitated by a Commission staff member. It will be held on March 11, 1996, in Room 332, Federal Trade Commission, Sixth Street and Pennsylvania Avenue, N.W., Washington, DC 20580.

To foster discussion at the Conference, and to assist the Commission in considering possible enforcement strategies, the Commission requests that the Conference participants bring with them specific written recommendations with respect to the application of the Franchise Rule in international sales. For example, if a participant believes that the sale of franchises in the international arena should be exempt from the Rule, then the Commission requests that participant to bring a written draft of such an exemption. Similarly, if a participant believes that the Commission should issue a policy statement on international sales, then the Commission requests that participant to bring a written draft of such a policy statement.

B. Issues for Discussion

The Commission staff and panelists will discuss the following issues during a Public Workshop Conference:

(1) What is the current state of international franchising?

(a) How many American companies sell franchises internationally? How many outlets do American franchisors have located in foreign countries? Are the firms involved in international transactions primarily the larger franchise systems? What are the similarities and differences between franchisors that focus on domestic franchise sales and those that have an international presence?

(b) What is the expected rate of growth in international franchise sales?

(c) What is the state of franchise regulation in foreign countries?

(d) Is there any case law on the application of the Franchise Rule to international sales? Explain the facts and any court rulings.

(e) What are the relevant conflict of international law principles the Commission should consider?

(2) How do American franchisors market their franchises overseas?

(a) How do American franchisors attract prospective buyers?

(b) How are international sales transactions similar to or different from the sales of domestic franchises?

(c) How is the market for international sales similar to or different from the domestic market?

(d) What are the similarities and differences between domestic franchisees and international franchisees? To what extent are American franchisors' sales of international franchises being made to American citizens? To what extent do they involve sales to foreign nationals? Are there differences between purchasers of domestic and international franchises with respect to their level of business sophistication, financial resources, and/or prior experience with franchising?

(3) To what extent do American franchisors provide disclosure documents in international sales transactions?

(a) What format do these disclosure documents follow (an FTC disclosure document, a UFOC, a country specific disclosure document, an international disclosure document, an amendment to a domestic disclosure document)?

(b) What costs, over and above the costs of making disclosures on domestic sales, do American franchisors incur when they provide disclosure documents in international sales transactions?

(c) To what extent do American franchisors provide other disclosures in international franchise sales?

(4) What are the advantages and disadvantages, including costs, of complying with the Franchise Rule in international sales transactions?

(5) Is application of the Franchise Rule to international sales necessary or desirable to protect franchise purchasers?

(6) Is application of the Franchise Rule to international sales necessary or desirable to protect competition among American franchisors? Among American and foreign franchisors? Among American franchisors and other American business investment promoters not covered by the Franchise Rule?

(7) What other factors or policies should the Commission consider in formulating an enforcement policy with respect to the application of the Franchise Rule to international sales?

List of Subjects in 16 CFR Part 436

Advertising, Business and industry, Franchising, Trade practices.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–3416 Filed 2–14–96; 8:45 am]

BILLING CODE 6750–01–M

RAILROAD RETIREMENT BOARD

20 CFR Part 209

RIN 3220–AB16

Railroad Employers' Reports and Responsibilities

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board (Board) proposes to amend its regulations to add sections to permit employers to dispose of payroll records after five years, and for the utilization of payroll records to credit service under the Railroad Retirement Act in the case of employers that have ceased operations. These amendments would alleviate needless record retention and would ease reporting requirements for employers that have permanently ceased operations.

DATES: Comments must be submitted on or before April 15, 1996.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Assistant General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751–4513, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Employer reports are used to establish employee compensation and service records. These reports are based on payroll records. The Board's rules and procedures regarding the authorization of disposal of these records and the utilization of payroll records of employers who have abandoned service in lieu of employer reports are presently contained in Board Orders, which are not readily available to the public. Accordingly, the Board proposes to adopt regulations specifying that railroad employers may dispose of payroll records more than five years old

where there is no dispute pending as to the compensation reported for the periods covered by those records. The Board also proposes to amend its regulations to provide that the Board will accept payroll records in lieu of prescribed reports if there is no official of the employer available to prepare and certify to the accuracy of such reports and if the tax liability involved has been discharged.

The Board, with the agreement of the Office of Management and Budget, has determined that this is not a significant regulatory action under Executive Order 12866; therefore, no regulatory impact analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 209

Railroad employees, Railroad retirement, Railroads.

For the reasons set out in the preamble, title 20, chapter II, part 209 of the Code of Federal Regulations is proposed to be amended as follows:

PART 209—RAILROAD EMPLOYERS' REPORTS AND RESPONSIBILITIES

1. The authority citation for part 209 continues to read as follows:

Authority: 45 U.S.C. 231f.

2. Part 209 is amended by adding §§ 209.16 and 209.17 to read as follows:

§ 209.16 Disposal of payroll records.

Employers may dispose of payroll records for periods subsequent to 1936, *provided that* the payroll records are more than five years old and that there is no dispute pending pertaining to the compensation reported for the period of those records.

§ 209.17 Use of payroll records as returns of compensation.

Payroll records of employers which have permanently ceased operations may be accepted in lieu of prescribed reports *provided that* there is no official of the employer available to prepare and certify to the accuracy of such reports and, *provided further that* any employer and employee tax liability incurred under the Railroad Retirement Tax Act has been discharged.

Dated: February 5, 1996.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 96–3391 Filed 2–14–96; 8:45 am]

BILLING CODE 7905–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition To De-List the Maryland Darter (Etheostoma sellare)

AGENCY: Fish and Wildlife, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: The U.S. Fish and Wildlife Service announces a 90-day finding for a petition to remove the Maryland darter from the list of Endangered and Threatened Wildlife and Plants due to extinction. The Service finds that the petition does not present substantial scientific or commercial information indicating that delisting of this species may be warranted.

DATES: The finding announced in this document was made on February 7, 1996.

ADDRESSES: Submit data, information, comments or questions concerning this petition to Field Supervisor, Chesapeake Bay Field Office, U.S. Fish and Wildlife Service, 177 Admiral Cochrane Drive, Annapolis, Maryland 21401. The petition finding and supporting data are available for public inspection, by appointment, during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Andy Moser at the above address (telephone 410 573–4537).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. This finding is to be based on all information available to the Service at the time the petition is submitted. To the maximum extent practicable, this finding is to be made within 90 days of receipt of the petition, and the finding is to be published in the Federal Register.

The Service has made a 90-day finding on a petition to delist the Maryland darter. The petition, dated July 6, 1995, was submitted to the Service by the Maryland Farm Bureau, Inc., of Randallstown, Maryland and was received by the Service on July 14, 1995. The petitioners contend that the species was last seen in Deer Creek (in Harford County, Maryland) more than 15 years ago and is now absent from Deer Creek, the only location where it had been found in recent decades.

The Service has carefully reviewed the petition and all other information currently available in the Service's files. On the basis of the best scientific and commercial data available, the Service finds the petition does not present substantial information that delisting this species may be warranted. This finding is based on the inadequacy of existing data to support the contention that the Maryland darter is extinct.

The following is a summary of the information available on the species' status. The species was originally described from two specimens taken from Swan Creek in Harford County, Maryland, in 1912 (Radcliffe and Welsh 1913). Over the next 50 years many efforts were made to collect this darter in this and nearby streams (USFWS 1985). All attempts failed until 1962, when a specimen was found in Gashey's Run, a tributary to Swan Creek. Although the species has not been documented in Gashey's Run since 1965, the species was subsequently found in 1965 at a single site in Deer Creek in Harford County, Maryland. It was first found at this site in 1965 and has since been observed there irregularly, but on numerous occasions, through 1988 by individuals using seines or snorkels. During this period the majority of sampling/observation efforts resulted in negative results. The last documented observation, seven years ago, was reported by Raesley (1991). Since 1988, despite fairly extensive efforts, no Maryland darters have been observed at the Deer Creek site; nor has the species been observed elsewhere.

In the past, there have been long gaps in the species being observed and collected in Maryland. This hiatus in reporting does not provide definitive evidence of the species' extinction in the wild. As pointed out by Etnier (1994), it is not uncommon for rare species to be absent from samples at a given location for long periods of time and then to reappear in samples taken subsequently in the same location. A recent example of this occurred with another darter, the stripeback darter (*Percina nottogramma*), in Maryland. The stripeback darter had been considered extirpated in Maryland because it had not been observed in Maryland streams for 51 years. However, it was rediscovered in Maryland in 1995 (Raesley, Frostburg State Univ., pers. comm.).

While the failure to find the Maryland darter in Deer Creek for the last seven

years provides evidence that the species has declined in Deer Creek and may be extirpated (at least temporarily) there, it does not provide sufficient evidence to declare the species extinct.

The species may continue to survive in the Susquehanna River adjacent to Deer Creek. To date, this area has not been extensively searched because of the very difficult sampling conditions there. Until this area has been adequately searched, we cannot rule out the survival of the Maryland darter there. Therefore, the Service finds that the information currently available to the Service is insufficient to support delisting of the Maryland darter.

References Cited

Etnier, D.A. 1994. Our Southeastern Fishes—What have we lost and what are we likely to lose. Proc. Southeastern Fisheries Council.

Radcliffe, L. and W.W. Welsh. 1913. Description of a new darter from Maryland. Bull. U.S. Bur. Fish 32:29–32.

Raesley, R.L. 1991. Population status of the endangered Maryland Darter (*Etheostoma sellare*) in Deer Creek Unpubl. Rpt. submitted to Maryland Natural Heritage Program. 28 pp.

U.S. Fish and Wildlife Service. 1985. Maryland Darter Recovery Plan, 1st revision. Newton Corner, MA. 38 pp.

Author

The primary author of this document is Andy Moser of the Service's Chesapeake Bay Field Office (see **ADDRESSES**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1544).

Dated: February 7, 1996.

John G. Rogers,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 96–3410 Filed 2–14–96; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 61, No. 32
Thursday, February 15, 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

Secretary of Agriculture's Special Cotton Quota Announcement Number 20

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: A special import quota for upland cotton equal to 43,657,604 kilograms (96,248,619 pounds) is established in accordance with section 103B(a)(5)(F) of the Agricultural Act of 1949, as amended (1949 Act). This quota is established under Proclamation 6301 of June 7, 1991, and is referenced as the Secretary of Agriculture's Special Cotton Quota Announcement Number 20, chapter 99, subchapter III, subheading 9903.52.20 of the Harmonized Tariff Schedule (HTS).

DATES: The quota was established on January 17, 1996, and applies to upland cotton purchased not later than April 15, 1996 (90 days from the date the quota was established) and entered into the United States not later than July 14, 1996 (180 days from the date the quota was established).

FOR FURTHER INFORMATION CONTACT: Janise Zygmont, Farm Service Agency, United States Department of Agriculture, room 3756–S, Ag Code 0515, PO Box 2415, Washington, DC 20013–2415 or call (202) 720–8841.

SUPPLEMENTARY INFORMATION: The 1949 Act requires that a special import quota be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1 3/32 inch cotton, C.I.F. northern Europe, (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended January 11, 1996. The quota amount is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—August 1995 through October 1995. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: 7 U.S.C. 1444–2 (a) and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on February 9, 1996..

Dan Glickman,

Secretary.

[FR Doc. 96–3357 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–05–P

Secretary of Agriculture's Special Cotton Quota Announcement Number 19

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: A special import quota for upland cotton equal to 43,657,604 kilograms (96,248,619 pounds) is established in accordance with section 103B(a)(5)(F) of the Agricultural Act of 1949, as amended (1949 Act). This quota is established under Proclamation 6301 of June 7, 1991, and is referenced as the Secretary of Agriculture's Special Cotton Quota Announcement Number 19, chapter 99, subchapter III, subheading 9903.52.19 of the Harmonized Tariff Schedule (HTS).

DATES: The quota was established on January 10, 1996, and applies to upland cotton purchased not later than April 8, 1996 (90 days from the date the quota was established) and entered into the United States not later than July 7, 1996 (180 days from the date the quota was established).

FOR FURTHER INFORMATION CONTACT: Janise Zygmont, Farm Service Agency, United States Department of Agriculture, room 3756–S, Ag Code 0515, PO Box 2415, Washington, DC 20013–2415 or call (202) 720–8841.

SUPPLEMENTARY INFORMATION: The 1949 Act requires that a special import quota be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1 3/32 inch cotton, C.I.F. northern Europe, (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended January 4, 1996. The quota amount is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—August 1995 through October 1995. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: 7 U.S.C. 1444–2 (a) and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on February 9, 1996.

Dan Glickman,

Secretary.

[FR Doc. 96–3356 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–05–P

Secretary of Agriculture's Special Cotton Quota Announcement Number 18

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: A special import quota for upland cotton equal to 43,657,604 kilograms (96,248,619 pounds) is established in accordance with section 103B(a)(5)(F) of the Agricultural Act of 1949, as amended (1949 Act). This quota is established under Proclamation 6301 of June 7, 1991, and is referenced as the Secretary of Agriculture's Special Cotton Quota Announcement Number 18, chapter 99, subchapter III, subheading 9903.52.18 of the Harmonized Tariff Schedule (HTS).

DATES: The quota was established on January 3, 1996, and applies to upland cotton purchased not later than April 1, 1996 (90 days from the date the quota was established) and entered into the United States not later than June 30, 1996 (180 days from the date the quota was established).

FOR FURTHER INFORMATION CONTACT: Janise Zygmont, Farm Service Agency, United States Department of Agriculture, room 3756–S, Ag Code 0515, PO Box 2415, Washington, DC 20013–2415 or call (202) 720–8841.

SUPPLEMENTARY INFORMATION: The 1949 Act requires that a special import quota be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1 3/32 inch cotton, C.I.F. northern Europe, (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended December 28, 1995. The quota amount is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—August 1995 through October 1995. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: 7 U.S.C. 1444–2 (a) and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on February 9, 1996.

Dan Glickman,

Secretary.

[FR Doc. 96–3355 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–05–P

Secretary of Agriculture's Special Cotton Quota Announcement Number 17

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: A special import quota for upland cotton equal to 43,657,604 kilograms (96,248,619 pounds) is established in accordance with section 103B(a)(5)(F) of the Agricultural Act of 1949, as amended (1949 Act). This quota is established under Proclamation 6301 of June 7, 1991, and is referenced as the Secretary of Agriculture's Special Cotton Quota Announcement Number 17, chapter 99, subchapter III, subheading 9903.52.17 of the Harmonized Tariff Schedule (HTS).

DATES: The quota was established on December 27, 1995, and applies to upland cotton purchased not later than March 25, 1996 (90 days from the date the quota was established) and entered into the United States not later than June 23, 1996 (180 days from the date the quota was established).

FOR FURTHER INFORMATION CONTACT: Janise Zygmont, Farm Service Agency, United States Department of Agriculture, room 3756–S, Ag Code 0515, PO Box 2415, Washington, DC 20013–2415 or call (202) 720–8841.

SUPPLEMENTARY INFORMATION: The 1949 Act requires that a special import quota be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1 3/32 inch cotton, C.I.F. northern Europe, (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended December 21, 1995. The quota amount is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—August 1995 through October 1995. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: 7 U.S.C. 1444–2 (a) and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on February 9, 1996.

Dan Glickman,

Secretary.

[FR Doc. 96–3354 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–05–P

Secretary of Agriculture's Special Cotton Quota Announcement Number 16

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: A special import quota for upland cotton equal to 43,657,604 kilograms (96,248,619 pounds) is established in accordance with section 103B(a)(5)(F) of the Agricultural Act of 1949, as amended (1949 Act). This quota is established under Proclamation 6301 of June 7, 1991, and is referenced as the Secretary of Agriculture's Special Cotton Quota Announcement Number 16, chapter 99, subchapter III, subheading 9903.52.16 of the Harmonized Tariff Schedule (HTS).

DATES: The quota was established on December 20, 1995, and applies to upland cotton purchased not later than March 18, 1996 (90 days from the date the quota was established) and entered into the United States not later than June 16, 1996 (180 days from the date the quota was established).

FOR FURTHER INFORMATION CONTACT: Janise Zygmont, Farm Service Agency, United States Department of Agriculture, room 3756–S, Ag Code 0515, PO Box 2415, Washington, DC 20013–2415 or call (202) 720–8841.

SUPPLEMENTARY INFORMATION: The 1949 Act requires that a special import quota be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1 3/32 inch cotton, C.I.F. northern Europe, (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended December 14, 1995. The quota amount is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—August 1995 through October 1995. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: 7 U.S.C. 1444–2(a) and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on February 9, 1996.

Dan Glickman,

Secretary.

[FR Doc. 96–3353 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–05–P

Secretary of Agriculture's Special Cotton Quota Announcement Number 15

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: A special import quota for upland cotton equal to 43,657,604 kilograms (96,248,619 pounds) is established in accordance with section 103B(a)(5)(F) of the Agricultural Act of 1949, as amended (1949 Act). This quota is established under Proclamation 6301 of June 7, 1991, and is referenced as the Secretary of Agriculture's Special Cotton Quota Announcement Number 15, chapter 99, subchapter III, subheading 9903.52.15 of the Harmonized Tariff Schedule (HTS).

DATES: The quota was established on December 13, 1995, and applies to upland cotton purchased not later than March 11, 1996 (90 days from the date the quota was established) and entered into the United States not later than June 9, 1996 (180 days from the date the quota was established).

FOR FURTHER INFORMATION CONTACT: Janise Zygmont, Farm Service Agency, United States Department of Agriculture, room 3756–S, Ag Code 0515, PO Box 2415, Washington, DC 20013–2415 or call (202) 720–8841.

SUPPLEMENTARY INFORMATION: The 1949 Act requires that a special import quota be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1 3/32 inch cotton, C.I.F. northern Europe, (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended December 7, 1995. The quota amount is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—August 1995 through October 1995. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: 7 U.S.C. 1444–2(a) and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on February 9, 1996.

Dan Glickman,

Secretary.

[FR Doc. 96–3352 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–05–P

Secretary of Agriculture's Special Cotton Quota Announcement Number 14

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: A special import quota for upland cotton equal to 43,657,604 kilograms (96,248,619 pounds) is established in accordance with section 103B(a)(5)(F) of the Agricultural Act of 1949, as amended (1949 Act). This quota is established under Proclamation 6301 of June 7, 1991, and is referenced as the Secretary of Agriculture's Special Cotton Quota Announcement Number 14, chapter 99, subchapter III, subheading 9903.52.14 of the Harmonized Tariff Schedule (HTS).

DATES: The quota was established on December 6, 1995, and applies to upland cotton purchased not later than March 4, 1996 (90 days from the date the quota was established) and entered into the United States not later than June 2, 1996 (180 days from the date the quota was established).

FOR FURTHER INFORMATION CONTACT: Janise Zygmont, Farm Service Agency, United States Department of Agriculture, room 3756–S, Ag Code 0515, PO Box 2415, Washington, DC 20013–2415 or call (202) 720–8841.

SUPPLEMENTARY INFORMATION: The 1949 Act requires that a special import quota be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1–3/32 inch cotton, C.I.F. northern Europe, (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended November 30, 1995. The quota amount is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—August 1995 through October 1995. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: 7 U.S.C. 1444–2 (a) and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on February 9, 1996.

Dan Glickman,

Secretary.

[FR Doc. 96–3351 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–05–P

Agricultural Marketing Service

[Docket No. PY–96–002]

Tentative Voluntary Poultry Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) is announcing that it is approving the test marketing of USDA grade identified cooked, boneless-skinless poultry products, based on tentative grade standards.

DATES: This test-market period begins February 15, 1996, and ends February 15, 1996.

FOR FURTHER INFORMATION CONTACT: Larry W. Robinson, Chief, Grading Branch, Poultry Division, 202–720–3271.

SUPPLEMENTARY INFORMATION:

Background

Poultry grading is a voluntary program provided under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), and is offered on a fee-for-service basis. It is designed to assist the orderly marketing of poultry products. Quality in practical terms refers to the usability, desirability, and value of a product, as well as its marketability. Poultry grade standards identify and measure degrees of quality in poultry products. They permit important quality attributes to be evaluated uniformly and accurately; they provide a way for buyers and sellers to negotiate using a common language.

Once poultry has been graded according to these standards, it may be

identified with the USDA grademark. Over the years, processors have found it advantageous to market grade-identified poultry products and consumers have come to rely on the USDA grademark as assurance that they are getting the quality they want.

Poultry producers and processors are continually developing new, innovative products. Chicken and turkey, in particular, have been transformed into numerous boneless and/or skinless products, thus increasing poultry's share of the consumer's food dollar and responding to consumer demand for food with more built-in convenience and less fat. Currently, there are grade standards for boneless poultry breasts, thighs, and tenderloins (§ 70.231), as well as for skinless carcasses and parts (§ 70.232). On March 30, 1995, the Agency approved the test marketing of USDA grade-identified, boneless-skinless poultry legs and drumsticks, based on tentative grade standards, through April 1, 1996 (60 FR 16428). And, on June 12, 1995, the Agency approved the test marketing of USDA grade-identified, ready-to-cook, boneless-skinless poultry products without added ingredients, based on tentative grade standards, through June 12, 1996 (60 FR 30830).

The Agency has now been requested by industry to permit the grade identification of cooked, boneless-skinless poultry products without added ingredients. These products include cooked poultry that has been subdivided by cutting, slicing, cubing, or similarly reducing the size prior to grading, products that are currently marketed ungraded because there are no grade standards for them.

The Agency recognizes that before new standards of quality can be established or current standards of quality can be amended, appropriate investigation is needed. This includes the test marketing of experimental packs of grade-identified poultry products to determine production requirements and consumer acceptance, and to permit the collection of other necessary data. Current regulations (7 CFR Part 70) provide the Agency with the flexibility needed to permit such experimentation, so that new procedures and grading techniques may be tested.

The Agency has worked in partnership with members of the industry to develop tentative grade standards for cooked, boneless-skinless poultry products without added ingredients and is granting permission for a 1-year test marketing period. At the expiration of this 1-year period, the Agency will then evaluate the test results to determine if the current poultry grade standards should be amended, through notice-and-comment procedures, to include the following tentative standards.

Tentative Grade Standards for Cooked, Boneless-skinless Poultry Products without Added Ingredients—A Quality

1. The raw, ready-to-cook, boneless-skinless poultry products without added ingredients used to prepare the cooked product must be labeled in accordance with 9 CFR Part 381.

2. The cooked poultry products must be derived from ready-to-cook carcasses or parts that are cooked in accordance with 9 CFR Part 381. The cooking process or method must not detract from the uncooked appearance of the products.

3. The skin and bones shall be removed in a neat manner without undue mutilation of adjacent muscle.

4. The cooked poultry products may be further processed and subdivided by cutting, slicing, cubing, or similarly reducing the size prior to grading. Individual subdivided pieces of poultry meat must be relatively uniform and of sufficient size and shape to determine grade with respect to the quality factors set forth in this section.

5. The cooked poultry products shall be free of cartilage, tendons extending more than 1/2 inch beyond the meat tissue, blood clots, bruises, and discolorations other than slight discolorations, provided they do not detract from the appearance of the product.

6. Trimming and minor flesh abrasions due to preparation techniques are permitted provided they result in a relatively smooth outer surface with no angular cuts, tears, holes, or undue muscle mutilation in the meat portion.

Dated: February 9, 1996.

Lon Hatamiya,

Administrator.

[FR Doc. 96–3350 Filed 2–17–96; 8:45 am]

BILLING CODE 3410–02–P

Forest Service

Deadwood Ecosystem Analysis

AGENCY: Forest Service, USDA.

ACTION: Cancellation of Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: Due to a change in scope and Public Law 104–19, an environmental impact statement for the Deadwood Ecosystem Analysis will not be prepared. The Notice of Intent, published in the Federal Register of September 15, 1994, is hereby rescinded. An environmental assessment will be completed for the part of the project that meets the definition of a salvage sale. The remaining projects in the analysis area will be analyzed at a later date and documented in an appropriate NEPA document.

ADDRESSES: Lowman Ranger District, HC 77 Box 3020, Lowman, ID 83637.

FOR FURTHER INFORMATION CONTACT: Walter B. Rogers, District Ranger, 208–259–3361.

Dated: February 16, 1996.

Cathy Barbouletos,

Deputy Forest Supervisor.

[FR Doc. 96–3429 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–11–M

Gypsy Moth Management in the United States

AGENCY: Forest Service, USDA.

ACTION: Notice: record of decision.

SUMMARY: On January 16, 1996, Forest Service Deputy Chief Joan Comanor and Animal and Plant Health Inspection Service Deputy Administrator Donald Husnik signed the Record of Decision on how the U.S. Department of Agriculture will carry out its gypsy moth management responsibilities nationally. The Record of Decision adopts alternative 6 of the Final Environmental Impact Statement entitled ''Gypsy Moth Management in the United States: a cooperative approach.'' Alternative 6, includes three management strategies: suppression, eradication, and slow-the-speed treatments. Implementation of this alternative will require that site-specific environmental analyses be conducted to address local issues before Federal or cooperative suppression, eradication, or slow-the-spread treatments are conducted. The site-specific environmental analyses will be tiered to this environmental impact statement which is programmatic in nature.

EFFECTIVE DATE: Alternative 6 was effective January 16, 1996.

ADDRESSES: Copies of the Record of Decision and the final environmental impact statement are available by writing to John W. Hazel, USDA Forest Service, 5 Radnor Corporate Center, Suite 200, Radnor, PA 19087–4585; or Charles Bare, USDA Animal and Plant Health Inspection Service, 4700 River Road, Unit 134, Riverdale, MD 20737–1236.

FOR FURTHER INFORMATION CONTACT: John W. Hazel, Forest Service, at (610) 975–4150 or Charles Bare, Animal Plant

and Health Inspection Service, at (301) 734–8247.

SUPPLEMENTARY INFORMATION: The final environmental impact statement entitled '' Gypsy Moth Management in the United States: A cooperative Approach'' was filed with the Environmental Protection Agency (EPA) on November 24, 1995. Notice of its availability was published in the Federal Register by EPA on December 1, 1995 (60 FR 231). The Record of Decision documents the selection and rationale for selection of an alternative from the six alternatives analyzed in the final environmental impact statement. Forty-six days passed between the date the EPA published the notice of availability and the date of the decision, January 16, 1996. The decision is not subject to administrative appeal because it is neither a National Forest System project or activity subject to the appeal procedures of 36 CFR part 215 nor an amendment or revision of a National Forest land and resource management plan or regional guide subject to the appeal procedures of 36 CFR part 217. Copies of the Record of Decision are being mailed to organizations, groups, and individuals who were on the mailing list for the final environmental impact statement and will be mailed to anyone else who requests a copy.

Dated: February 9, 1996.

William L. McCleese,

Associate Deputy Chief.

[FR Doc. 96–3378 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–11–M

Timber Bridge Research Joint Venture Agreements; Solicitation of Applications and Application Guidelines

Program Description

Purpose

The Federal Highway Administration and the USDA, Forest Service, Forest Products Laboratory (FPL), are working cooperatively under Public Law 102–240, The Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, on Research for the development of wood in transportation structures.

The FPL is now inviting proposals for specific areas of the research under the authority of the Food Security Act of 1985 (7 U.S.C. 3318(b) and will award competitive Research Joint Venture Agreements for cooperative research related to wood in transportation structures. The specific research areas are stated within this announcement.

Eligibility

Proposals may be submitted by any Federal Agency, university, private business, nonprofit organization, or any research or engineering entity.

An applicant must qualify as a responsible applicant in order to be eligible for an award. To qualify as responsible, an applicant must meet the following standards:

(a) Adequate financial resources for performance, the necessary experience, organizational and technical qualifications, and facilities, or a firm commitment, arrangement, or ability to obtain same (including any to be obtained through subagreement(s)) or contracts;

(b) Ability to comply with the proposed or required completion schedule for the project;

(c) Adequate financial management system and audit procedures that provide efficient and effective accountability and control of all funds, property, and other assets;

(d) Satisfactory record of integrity, judgment, and performance, including, in particular, any prior performance under grants, agreements, and contracts from the Federal government; and

(e) Otherwise be qualified and eligible to receive an award under the applicable laws and regulations.

Available Funding

Available funding is shown under the specific research areas, below. The FPL will reimburse the cooperator not-to-exceed eighty percent (80%) of the total cost of the research. The proposing entity may contribute the indirect costs as its portion of the total cost of the research.

Indirect costs will not be reimbursed to State Cooperative Institutions. State Cooperative Institutions are designated by the following:

(a) The Act of July 2, 1862 (7 U.S.C. 301 and the following), commonly known as the First Morrill Act;

(b) The Act of August 30, 1890 (7 U.S.C. 321 and the following), commonly known as the Second Morrill Act, including the Tuskegee Institute;

(c) The Act of March 2, 1887 (7 U.S.C. 361a and the following), commonly known as the Hatch Act of 1887;

(d) The Act of May 8, 1914 (7 U.S.C. 341 and the following), commonly known as the Smith-Lever Act;

(e) The Act of October 10, 1962 (16 U.S.C. 582a and the following), commonly known as the McIntire-Stennis Act of 1962; and

(f) Sections 1429 through 1439 (Animal Health and Disease Research), sections 1474 through 1483 (Rangeland Research) of Public Law 95–113, as amended by Public Law 97–98.

Definitions:

(a) Grants, Agreements, and Licensing Officer means the Grants, Agreements, and Licensing Officer of the FPL and any other officer or employee of the Department of Agriculture to whom the authority involved may be delegated.

(b) Awarding Official means the Grants, Agreements, and Licensing Officer and any other officer or employee of the Department of Agriculture to whom the authority to issue or modify awards has been delegated.

(c) Budget Period means the interval of time (usually twelve months) into which the project period is divided for budgetary and reporting purposes.

(d) Department of USDA means the U.S. Department of Agriculture.

(e) Research Joint Venture Agreement means the award by the Grants, Agreements, and Licensing Officer or his/her designee to a cooperator to assist in meeting the costs of conducting, for the benefit of the public, an identified project which is intended and designed to establish, discover, elucidate, or confirm information or the underlying mechanisms relating to a research problem area identified herein.

(f) Cooperator means the entity designated in the Research Joint Venture Agreement award document as the responsible legal entity to whom a Research Joint Venture Agreement is awarded.

(g) Methodology means the project approach to be followed to carry out the project.

(h) Peer review group means an assembled group of experts or consultants qualified by training and/or experience in particular scientific or technical field to give expert advice on the technical merit of grant applications in those fields.

(i) Principal Investigator means an individual who is responsible for the scientific and technical direction of the project, as designated by the cooperator in the application and approved by the Grants, Agreements, and Licensing Officer.

(j) Project means the particular activity within the scope of one or more of the research areas identified herein.

(k) Project Period means the total time approved by the Grants, Agreements, and Licensing Officer for conducting the proposed project as outlined in an approved application or the approved portions thereof.

(l) Research means any systematic study directed toward new or fuller knowledge of the subject field.

Areas: Proposals are currently being solicited in the following areas:

(a) Problem Area I: Stress-Laminated Wood T and Box Beam Bridge Superstructures: To complete an independent evaluation of stress-laminated wood T and box beam bridge research and field performance and to formulate recommendations as to the technical and economical feasibility of these bridge systems and additional research needs. Total estimated cost of the research: $81,250; estimated Federal funding: $65,000.

(b) Problem Area II: LRFD Calibration for Wood Bridges: To refine the LRFD design criteria for wood bridges currently given in the AASHTO LRFD Bridge Design Specifications. Total estimated cost of the research: $112,500; estimated Federal funding: $90,000.

(c) Problem Area III: Environmental Effects of Wood Preservatives: To develop recommendations and guidelines on the potential environmental impacts associated with the use of wood preservatives in transportation structures. Total estimated cost of the research: $243,750; estimated Federal funding: $195,000.

(d) Problem Area IV: Moisture Protection for Timber Members: To develop, refine, and/or evaluate a variety of coatings and coverings for protecting bridge members from moisture. total estimated cost of the research: $52,500; estimated Federal funding: $42,000.

(e) Problem Area V: Development of Nondestructive Evaluation Methods and Equipment for Wood Transportation Structures: To develop one or more advanced NDE techniques and equipment for the inspection, condition evaluation, and in-situ strength assessment of wood transportation structure components which provides a reliable evaluation procedure through enhanced information display and image processing technology. Total estimated cost of the research: $237,500; estimated Federal funding: $190,000.

(f) Problem Area VI: Remedial Treatments for Bridge Applications: To investigate new and current remedial treatments that will stop internal decay in bridge structural components, and to provide guidelines on their use, application, and effectiveness for applications involving wood bridge members. Total estimated cost of the research: $118,750; estimated Federal funding: $95,000.

For additional information, contact John G. Bachhuber, USDA, Forest Service, Forest Products Laboratory, One Gifford Pinchot Drive, Madison, WI 53705–2398.

Proposal Preparation

Application Materials

An Application Kit and a copy of this solicitation will be made available upon request. The kit contains detailed information on each Problem Area, required forms, certifications, and instructions for preparing and submitting agreement applications. Copies of the Application Kit and this solicitation may be requested from: Joanne M. Bosch, Grants and Agreements, USDA, Forest Service, Forest Products Laboratory, One Gifford Pinchot Drive, Madison, WI 53705–2398, Telephone Number (608) 231–9205.

Proposal Submission

What to Submit

An original and seven copies of a proposal must be submitted. Each copy of each proposal must be stapled securely in the upper left-hand corner (Do not bind). All copies of the proposal must be submitted in one package.

Where and When to Submit

Proposals must be received by the Grants, Agreements, and Licensing Officer by 2:00 p.m., May 3, 1996, and should be sent or delivered to the following address: Grants, Agreements, and Licensing Officer, USDA, Forest Service, Forest Products Laboratory, One Gifford Pinchot Drive, Madison, WI 53705–2398, Telephone (608) 231–9282.

Proposal Review, Evaluation, and Disposition

Proposal Review

All proposals received will be acknowledged. Prior to technical examination, a preliminary review will be made for responsiveness to this solicitation. Proposals that do not fall within solicitation guidelines will be eliminated from competition; one copy will be returned the applicant and the remainder will be destroyed. All accepted proposals will be reviewed by the Grants, Agreements, and Licensing Officer, qualified officers or employees of the Department, and by peer panel(s) of scientists or others who are recognized specialists in the areas covered by the proposals. Peer panels will be selected and organized to provide maximum expertise and objective judgment in the evaluation of proposals.

Evaluation Criteria

The peer review panel(s) will take into account the following criteria in carrying out its review of responsive proposals submitted:

(a) Scientific merit of proposal.

(1) Conceptual adequacy of hypothesis;

(2) Clarity and delineation of objectives;

(3) Adequacy of the description of the undertaking and suitability and feasibility of methodology;

(4) Demonstration of feasibility through preliminary data;

(5) Probability of success of project;

(6) Novelty, uniqueness, and originality.

(b) Qualifications of proposed project personnel and adequacy of facilities.

(1) Training and demonstrated awareness of previous and alternative approaches to the problem identified in the proposal and performance record and/or potential for future accomplishments;

(2) Time allocated for specific attainment of objectives;

(3) Institutional experience and competence in subject area; and

(4) Adequacy of available or obtainable support personnel, facilities, and instrumentation. January

Proposal Disposition

When the peer review panel(s) has completed its deliberations, the USDA program staff, based on the recommendations of the peer review panel(s), will recommend to the Awarding Official that the project be (a) approved for support from currently available funds or (b) declined due to insufficient funds or unfavorable review.

USDA reserves the right to negotiate with the Principal Investigator and/or the submitting entity regarding project revisions (e.g., reduction in scope of work), funding level, or period of support prior to recommending any project for funding.

A proposal may be withdrawn at any time before a final funding decision is made. One copy of each proposal that is not selected for funding (including those that are withdrawn) will be retained by USDA for one year, and remaining copies will be destroyed.

Supplementary Information

Grant Awards

Within the limit of funds available for such purpose, the awarding official shall make awards to those responsible eligible applicants whose proposals are judged most meritorious under the evaluation criteria and procedures set forth in this solicitation and application guidelines.

The date specified by the awarding official as the beginning of the project period shall not be later than September 1, 1995.

All funds awarded shall be expended only for the purpose for which the funds are awarded in accordance with the approved application and budget, the terms and conditions of any resulting award, and the applicable Federal cost principles.

Obligation of the Federal Government

Neither the approval of any application nor the award of any Research Joint Venture Agreement commits or obligates the United States in any way to provide further support of a project or any portion thereof.

Other Conditions

The FPL may, with respect to any class of awards, impose additional conditions prior to or at the time of any award, when, in the FPL's judgment, such conditions are necessary to assure or protect advancement of the approved project, the interests of the public, or the conservation of Research Joint Venture Agreement funds.

Done at Madison, WI, on February 5, 1996.

Thomas E. Hamilton,

Director.

[FR Doc. 96–3430 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Scientific International, Inc.

Order Denying Permission to Apply for or Use Export Licenses

In the Matter of: Scientific International, Inc., 143 Snowden Lane, Princeton, New Jersey 08543.

On June 29, 1992, Scientific International, Inc. (Scientific International) was convicted in the U.S. District Court for the District of New Jersey of violating the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1995)) (the Act),[1] among other crimes. Specifically, Scientific International was convicted of one count of knowingly and willfully exporting and causing to be exported 660 graphite seal assemblies to the Department of Atomic Energy in Bombay, India, through West Germany, without first having obtained the required validated export license from the Department of Commerce.

Section 11(h) of the Act, provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating the Act, or certain other provisions of the United States Code, shall be eligible to apply for or use any export license issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently codified at 15 CFR parts 768–799 (1995)) (the Regulations) for a period of up to 10 years from the date of the conviction. In addition, any export license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to Sections 770.15 and 772.1(g) of the Regulations, upon notification that a person has been convicted of violating the Act, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any export license issued pursuant to, or provided by, the Act and the Regulations, and shall also determine whether to revoke any export license previously issued to such a person.

Having received notice of Scientific International's conviction for violating the Act, and following consultations with the Director, Office of Export Enforcement, I have decided to deny Scientific International permission to apply for or use any export license, including any general license, issued pursuant to, or provided by, the Act and the Regulations, for a period of 10 years from the date of its conviction. The 10-year period ends on June 29, 2002. I have also decided to revoke all export licenses issued pursuant to the Act in which Scientific International had an interest at the time of its conviction.

Accordingly, *it is hereby ordered,*

I. All outstanding individual validated licenses in which Scientific International appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Scientific International's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. Until June 29, 2002, Scientific International, Inc., 143 Snowden Lane, Princeton, New Jersey 08543, hereby is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) As a party or as a representative of a party to any export license application submitted to the Department, (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States, and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. After notice and opportunity for comment as provided in Section 770.15(h) of the Regulations, any person, firm, corporation, or business organization related to Scientific International by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. As provided in Section 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying its export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver,

[1] The Act expired on August 20, 1994. Executive Order 12924 (59 FR 43437, August 23, 1994), extended by Presidential Notice of August 15, 1995 (60 FR 42767, August 17, 1995), continued the Regulations in effect under the International Emergency Economic Powers Act, 50 U.S.C.A. 1701–1706 (1991).

[2] Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act. Because of a recent Bureau of Export Administration reorganization, this responsibility now rests with the Director, Office of Exporter Services. Subsequent regulatory references herein to the ''Director, Office of Export Licensing,'' should be read as meaning ''Director, Office of Exporter Services.''

store, dispose of, forward, transport, finance, or otherwise service or participate: (a) In any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

V. This Order is effective immediately and shall remain in effect until June 29, 2002.

VI. A copy of this Order shall be delivered to Scientific International. This Order shall be published in the Federal Register.

Dated: February 5, 1996.

Eileen M. Albanese,

Acting Director, Office of Exporter Services.

[FR Doc. 96–3431 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–DT–M

[Docket No. 5108–01]

Leif Kare Johansen, Constitutionsvei 21, 4085 Hundvaag, Norway; Respondent; Decision and Order

On January 26, 1996, the Administrative Law Judge (ALJ) entered his Recommended Decision and Order in the above-referenced matter. The Recommended Decision and Order, a copy of which is attached hereto and made a part hereof, has been referred to me for final action. After describing the facts of the case and his findings based on those facts, the ALJ found that the Respondent had violated Section 787.4(a) of the Export Administration Regulations by transporting and selling a U.S.-origin model XL020+ computer to a consignee in Poland with knowledge or reason to know that a violation of the Export Administration Act, or its regulations, has occurred, is about to occur, or is intended to occur. The ALJ also found that the Respondent violated Section 787.6 of the Export Administration Regulations by reexporting U.S.-origin computer equipment to a consignee in Poland in violation of the Export Administration Act and its regulations.

The ALJ found that the appropriate penalty for the violations should be that all outstanding individual validated licenses in which the Respondent appears or participates and the respondent's ability to participate in any special licensing procedure be revoked, and that the Respondent and all representatives, agents and employees be denied for a period of ten years from this date all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving commodities or technical data exported or to be exported from the United States and subject to the Export Administration Regulations.

Based on my review of the entire record, I affirm the Recommended Decision and Order of the Administrative Law Judge. I do note that, on page two, line six of the Recommended Decision and Order, the Administrative Law Judge indicates that a copy of the Charging Letter was mailed to the Respondent on ''July 11, 1995.'' My review of the record clearly indicates that the Charging Letter was in fact mailed to the Respondent on July 11, 1994. Therefore, the Recommended Decision and Order will be modified to reflect that the Charging Letter was mailed to Leif Kare Johansen on July 11, 1994.

This constitutes final agency action in this matter.

Dated: February 8, 1996.

William A. Reinsch,

Under Secretary for Export Administration.

Recommended Decision and Order

On July 11, 1994, the Office of Export Enforcement, Bureau of Export Administration, U.S. Department of Commerce (the Department), issued a Charging Letter initiating an administrative proceeding against Lief Kare Johansen. The Charging Letter alleged that Leif Kare Johansen committed two violations of the Export Administration Regulations (the Regulations or the EAR),[1] issued pursuant to the Export Administration Act of 1979, as amended (the Act or the EAA).[2]

The Charging Letter alleged that, on or about July 12, 1989, Leif Kare Johansen reexported U.S.-origin computer equipment from Norway, via Denmark, to Poland without obtaining the reexport authorization he knew or had reason to know was required by Section 774.1 of the Regulations, in violation of Sections 787.4(a) and 787.6 of the Regulations.

A copy of the Charging Letter was filed with me, and the Charging Letter mailed to Leif Kare Johansen, on July 11, 1995. However, the documents mailed to Leif Kare Johansen were returned to the Department by the postal service without being delivered.

On April 19, 1995, I issued an Order requiring the Department to file a proposed default order in this case. On May 17, 1995, I granted the Department's May 15, 1995 Motion to Vacate Order, which explained that service on Leif Kare Johansen had not yet been accomplished. By its May 15, 1995 Motion, the Department also pledged to notify me when service was properly completed.

The Department has notified me that, on August 8, 1995, the Charging Letter was finally served on Leif Kare Johansen, and that Leif Kare Johansen has not answered the Charging Letter within 30 days after service as required by Section 788.7(a) of the Regulations. The Department has also filed supporting evidence for a default judgment against Leif Kare Johansen.

On the basis of the Department's submission and all of the supporting evidence presented, I have determined that Leif Kare Johansen violated Section 787.4(a) of the Regulations by transporting and selling a U.S.-origin model XL020+ computer to a consignee in Poland, with knowledge or reason to know that a violation of the Act, or any regulation, order or license issued under the Act has occurred, is about to occur, or is intended to occur with respect to the transaction. I have also determined that by reexporting U.S.-origin computer equipment to a consignee in Poland in violation of or contrary to the terms of the Act, or any regulation, order or license issued under the Act, Leif Kare Johansen violated Section 787.6 of the Regulations.

For these violations, the Department urged as a sanction that Johansen's export privileges be denied for 10 years. In light of the nature of the violations, I concur in the Department's recommendation.

Accordingly, *it is therefore ordered,*

First, that all outstanding individual validated licenses in which Leif Kare Johansen appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Exporter Services for cancellation. Further, all of Johansen's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

---

[1] The alleged violations occurred in 1989. The Regulations governing the violations at issue are found in the 1989 version of the Code of Federal Regulations, codified at 15 CFR Parts 768–799 (1989). The Export Administration Regulations are currently codified at 15 CFR Parts 768–799 (1995).

[2] The EAA is currently codified at 50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1995). The Act expired on August 20, 1994. Executive Order 12924 (59 FR 43437, August 23, 1994), extended by Presidential Notice on August 15, 1995 (60 FR 42767, August 17, 1995), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701–1706 (1991)).

Second, Leif Kare Johansen, with an address at Constitutionsvei 21, 4085 Hundvaag, Norway (hereinafter referred to as Johansen), and all his representatives, agents, and employees, shall, for a period of 10 years from the date of final agency action, be denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, and subject to the Regulations.

A. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization, or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the Untied States and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

B. After notice and opportunity for comment as provided in Section 788.3(c) of the Regulations, any person, firm, corporation, or business organization related to Johansen by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

C. As provided by Section 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Exporter Services, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) In any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

Third, that a copy of this Order shall be served on Johansen and on the Department.

Fourth, that this Order, as affirmed or modified, shall become effective upon entry of the final action by the Under Secretary for Export Administration, in accordance with the Act (50 U.S.C.A. app. 2412(c)(1)) and the Regulations (15 CFR 788.23).

Dated: January 26, 1996.

Edward J. Kuhlmann,

Administrative Law Judge.

[FR Doc. 96–3342 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–DT–M

Foreign-Trade Zones Board

[Order No. 801]

Grant of Authority for Subzone Status, R.G. Barry Corp. (Footwear & Thermal Comfort Products), Goldsboro, NC

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Triangle J Council of Governments, grantee of Foreign-Trade Zone 93, for authority to establish special-purpose subzone status for the footwear and thermal comfort products distribution facility of R.G. Barry Corporation, located in Goldsboro, North Carolina, was filed by the Board on November 16, 1994, and notice inviting public comment was given in the Federal Register (FTZ Docket 36–94, 59 FR 60603, 11/25/94); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest:

Now, therefore, the Board hereby authorizes the establishment of a subzone (Subzone 93D) at the R.G. Barry Corporation facility in Goldsboro, North Carolina, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 7th day of February 1996.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–3343 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 800]

Grant of Authority for Subzone Status, R.G. Barry Corp. (Footwear & Thermal Comfort Products), San Angelo, TX

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the City of San Antonio, grantee of Foreign-Trade Zone 80, for authority to establish special-purpose subzone status for the footwear and thermal comfort products distribution facility of R.G. Barry Corporation, located in San Angelo, Texas, was filed by the Board on November 1, 1994, and notice inviting

public comment was given in the Federal Register (FTZ Docket 34–94, 59 FR 56459, 11/14/94); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest:

Now, therefore, the Board hereby authorizes the establishment of a subzone (Subzone 80D) at the R.G. Barry Corporation facility in San Angelo, Texas, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 7th day of February 1996.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–3344 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On January 26, 1996 Dofasco, Inc. filed a First Request for Panel Review with the Mexican Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final antidumping determination review made by the Secretaria de Comercio y Fomento Industrial, in the antidumping investigation respecting Cold-Rolled Steel Sheet Originating in or Exported from Canada. This determination was published in the *Diario Oficial de la Federacion* on December 27, 1995. The NAFTA Secretariat has assigned Case Number MEX–96–1904–01 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the Federal Register on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the Mexican Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on January 27, 1996, requesting panel review of the final antidumping duty investigation described above.

The Rules provide that:

(a) a Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is February 26, 1996);

(b) a Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is March 11, 1996); and

(c) the panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: February 8, 1996.

James R. Holbein,

United States Secretary, NAFTA Secretariat.

[FR Doc. 96–3345 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–GT–M

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On January 29, 1996 The Titan Industrial Corporation, Dofasco, Inc., Stelco Inc. and Algoma Inc. filed a First Request for Panel Review with the Mexican Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final antidumping determination review made by the Secretaria de Comercio y Fomento Industrial, in the antidumping investigation respecting Hot-Rolled Steel Sheet Originating in or Exported from Canada. This determination was published in the *Diario Oficial de la Federacion* on December 30, 1995. The NAFTA Secretariat has assigned Case Number MEX–96–1904–03 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the Federal Register on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the Mexican Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on January 29, 1996, requesting panel review of the final antidumping duty investigation described above.

The Rules provide that:

(a) a Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is February 28, 1996);

(b) a Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is March 14, 1996); and

(c) the panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: February 8, 1996.

James R. Holbein,

United States Secretary, NAFTA Secretariat.

[FR Doc. 96–3347 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–GT–M

North American Free-Trade Agreement, Article 1904 Binational Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On January 29, 1996 The Titan Industrial Corporation, Dofasco, Inc., Stelco Inc. and Algoma Inc. filed a First Request for Panel Review with the Mexican Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final antidumping determination review made by the Secretaria de Comercio y Fomento Industrial, in the antidumping investigation respecting Rolled Steel Plate Originating in or Exported from Canada. This determination was published in the *Diario Official de la Federacion* on December 28, 1995. The NAFTA Secretariat has assigned Case Number MEX–96–1904–02 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the Federal Register on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the Mexican Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on January 29, 1996, requesting panel review of the final antidumping duty investigation described above.

The Rules provide that:

(a) a Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is February 28, 1996);

(b) a Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is March 14, 1996); and

(c) the panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: February 8, 1996.

James R. Holbein,

United States Secretary, NAFTA Secretariat.

[FR Doc. 96–3346 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–GT–M

National Institute of Standards and Technology

[Docket No. 951201284–5284–01]

RIN 0693–ZA04

Physics Laboratory 1996 Summer Undergraduate Research Fellowships (SURF)—Partnerships in Atomic, Molecular and Optical (AMO) Physics

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: Through Summer Undergraduate Research Fellowships, ''SURFing the Physics Lab: A Partnerships for AMO Physics'' will provide an opportunity for the Physics Laboratory of the National Institute of Standards and Technology and the National Science Foundation to join in partnership with American colleges and universities, stimulating outstanding physics students to pursue scientific careers by exposing them to the world class atomic, molecular, optical and radiation physicists and facilities in the NIST Physics Laboratory, and strengthening undergraduate AMO physics curricula by forming the basis for ongoing collaborations. The NIST program director will work with physics department chairs and directors of multi-disciplinary centers of excellence to identify outstanding undergraduates (including graduating seniors) who would benefit from off-campus summer research in an honors academy environment. We recommend a group of two candidates plus one alternate to be nominated by each institution, although larger or smaller groups will be given equal consideration. The selected group of about twenty (20) students will spend approximately twelve (12) weeks at the Physics Laboratory's Gaithersburg, MD campus, working one-on-one with NIST staff physicists; actively engaged in projects that combine the quest for fundamental knowledge and direct applications to problems of national importance; learning about non-academic alternatives for research careers; living science and seeing how they can make a difference. The 12-week stipend for the summer of 1996 will be $3600. Students and NIST research advisors will be paired based on the student's background and interests in the spring, to allow for adequate dialogue between the student, the student's physics professors and NIST advisor about the intended project, to ensure that the student arrives at NIST ready to contribute, and to prepare the student's physics professor for follow-up in the fall. Good

overlap of research interest will facilitate collaborations between NIST and the participating academic partners. The students will collectively live in a nearby furnished apartment complex and participate in the many NIST seminars and in a weekly SURFing the Physics Lab Summer Seminar Series. The students will all present a research seminar at NIST and be encouraged to participate in a local or national scientific conference during the following academic year. Given the significant lack of diversity in the present physics work force, we will aggressively seek out competitive students from under represented groups or persons with disabilities. Costs for this program (stipend, travel and housing) will be shared by NIST, NSF and the participating schools.

DATES: Proposals must be received no later than the close of business March 11, 1996.

ADDRESSES: Applicants must submit one signed original plus two (2) copies of the proposal along with the Grant Application, Standard Form 424 (Rev. 4/92) to: Physics Laboratory, Attn: Dr. Marc F. Desrosiers, National Institute of Standards and Technology, Building 245, Room C229, Gaithersburg, MD 20899–0001.

FOR FURTHER INFORMATION CONTACT: Dr. Marc F. Desrosiers, (301) 975–5639.

SUPPLEMENTARY INFORMATION:

Catalog of Federal Domestic Assistance Name and Number: 11.609—Measurement and Engineering Research and Standards.

Authority: The Act of March 3, 1901, as amended (15 USC 278g–l) authorizes the National Institute of Standards and Technology to expend up to 1 per centum of the funds appropriated for activities of NIST in any fiscal year, as the Director deems appropriate, for financial assistance awards in the form of cooperative agreements to students at institutions of higher learning within the United States. These students must show promise as present or future contributors to the missions of NIST. Cooperative Agreements are awarded to assure continued growth and progress of science and engineering in the United States, including the encouragement of women and minority students to continue their professional development.

Program Description

The objective of this partnership will build upon a 1993 summer pilot program funded by NIST as a proof of concept and the 1994 and 1995 SURFing programs partially funded by the NSF Physics Division as a Research Experience for Undergraduates Site. Of the nearly 60 students involved during the past three years approximately one-third were Hispanic Americans, one-third were African Americans, half were women and 1 was legally blind. Between 20 to 50% of the associated student stipends, travel and housing was provided in cost sharing by the individual participating institutions.

NIST is the nation's premiere institute for the physics sciences and, as the lead agency for technology transfer, is providing a strong interface between government, industry, and academia; on-site researchers at NIST come from a broad range of colleges and industries. Owing to its unique mission to support the U.S. economy by working with industry, NIST embodies a special science culture, developed from a large and well equipped research staff that enthusiastically blends programs that address the immediate needs of industry with longer-term research that anticipates future needs. This occurs in few other places and enables the Physics Laboratory to offer unique research and training opportunities for undergraduates, providing them a research-rich environment and exposure to state of the art equipment, to scientists at work and to professional contacts that represent future employment possibilities.

Attending to the long term needs of many U.S. high-technology industries, NIST's Physics Lab conducts basic research in the areas of quantum, electron, optical, atomic, molecular, and radiation physics. This is complemented by applied research devoted to overcoming barriers to the next technological revolution, in which individual atoms and molecules will serve as the fundamental building blocks of electronic and optical devices. To achieve these goals, staff develop and utilize highly specialized equipment, such as polarized electron microscopes, scanning tunneling microscopes, lasers, and x-ray and synchrotron radiation sources. Research projects can be theoretical or experimental, and will range from quantum electrodynamics, through trapping atoms and choreographing molecular collisions, to ionizing radiation. SURFers will work one-on-one with our nation's top physical scientists both from NIST and from some of our nation's leading high tech industries. It is anticipated that successful SURFers will move from a position of reliance on guidance from their research advisors to one of research independence during the twelve-week period. One goal of this partnership is to provide opportunities for our nation's next generation of scientists and engineers to engage in world class scientific research at NIST, especially in ground breaking areas of emerging technologies. This carries with it the hope of motivating these individuals to pursue a Ph.D. in physics, and to consider alternative research careers. SURFing the Physics Lab will attempt to forge partnerships with NSF and with post-secondary institutions that demonstrate strong, hands-on undergraduate science curricula, especially those with a demonstrated commitment to the education of women, minorities and students with disabilities. This program will be open to all U.S. citizens interested in AMO physics.

Eligibility

Colleges and universities with degree granting programs in areas of AMO physics.

Funding Availability

The NIST Physics Laboratory will commit approximately $50,000 to support cooperative agreements under the program. The NIST Physics Laboratory's REU Program is supported by NSF at the level of $55,000 per year. The anticipated direct and indirect cost for stipends, travel and housing and conference attendance for twenty students is about $140,000. The actual number of awards made under this announcement will depend on the level of cost sharing by our academic partners. The issuance of awards is contingent upon the availability of funding.

Proposal Review Process

All proposals will be reviewed by a panel of three NIST scientists appointed by the Program Director. Proposals should include the following:

(A) Student Information: (1) Official transcript for each student nominated with a recommended G.P.A. of 3.0 or better, (2) a personal statement from each student and statement of commitment to participate in the 1996 SURF program, including a description of the student's prioritized research interests; (3) a resume for each student; and (4) two letters of recommendation for each student. All references to student include the proposed alternate.

(B) Information About the Applicant Institution: (1) Description of the applicant's education and research philosophy, faculty interests, on-campus research program(s) and opportunities, and overlapping research interests of NIST and the institution; and (2) a statement addressing issues of academic credit and commitment to cost sharing.

Application Kit

An application kit, containing all required application forms and

certifications is available by calling Sandra Bogarde at (301) 975–5524. An application kit includes the following:

SF 424 (Rev 4/92)—Application for Federal Assistance
SF 424A (Rev 4/92)—Budget Information—Non-Construction Programs
SF 424B (Rev 4/92)—Assurances—Non-Construction Programs
CD 511 (7/91)—Certification Regarding Debarment, Suspension, and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying
CD 512 (7/91)—Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusions—Lower Tier Covered Transactions and Lobbying
SF–LLL—Disclosure of Lobbying Activities

Evaluation Criteria

Evaluation of Student's Academic Ability and Commitment to Program Goals (35%): Includes, but is not limited to, evaluation of the following: completed course work; expressed research interest; prior research experience; grade point average in courses relevant to program; career plans, honors and activities.

Evaluation of Applicant Institution's Commitment to Program Goals (35%): Includes, but is not limited to, evaluation of the following: institution's focus on AMO physics; overlap between research interests of the institution and NIST; emphasis on undergraduate hands-on research; undergraduate participation in research conferences/programs; on-campus research facilities; past participation by students/institution in such programs; and commitment to educate women/minorities, and persons with disabilities.

Evaluation of Applicant Institution's Cost Sharing (30%): In the spirit of a true partnership, successful applicants will be encouraged to contribute matching funds. A suggested level of participation would be to directly cover student travel (one round trip by common carrier) and housing costs (approximately $1500); a higher level of participation, such as partial payment of the student's stipend, stated intent to support the participating students at a research conference, and/or awarding of academic credit, will be given extra merit in the evaluation process.

Award decisions shall be based upon total evaluation score.

Award Period

The 1996 Physics Laboratory SURFing Partnership is anticipated to run between May 28 through August 16, 1996; adjustments may be made to accommodate specific academic schedules (e.g., a twelve-week program from May 20 through August 9, or the awarding of a limited number of 10-week cooperative agreements).

Paperwork Reduction Act

The Standard Form 424 and other Standard Forms in the application kit are subject to the requirements of the Paperwork Reduction Act and have been approved by OMB under Control No. 0348–0043, 0348–0044, 0348–0040, and 0348–0046.

Additional Requirements

Primary Application Certifications

All primary applicants must submit a completed form CD–511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying,'' and the following explanations must be provided:

1. *Nonprocurement Debarment and Suspension*

Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies;

2. Drug-Free Workplace

Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, ''Governmentwide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies;

3. *Anti-Lobbying*

Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater.

4. *Anti-Lobbying Disclosure*

Any applicant that has paid or will pay for lobbying using any funds must submit SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR Part 28, Appendix B.

5. *Lower-Tier Certifications*

Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to NIST. SF–LLL submitted by any tier recipient or subrecipient should be submitted to NIST in accordance with the instructions contained in the award document.

Preaward Activities

Applicants who incur any costs prior to an award being made do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that may have been provided, there is no obligation on the part of NIST to cover pre-award costs.

No Obligation for Future Funding

If an application is accepted for funding, DOC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of NIST.

Past Performance

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

False Statements

A false statement on an application is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Delinquent Federal Debts

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

1. The delinquent account is paid in full,
2. A negotiated repayment schedule is established and at least one payment is received, or
3. Other arrangements satisfactory to DoC are made.

Indirect Costs

The total dollar amount of the indirect costs proposed in an application under this program must not exceed the

indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award of 100 percent of the total proposed direct cost dollar amount in the application, whichever is less.

Federal Policies and Procedures

Recipients and subrecipients under the Physics Laboratory Program shall be subject to all Federal laws and Federal and Departmental regulations, policies, and procedures applicable to financial assistance awards. The SURF program does not directly affect any state or local government.

Applicants are reminded of the applicability of Executive order 12372, ''Intergovernmental Review of Federal Programs.''

This rule making action has been determined to be ''not significant'' for purposes of Executive Order 12866.

Dated: February 9, 1996.

Samuel Kramer,

Associate Director.

[FR Doc. 96–3505 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–13–M

Announcement of a Meeting To Discuss Standards Development for Low-Level Light Standards for Luminometry

AGENCY: National Institute of Standards and Technology.

ACTION: Notice of public meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) invites interested parties to attend a meeting on May 1, 1996 to plan, with the assistance of public and private sector stakeholders, a national program to develop standards and a standards traceability scheme for low-level light measurements. Attendees should come prepared to discuss standards specifications, their specific standards needs, as well as resources that they are able to provide toward meeting those needs. This program may become a consortium and attendees would have the opportunity to join through a Cooperative Research and Development Agreement.

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 Wednesday May 1, 1996 at 8:00 a.m., Administration Building, Lecture Room A & B, 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 May 1, 1996. Interested parties should contact NIST to confirm their attendance at the address, telephone number or FAX number shown below no later than April 17, 1996.

ADDRESSES: The meeting will be held at 8:00 a.m., Administration Building, Lecture Room A & B, National Institute of Standards and Technology, Gaithersburg, MD.

FOR FURTHER INFORMATION CONTACT: Dr. Gary W., Kramer, Chemistry Building, Room B156, National Institute of Standards and Technology, Gaithersburg, MD 20899. Telephone: 301–975–4132; FAX: 301–975–3845; e-mail: gkramer@enh.nist.gov.

Dated: February 9. 1996.

Samuel Kramer,

Associate Director.

[FR Doc. 96–3506 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

Monterey Bay National Marine Sanctuary Advisory Council Open Meeting

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

SUMMARY: The Advisory Council was established in December 1993 to advise NOAA's Sanctuaries and Reserves Division regarding the management of the Monterey Bay National Marine Sanctuary. The Advisory Council was convened under the National Marine Sanctuaries Act.

TIME AND PLACE: Friday, March 1, 1996, from 9:00 until 4:30. The meeting will be held at the Monterey City Council Chambers, at the corner of Pacific Street and Madison Street, Monterey, California.

AGENDA: General issues related to the Monterey Bay National Marine Sanctuary are expected to be discussed, including an update from the Sanctuary Manager, reports from the working groups, an update on the Council public relations campaign, and presentations on the proposed realignment of Highway One at Piedras Blancas and on kelp harvesting in the Sanctuary.

PUBLIC PARTICIPATION: The meeting will be open to the public. Seats will be available on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT:

Jane Delay at (408) 647–4246 or Elizabeth Moore at (301) 713–3141.

Federal Domestic Assistance Catalog Number 11.429, Marine Sanctuary Program

Dated: February 12, 1996.

David L. Evans,

Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 96–3438 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–08–M

Notice; Meeting of the Olympic Coast National Marine Sanctuary Advisory Council

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

SUMMARY: The Advisory Council was established in December 1995 to advise NOAA's Sanctuaries and Reserves Division regarding the management of the Olympic Coast National Marine Sanctuary. The Advisory Council was convened under the National Marine Sanctuaries Act.

TIME AND PLACE: Thursday, February 23, 1996, from 10:00 until 4:00. The meeting will be held at the Olympic Natural Resource Center, 1455 South Forks Avenue, Forks, Washington.

AGENDA: General subjects to be covered will include election of Council officers; reports on research and education projects; a report from the Sanctuary manager; and general introductory discussions.

PUBLIC PARTICIPATION: The meeting will be open to the public. Seats will be available on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT:

Nancy Beres at (360) 457–6622 or Elizabeth Moore at (301) 713–3141.

Dated: February 12, 1996.

Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program

David L. Evans,

Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 96–3439 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–08–M

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection of Information; Comment Request—Baby-Bouncers, Walker-Jumpers, and Baby-Walkers

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Consumer Product Safety Commission (CPSC) requests comments on a proposed reinstatement of approval of a collection of information from manufacturers and importers of children's articles called baby-bouncers, walker-jumpers, or baby-walkers. The collection of information consists of requirements that manufacturers and importers of these products must establish and maintain records of inspections, testing, sales, and distributions to demonstrate that the products are not banned by rules issued under the Federal Hazardous Substances Act and codified at 16 CFR part 1500.

The CPSC will consider all comments received in response to this notice before requesting reinstatement of approval of this collection of information from the Office of Management and Budget.

DATES: Written comments must be received by the Office of the Secretary not later than April 15, 1996.

ADDRESSES: Written comments should be captioned ''Baby-Bouncers'' and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to that office, room 502, 4330 East West Highway, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: For information about the proposed reinstatement of approval of the collection of information, or to obtain a copy of 16 CFR part 1500, call or write Nicholas V. Marchica, Director, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0416, extension 2243.

SUPPLEMENTARY INFORMATION: Products called ''baby-bouncers,'' ''walker-jumpers, or ''baby-walkers'' are intended to support children younger than two years of age while they sit, bounce, jump, walk, or recline. Regulations issued under provisions of the Federal Hazardous Substances Act (15 U.S.C. 1261, 1262) establish safety requirements for these products.

A. Requirements for Baby-Bouncers, Walker-Jumpers, and Baby-Walkers

One CPSC regulation bans any such product if it is designed in such a way that exposed parts present hazards of amputations, crushing, lacerations, fractures, hematomas, bruises or other injuries to children's fingers, toes, or other parts of the body. 16 CFR 1500.18(a)(6).

A second CPSC regulation establishes criteria for exempting baby-bouncers, walker-jumpers, and baby walkers from the banning rule under specified conditions. 16 CFR 1500.86(a)(4). The exemption regulation requires certain labeling on these products and their packaging to identify the name and address of the manufacturer or distributor and the model number of the product. Additionally, the exemption regulation requires that records must be established and maintained for three years relating to testing, inspection, sales, and distributions of these products. The regulation does not specify a particular form or format for the records. Manufacturers and importers may rely on records kept in the ordinary course of business to satisfy the recordkeeping requirements if those records contain the required information.

The Office of Management and Budget (OMB) approved the collection of information requirements in the regulations under control number 3041–0019. OMB's most recent extension of approval expired on May 31, 1992. The CPSC now proposes to request reinstatement of approval without change for the regulations' information collection requirements.

The safety need for this collection of information remains. Specifically, if a manufacturer or importer distributes products that violate the banning rule, the records required by section 1500.86(a)(4) can be used by the firm and the CPSC (i) to identify specific models of products which fail to comply with applicable requirements, and (ii) to notify distributors and retailers if the products are subject to recall.

B. Estimated Burden

The CPSC staff estimates that about 25 firms are subject to the testing and recordkeeping requirements of the regulations. The CPSC staff estimates further that the burden imposed by the regulations on each of these firms is approximately 2 hours per year. Thus, the total annual burden imposed by the regulations on all manufacturers and importers is about 50 hours.

The CPSC staff estimates that the hourly wage for the time required to perform the required testing and to maintain the required records is about $13, and that the annual total cost to the industry is approximately $650. During a typical year, the CPSC will expend approximately two days of professional staff time reviewing records required to be maintained by the regulations for baby-bouncers, walker-jumpers, and baby-walkers. The annual cost to the Federal government of the collection of information in these regulations is estimated to be $560.

C. Request for Comments

The CPSC solicits written comments from all interested persons about the proposed extension of approval of the collection of information in the regulations for baby-bouncers, walker-jumpers, and baby-walkers. The CPSC specifically solicits information about the hourly burden and monetary costs imposed by the collection of information on firms subject to this collection of information. The CPSC also seeks information relevant to the following topics:

- Whether the collection of information is necessary for the proper performance of the CPSC's functions;
- Whether the information will have practical utility for the CPSC;
- Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
- Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other form of information technology.

Dated: February 12, 1996.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 96–3507 Filed 2–14–96; 8:45 am]

BILLING CODE 6355–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Availability of Funds for Training and Technical Assistance for State Commissions

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability of funds.

SUMMARY: The Corporation for National Service (the Corporation) announces the availability of up to $500,000 for a cooperative agreement with a non-profit organization, an educational institution, or a for-profit organization to fund the provision of training and technical assistance support services to State Commissions involved in AmeriCorps programs, as provided by the National and Community Service Act of 1990, as amended.

DATES: Application materials will be available beginning on or about Wednesday, February 14, 1996. Applications must be received by 3:00 p.m. Eastern Standard Time on Friday, March 11, 1996.

ADDRESSES: Applications must be submitted to: Corporation for National Service, 1201 New York Avenue NW., Ninth Floor, Washington, DC 20525, Attention: Patricia L. Holliday. Applications may not be submitted by facsimile. This notice may be requested in an alternative format for the visually impaired.

FOR FURTHER INFORMATION CONTACT:

To obtain applications, contact the Corporation in writing or by facsimile at (202) 565–2786. For further information, contact Patricia L. Holliday, Grants and Contracts Officer, at (202) 606–5000, ext. 187 or (202) 565–2799 TDD.

SUPPLEMENTARY INFORMATION:

Background

The Corporation is a federal government corporation that engages Americans of all ages and backgrounds in community-based service. This service addresses the nation's education, public safety, human, and environmental needs to achieve direct and demonstrable results. In doing so, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service. Pursuant to the National and Community Service Act of 1990, as amended, the Corporation ''shall make technical assistance available to State * * * to develop national service programs.'' 42 U.S.C. See 12575(b). Through a cooperative agreement, the Corporation will make one award to provide training and technical assistance support services to State Commissions involved in AmeriCorps programs. the Corporation anticipates that in program year 1995–96, there will be up to 450 AmeriCorps grant programs serving through over 1100 operating sites.

Period of Support

The cooperative agreement period will be approximately 12 months, with implementation beginning approximately in April 1996, with the possibility of renewal subject to performance, continuing need, and the availability of funds.

Eligible Applicants

Applicants must be a non-profit organization, an educational institution, or a for-profit organization. However, pursuant to the Lobbying Disclosure Act of 1995, an organization described in section 501(c)(4) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(4), which engages in lobbying activities is not eligible.

Program Elements

The required work will include, but will not be limited to:

1. Helping State Commissions develop appropriate methods for assessing the T/TA needs of subgrantees on an on-going basis;
2. Helping State Commissions develop a technical assistance strategy and network of possible T/TA providers;
3. Helping State Commissions in conceptualization and design of grant review processes.
4. Providing tailor-made orientations to newly-appointed State Commission Chairpersons and Executive Directors;
5. Helping State Commissions train commission staff in program assessment, management of T/TA, office management, cross program collaboration, fundraising, needs assessment, and identification of local, low-cost, T/TA resources;
6. Helping State Commissions to develop effective working relationships with CNS State Offices;
7. Helping State Commissions to involve national direct grantees in the trainings they provide;
8. Helping State Commissions to collaborate with other State Commissions on the delivery of T/TA services;
9. Helping State Commissions to broker T/TA services offered by national T/TA providers;
10. Facilitating mechanisms for peer exchange between commission staff and commission members in other states;
11. Helping State Commissions to design participant advisory vehicles through which they can engage participants in decision-making processes and feedback;
12. Helping State Commissions with tailored T/TA services that include communication via electronic networks, policy bulletins, conference calls, and local gatherings of program networks;
13. Helping State Commissions on various planning activities, including the development of both short term and strategic plans as well as assistance with State Plan updates;
14. Helping State Commissions plan and conduct effective planning retreats.

Corporation Involvement

Substantial involvement is expected between the Corporation and the successful applicant when carrying out the program. The applicant must keep relevant Corporation staff informed of its activities; work with Corporation staff during development, delivery and assessment of services provided; and attend meetings and conferences at the Corporation's request.

Overview of Application Requirements

Application requirements will be set forth in detail in the application materials. Each applicant must submit one original and three copies of its application package. The requirement will include a completed application form, a narrative section, an implementation timeline, a staffing plan, a self assessment plan, budget information, and certifications and assurances pertaining to recipients of federal funding.

Application Review

Initially all applications will be reviewed to confirm that the application is an eligible recipient and to ensure that the application complies with the application instructions and contains the information required. The Corporation will assess applications based on the criteria listed below (in descending other of importance):

(1) Quality.
(2) Organizational Capacity.
(3) Coordination Plans.
(4) Knowledge and Understanding of AmeriCorps.
(5) Description of proposed activities.
(6) Proposed Costs.

Dated: February 9, 1996.

Terry Russell,

General Counsel, Corporation for National Service.

[FR Doc. 96–3377 Filed 2–14–96; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors Meeting

AGENCY: Defense Acquisition University, DOD.

ACTION: Board of visitors meeting.

SUMMARY: A meeting of The Defense Acquisition University (DAU) Board of Visitors (BoV) will be held at the Defense Systems Management College (DSMC), 9820 Belvoir Road, Fort Belvoir, Virginia on Thursday, March 7, 1996 from 0830 until 1600 and Friday March 8, 1996 from 0830 until 1500. The purpose of this meeting of the BoV is to consider the introduction of an acquisition research program and deliberate on topics of interest to the DAU.

The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first-served basis. Persons desiring to attend the meeting should call Mrs. Joyce Reniere at (703) 805–5134.

Dated: February 8, 1996.

L.M. Bynum,

Alternate, OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–3333 Filed 2–14–96; 8:45 am]

BILLING CODE 5000–04–M

Privacy Act of 1974; Notice to Amend Systems of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to amend systems of records.

SUMMARY: The President signed Executive Order 12958 on April 17, 1995, replacing Executive Order 12356 effective October 14, 1995. Therefore, the Office of the Secretary of Defense is amending all DoD Privacy Act systems of records notices to reflect this change. Any DoD systems of records notices that cited E.O. 12356 will be amended to read E.O. 12958.

EFFECTIVE DATE: October 14, 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Jody Sinkler at (703) 607–2943 or DSN 327–2943.

SUPPLEMENTARY INFORMATION: The President signed Executive Order 12958 on April 17, 1995, replacing Executive Order 12356 effective October 14, 1995. Therefore, the Office of the Secretary of Defense is amending all DoD Privacy Act systems of records notices to reflect this change. Any DoD systems of records notices that cited E.O. 12356 will be amended to read E.O. 12958.

Dated: February 8, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–3361 Filed 2–14–96; 8:45 am]

BILLING CODE 5000–04–F

Department of the Air Force

Notice of Intent To Prepare an Environmental Assessment for Realignment of Scott AFB, IL

The United States Air Force (Air Force) will prepare an Environmental Assessment (EA) to assess the potential environmental impacts of the realignment of an Illinois Air National Guard (ANG) unit to Scott Air Force Base (AFB) near Belleville, Illinois. The Mid-America civilian airport boarders the site to the north. This action is required in connection with implementation of the recommendations of the 1993 and 1995 Defense Base Closure and Realignment Commissions.

The proposed realignment would relocate 10 KC–135 aircraft and associated personnel and equipment to Scott AFB and entails approximately $80M in construction on the base. Under the No Action alternative, the ANG unit and its aircraft, personnel and equipment would not relocate. The purpose of the analysis is to determine the environmental impacts of the proposed realignment and if it requires the preparation of an Environmental Impact Statement (EIS).

The Air Force will conduct a public meeting to ensure the environmental assessment addresses the appropriate scope of issues. The public comments will be considered in the preparation of the EA. Notice of the date, time, and location of the meeting will be made available to public officials, the community, and the news media at a later date. Written comments on the scope of alternatives and impacts will also be accepted and considered. If the Air Force were to decide to propose an EIS, this process may also be substituted for the scoping process that would normally precede an EIS.

To ensure the Air Force will have sufficient time to consider all appropriate comments, please forward comments to the address listed below by 19 March 1996. The Air Force will accept appropriate input any time throughout this process.

Please direct any written comments or requests for further information concerning this action to: Ms. Jean Reynolds, HQ AMC/CEBP, 507 ''A'' Street, Scott AFB, IL 62225–5022, (618) 256–6128, ext. 394.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 96–3504 Filed 2–14–96; 8:45 am]

BILLING CODE 3910–01–P

Department of the Army

Corps of Engineers

[3710–AJ]

Jacksonville District, Jacksonville, FL; Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the C–7, C–8, and C–9 (North Dade) Canals General Reevaluation Report (GRR)

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers (Corps), along with the South Florida Water Management District (SFWMD), intends to prepare a Draft Environmental Impact Statement (DEIS) for the feasibility phase of the C–7, C–8, and C–9 (North Dade) Canals General Reevaluation Report (GRR).

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be answered by: Mark Ziminske, Planning Division, U.S. Army Corps of Engineers, P.O. Box 4970, Jacksonville, Florida 32232–0019; Telephone 904–232–1786/Fax 904–232–3442.

SUPPLEMENTARY INFORMATION:

a. Authorization

Construction of the C–7 (Little River), C–8 (Biscayne), and C–9 (Snake Creek) canals, and associated water control structures, S–27, S–28, and S–29 was authorized by the Flood Control Act of 1948, which provided for construction of the first phase of a comprehensive plan for flood control, fish and wildlife preservation, regional groundwater control, salinity control, and navigation. The Energy and Water Development Act of 1955 authorized preparation of a GRR to review conveyance capacity of existing canals, document the quality of local maintenance, and to make recommendations for implementable solutions to flooding problems in the C–7, C–8, and C–9 drainage basins.

b. Study Area

The C–7, C–8, and C–9 basins are located in northeastern Dade County, Florida; all three canals as well as control structures S–27, S–28, and S–29 are previously constructed Corps' projects. The C–7 basin comprises 35 square miles, and is approximately 11 miles long. The western portion of the basin lies in Area B, an area of relatively poor drainage, west of the coastal ridge, eastern Dade County. S–27 is a double grated concrete spillway located in C–7,

which permits release of flood runoff and prevents over-drainage and saltwater intrusion through C–7.

The C–8 basin comprises about 31 square miles, is approximately 12 miles long, and its western portion is also located in Area B. S–28, located in C–8, is a double-gated spillway, which permits release of flood runoff from the C–8 basin and prevents saltwater intrusion through C–8.

The C–9 basin comprises an area of 98 square miles, 39 square miles in Dade County and 59 square miles in Broward County. The total canal length is approximately 11 miles. S–29 and S–30 are control structures located in the C–9 drainage basin. S–29 is a four-gated spillway which conveys flood runoff and prevents over-drainage and saltwater intrusion through C–9. S–30 is a gated concrete culvert which prevents excessive seepage losses from Water Conservation Area (WCA)–3A by permitting higher stages in the L–33 borrow canal and supplies water from L–33 borrow canal during dry periods to maintain stages and satisfy irrigation demands in the C–7, C–8, and C–9 drainage basins. All three canals discharge into northern Biscayne Bay, at Miami.

c. Project Scope and Preliminary Alternatives

The primary objective of this project is to develop a total watershed plan which identifies structural and/or operational modifications to the C–7, C–8, and C–9 canals and the associated water management facilities. While the project emphasis is to enhance flood control benefits in the project area, the GRR will also document the status and quality of maintenance on the existing project and identify environmental restoration opportunities in conjunction with proposed project modifications.

Alternatives will be developed and evaluated based on the project objectives, environmental studies, flood control feasibility, and economics. Standard Corps' programs HEC–2 and UNET will be used to develop hydraulic models of the existing and any proposed flood control features.

In addition to the without project and future conditions, four preliminary alternatives have been drafted which may be revised pending model results and public feedback. They include: (1) Modifications to existing canals to increase conveyance where appropriate and possible; (2) construction of levees adjacent to existing canals in areas identified as being susceptible to flooding, possibly in conjunction with canal cross-section modifications; (3) use of retention storage basins for peak discharge attenuation, possibly in conjunction with channel modifications and construction of levees; and (4) operational changes of existing control structures for the respective canals.

d. Scoping

The scoping process as outlined by the Council on Environmental Quality will be utilized to involve Federal, State, and local agencies, affected Indian Tribes, and other interested private organizations and parties.

A Scoping letter will be sent to interested Federal, State and local agencies, interested organizations and the public, requesting their comments and concerns regarding issues they feel should be addressed in the DEIS. Interested persons and organizations wishing to participate in the scoping process should contact the U.S. Army Corps of Engineers at the address above. Significant issues anticipated include concern for: maintenance of flood protection for the project area; water quality, particularly in the receiving waters of Biscayne Bay; wetlands; fish and wildlife; saltwater intrusion into project canals and the groundwater and; threatened and endangered plant and animal species. Public meetings will be held over the course of the study, the exact location, dates, and times will be announced in public notices and local newspapers.

e. It is estimated that the DEIS will be available to the public about July 1998.

A.J. Salem,

Chief, Planning Division.

[FR Doc. 96–3383 Filed 2–14–96; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 15, 1996.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: February 9, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of Elementary and Secondary Education

Type of Review: New
Title: Even Start Family Literacy Program Women's Prison Project
Frequency: One Time
Affected Public: Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Gov't, SEAs or LEAs
Annual Reporting and Recordkeeping Burden:
Responses: 100
Burden Hours: 1,510

Abstract: The Even Start Family Literacy Women's Prison Project is designed such that the grantee will operate a family literacy project in a prison that houses women and their preschool-aged children

Office of Elementary and Secondary Education

Type of Review: New
Title: Even Start Statewide Family Literacy Initiative Grants
Frequency: Annually
Affected Public: State, Local or Tribal Gov't, SEAs or LEAs
Annual Reporting and Recordkeeping Burden:
Responses: 50
Burden Hours: 375
Abstract: Under the Even Start Statewide Family Literacy Initiative Grants, States will plan and implement statewide family literacy initiatives designed to coordinate and integrate existing Federal, State, and local literacy resources. The Department analyzes the application to determine which applicants meet the absolute priority in the application package and are best qualified to receive Federal funds under the law and EDGAR

[FR Doc. 96–3408 Filed 2–14–96; 8:45 am]
BILLING CODE 4000–01–P

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by February 23, 1996.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer: Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 7th & D Streets, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

DATES: A regular clearance process is also beginning. Interested persons are invited to submit comments on or before April 15, 1996.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronic mailed to the internet address #FIRB@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3506 (c)(2)(A) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Because an emergency review is requested, the additional information to be requested in this collection is included in the section on ''Additional Information'' in this notice.

Gloria Parker,
Director, Information Resources Group.

Office of Elementary and Secondary Education

Type of Review: Extension
Title: Application for Grants for Desegregation Assistance Centers under Civil Rights Technical Assistance and Training
Frequency: Annually
Affected Public: Not-for-profit institutions
Annual Reporting and Recordkeeping Burden:
Responses: 100
Burden Hours: 3,570
Abstract: The Department uses this information to evaluate the proposed projects and make awards in accordance with program regulations. Desegregation Assistance Centers use this application to apply for assistance under Title IV of the Civil Rights Act of 1964, Desegregation of Public Education Program

[FR Doc. 96–3409 Filed 2–14–96; 8:45 am]
BILLING CODE 4000–01–P

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 18, 1996.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the

proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708-8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: February 9, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of Postsecondary Education

Type of Review: New.

Title: Direct Loan Participant Survey.

Frequency: Annually.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Annual Reporting and Recordkeeping Burden:

Responses: 1,500.

Burden Hours: 750.

Abstract: This information is being requested specifically for providing a higher level of Customer Service to Direct Loan schools. Collection of this information will allow us to provide better technical assistance to DL schools and to provide a network database to schools as an information device that would enable them to communicate with schools that have similar configurations, software needs, and process procedures.

[FR Doc. 96–3407 Filed 2–14–96; 8:45 am]

BILLING CODE 4000–01–P

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of arbitration panel decision under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on April 13, 1994, an arbitration panel rendered a decision in the matter of *Betty Moffitt* v. *Tennessee Department of Human Services, (Docket No. R–S/92–8).* This panel was convened by the U.S. Department of Education pursuant to 20 U.S.C. 107d–2, upon receipt of a complaint filed by Betty Moffitt.

FOR FURTHER INFORMATION CONTACT: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U. S. Department of Education, 600 Independence Avenue, SW., Room 3230, Switzer Building, Washington, DC 20202–2738. Telephone: (202) 205–9317. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8298.

SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d–2(c)), the Secretary publishes a synopsis of arbitration panel decisions affecting the administration of vending facilities on Federal and other property.

Background

The complainant, Betty Moffitt, became a licensed manager in the Tennessee Business Enterprise Program on September 1, 1976, and was eventually assigned to Facility #299 at the Tennessee Valley Authority (TVA) Sequoyah Nuclear Power Plant on September 1, 1982. The Tennessee Department of Human Services (TDHS) is the designated State licensing agency (SLA) charged with the administration and operation of the Tennessee Vending Facility program. The Division of Internal Audit for TDHS conducted an in-depth examination and audit of Facility #299 for the calendar year 1987. TDHS found substantial and compelling discrepancies between the amounts of purchases and sales reported by the complainant and amounts of purchases and sales obtained by the auditors from independent sources.

After a thorough analysis of all information, including an independent audit conducted by the Tennessee Department of Revenue that also demonstrated major inconsistencies, TDHS issued a letter to the complainant terminating her license effective February 9, 1991. Complainant allegedly violated Tennessee Rule 1240–6–6.3 (4), which mandates termination of license for falsification of records.

The complainant appealed her termination of license by requesting and receiving a State fair hearing held on July 25 and 26, 1991. An opinion was issued by the hearing officer on January 31, 1992. The hearing officer sustained TDHS's termination of Ms. Moffitt's license based upon the evidence presented at the hearing. Specifically, the hearing officer ruled that the evidence substantiated the falsification allegations made by the SLA. Subsequently, the complainant filed a petition for reconsideration of the hearing officer's decision, which was denied in a written opinion on February 12, 1992. A notice of appeal was filed by the complainant, and on March 2, 1992, the hearing officer issued a final order adopting the earlier opinion of January 31, 1992.

The complainant applied for and received reconsideration of the final order on March 6, 1992, which was denied by the Director of Appeals on March 10, 1992.

On May 13, 1992, Ms. Moffitt filed a request with the Secretary of the U.S. Department of Education to convene an arbitration panel to review the final order of the hearing officer. A hearing by a Federal arbitration panel was held on September 3, 1993.

Arbitration Panel Decision

The arbitration panel reviewed the audit findings of TDHS's Division of Internal Audit of the complainant's Facility #299. The panel concluded that, while the findings of the audit were not conclusive, they were extraordinarily persuasive and were not satisfactorily rebutted. Further, the complainant's testimony and presentation of evidence did not satisfactorily rebut the evidence presented by TDHS. Accordingly, the panel found that in 1987 at Facility #299 the complainant underreported merchandise purchased by at least $58,000 and underreported sales by approximately $140,000 (this was a projected figure accepted by the panel). The panel further found that the underreporting was so significant that it could not be attributed to errors of negligence or inadvertence.

The panel found that TDHS had demonstrated by a preponderance of

evidence that the complainant knowingly and intentionally filed false reports with the SLA that were misleading and that misrepresented the true financial status of Facility #299. The panel found that by doing so, the complainant avoided the payment of set-aside assessments on tens of thousands of dollars for 1987. The panel estimated that the actions of the complainant resulted in TDHS being deprived of approximately sixteen thousand dollars in fees for the year 1987, after considering allowances for legitimate losses in business and the set-aside fees paid by the complainant.

Therefore, the panel concluded that the maintenance of financial accountability among the TDHS's licensed managers is vital to protect the stability, integrity, and future growth of the vending facility program. The panel considered that the SLA must have the authority to take extreme measures in those cases that threaten to undermine the basic principles on which the program operates. The panel ruled that the actions of TDHS were proper and appropriate in terminating the license of the complainant for violation of the State rule 1240–6–6.03 (4). The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: February 12, 1996.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–3450 Filed 2–14–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP94–96–017 and RP94–213–014 (Consolidated)]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

February 9, 1996.

Take notice that on February 5, 1996, CNG Transmission Corporation (CNG), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Original Sheet No. 37A
Substitute Third Rev. Sheet No. 349
Substitute Third Rev. Sheet No. 350

CNG requests an effective date of July 1, 1994, for these substitute tariff sheets.

CNG states that it has filed Original Sheet No. 37A in order to comply with a directive contained in the December 21, 1995, Letter Order in this proceeding, by providing a summary of rates applicable to CNG's separately-priced incremental rate schedules. CNG indicates that the purpose of substitute Sheet Nos. 349 and 350 is to revise the proposed effective date of these sheets from January 1, 1996 to July 1, 1994. According to CNG, this effective date revision is consistent with Article III, Paragraph B of the June 28, 1996 Stipulation and Agreement in the instant proceedings.

CNG states that copies of this letter of transmittal and enclosures are being mailed to the parties to the captioned proceedings.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. 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. 96–3370 Filed 2–14–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP85–221–062]

Frontier Gas Storage Company; Notice of Sale Pursuant to Settlement Agreement

February 9, 1996.

Take notice that on February 7, 1996, Frontier Gas Storage Company (Frontier), c/o Reid & Priest, Market Square, 701 Pennsylvania Ave., N.W., Suite 800, Washington, D.C. 20004, in compliance with provisions of the Commission's February 13, 1985, Order in Docket No. CP82–487–000, *et al.*, submitted an executed Service Agreement under Rate Schedule LVS–1 providing for the possible sale of up to a daily quantity of 50,000 MMBtu, not to exceed a 5 Bcf of Frontier's gas storage inventory on an ''as metered'' basis to Rainbow Gas Company, for term ending February 28, 1997.

Under Subpart (b) of Ordering Paragraph (F) of the Commission's February 13, 1985, Order, Frontier is ''authorized to commence the sale of its inventory under such an executed service agreement fourteen days after filing the agreement with the Commission, and may continue making such sale unless the Commission issues an order either requiring Frontier to stop selling and setting the matter for hearing or permitting the sale to continue and establishing other procedures for resolving the matter.''

Any person desiring to be heard or to make a protest with reference to said filing should, within 10 days of the publication of such notice in the Federal Register, file with the Federal Energy Regulatory Commission (888 1st Street N.E., Washington, D.C. 20426) a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 or 385.211. 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. 96–3371 Filed 2–14–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–5–008]

Northwest Pipeline Corporation; Notice of Compliance Filing

February 9, 1996.

Take notice that on February 6, 1996, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective November 6, 1994:

Fifth Substitute Original Sheet No. 237–A
Fourth Substitute Original Sheet No. 237–B
Substitute Second Revised Sheet No. 237–C
Original Sheet No. 237–D

Northwest states that the purpose of this filing is to comply with the Commission's directives in its Order on Rehearing issued January 23, 1996 in Docket No. RP95–5–005.[1] Northwest's proposed tariff language specifies that Northwest will extend a shipper imbalance make-up period if Northwest is unable to accommodate an imbalance make-up nomination to eliminate a shipper imbalance due to force majeure or operating conditions, provided that the nomination is from a shipper's primary receipt point.

Northwest states that the revised tariff sheets are being served upon all intervenors in this proceeding.

[1] 74 FERC ¶ 61,059.

Any person desiring to protest with reference to said application should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.211 of the Commission's Rules Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3369 Filed 2–14–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–170–000]

Williston Basin Interstate Pipeline Company; Notice of Application

February 9, 1996.

Take notice that on February 5, 1996, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 300, 200 North Third Street, Bismarck, North Dakota 58501, filed in Docket No. CP96–170–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a compressor in Stark County, North Dakota, all as more fully set forth in the application on file with the Commission and open to public inspection.

Williston Basin proposes to abandon compressor No. 6 and related facilities in Stark County, North Dakota, since it is no longer needed. It is stated that there would be no impact on Williston Basin's current operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 1, 1996, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Williston Basin to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3372 Filed 2–14–96; 8:45 am]

BILLING CODE 6716–01–M

[Docket No. RP96–103–001]

Wyoming Interstate Company, Ltd.; Notice of Application

February 9, 1996.

Take notice that on February 7, 1996, Wyoming Interstate Company, Ltd. (WIC), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 2, the following substitute tariff sheets to be effective February 1, 1996.

Substitute First Revised Sheet No. 13
Substitute Second Revised Sheet No. 19
Substitute First Revised Sheet No. 20

WIC states that the substitute tariff sheets are filed to comply with the Letter Order issued January 31, 1996 in Docket No. RP96–103–000. Additionally, CIG is proposing the deletion of Note 3 on the top of Second Revised Sheet No. 19 which was inadvertently repeated on this sheet. It should only appear on First Revised Sheet No. 18.

Any person desiring to protest with reference to said application should file a protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.211 of the Commission's Rules Regulations. All such protests must be filed as provided in § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3368 Filed 2–14–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG96–40–000, et al.]

CMS Generation Yallourn Limited Duration Company, et al.; Electric Rate and Corporate Regulation Filings

February 7, 1996.

Take notice that the following filings have been made with the Commission:

1. CMS Generation Yallourn Limited Duration Company

[Docket No. EG96–40–000]

On February 5, 1996, CMS Generation Yallourn Limited Duration Company (''Applicant''), with its principal office at c/o CMS Energy Asia Pte Ltd, 80 Raffles Place #26–20, UOB Plaza 2, Singapore 048624, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant states that it holds an interest in a Cayman Islands limited duration company, formed to acquire, own and operate a 1,450 megawatt brown coal-fired electric generating facility and adjacent brown coal open cut mine located in Victoria, Australia (the ''Facility''). Electric energy produced by the Facility will be sold at wholesale to the Victoria Power Exchange. In no event will any electric energy be sold to consumers in the United States.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy of accuracy of the application.

2. South Carolina Electric & Gas Company

[Docket No. ER96–178–000]

Take notice that on January 26, 1996, South Carolina Electric & Gas Company (SCE&G) tendered for filing a supplement to the filing of a prior supplement dated October 11, 1995, to the contract between SCE&G and the Southeastern Power Administration (SEPA) with respect to SEPA's marketing of capacity and energy from Federal Power Customers, Inc., the only party which previously moved to intervene in this proceeding.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Northeast Utilities Service Company

[Docket No. ER96–897–000]

Take notice that on January 24, 1996, Northeast Utilities Service Company (NUSCO), tendered for filing, a Service Agreement to provide short-term firm transmission service to Koch Power Services, Inc. (Koch), under the NU System Companies' Transmission Service Tariff No. 5.

NUSCO states that a copy of this filing has been mailed to Koch.

NUSCO requests that the Service Agreement become effective sixty (60) days after receipt of this filing by the Commission.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Northern Indiana Public Service Company

[Docket No. ER96–898–000]

Take notice that on January 24, 1996, Northern Indiana Public Service Company, tendered for filing an executed Service Agreement between Northern Indiana Public Service Company and Aquila Power Corporation.

Under the Service Agreement, Northern Indiana Public Service Company agrees to provide services to Aquila Power Corporation under Northern Indiana Public Service Company's Power Sales Tariff, which was accepting for filing by the Commission and made effective by Order dated August 17, 1995 in Docket No. ER95–1222–000. Northern Indiana Public Service Company and Aquila Power Corporation request waiver of the Commission's sixty-day notice requirement to permit an effective date of February 1, 1996.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Northern Indiana Public Service Company

[Docket No. ER96–900–000]

Take notice that on January 24, 1996, Northern Indiana Public Service Company, tendered for filing an executed Service Agreement between Northern Indiana Public Service Company and Alpena Power Company.

Under the Service Agreement, Northern Indiana Public Service Company agrees to provide services to Alpena Power Company under Northern Indiana Public Service Company's Power Sales Tariff, which was accepting for filing by the Commission and made effective by Order dated August 17, 1995 in Docket No. ER95–1222–000. Northern Indiana Public Service Company and Alpena Power Company request waiver of the Commission's sixty-day notice requirement to permit an effective date of February 1, 1996.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Northern Indiana Public Service Company

[Docket No. ER96–901–000]

Take notice that on January 24, 1996, Northern Indiana Public Service Company tendered for filing an executed Service Agreement between Northern Indiana Public Service Company and Ohio Edison Company.

Under the Service Agreement, Northern Indiana Public Service Company agrees to provide services to Ohio Edison Company under Northern Indiana Public Service Company's Power Sales Tariff, which was accepting for filing by the Commission and made effective by Order dated August 17, 1995 in Docket No. ER95–1222–000. Northern Indiana Public Service Company and Ohio Edison Company request waiver of the Commission's sixty-day notice requirement to permit an effective date of February 1, 1996.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. UNITIL Power Corp.

[Docket No. ER96–902–000]

Take notice that on January 24, 1996, UNITIL Power Corp. (UPC), tendered for filing a Power Supply Agreement (Power Supply Agreement) between UPC and Concord Electric Company (CECo) and Exeter & Hampton Electric Company (E&H). The Power Supply Agreement sets forth the terms and conditions under which UPC will sell, and CECo and E&H will purchase, firm electric power supply for resale by CECo and E&H to retail customers under its newly approved Energy Bank Service. UPC requests an effective date for the Power Supply Agreement of March 24, 1996.

UPC states copies of the filing were served on E&H, CECo and on the New Hampshire Public Utilities Commission.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. The Dayton Power and Light Company

[Docket No. ER96–903–000]

Take notice that on January 24, 1996, The Dayton Power and Light Company (Dayton), tendered for filing an executed Master Power Sales Agreement between Dayton and The Pennsylvania Power and Light (Pennsylvania).

Pursuant to the rate schedule attached as Exhibit B to the Agreement, Dayton will provide to Pennsylvania power and/or energy for resale.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Wisconsin Electric Power Company

[Docket No. ER96–904–000]

Take notice that on January 24, 1996, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an Electric Service Agreement between itself and Valero Power Services Company (Valero). The Electric Service Agreement provides for service under Wisconsin Electric's Coordination Sales Tariff.

Wisconsin Electric requests an effective date of sixty days from date of filing. Copies of the filing have been served on Valero, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Wisconsin Electric Power Company

[Docket No. ER96–905–000]

Take notice that on January 24, 1996, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an Electric Service Agreement between itself and Coastal Electric Services Company (Coastal). The Electric Service Agreement provides for service under Wisconsin Electric's Coordination Sales Tariff.

Wisconsin Electric requests an effective date of sixty days from date of filing. Copies of the filing have been served on Coastal, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Virginia Electric and Power Company

[Docket No. ER96–907–000]

Take notice that on January 24, 1996, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement between The Cincinnati Gas & Electric Company, PSI Energy, Inc. and Cinergy Services, Inc. and Virginia Power, dated November 1, 1995, under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994. Under the tendered Service Agreement Virginia Power agrees to provide services to The Cincinnati Gas & Electric Company, PSI Energy, Inc. and Cinergy Services, Inc. under the rates, terms and conditions of the Power Sales Tariff as agreed by the parties pursuant to the terms of the applicable Service Schedules included in the Power Sales Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission, the North Carolina Utilities Commission, the Ohio Public Utilities Commission, and the Indiana Utility Regulatory Commission.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Cinergy Services, Inc.

[Docket No. ER96–908–000]

Take notice that on January 24, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Non-Firm Power Sales Standard Tariff (the Tariff) entered into between Cinergy and the Public Service Electric and Gas Company.

Cinergy and the Public Service Electric and Gas Company are requesting an effective date of January 1, 1996.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. New York State Electric & Gas Corporation

[Docket No. ER96–909–000]

Take notice that on January 25, 1996, New York State Electric & Gas Corporation (NYSEG), tendered for filing an amendment to the Rate Schedule No. 117 filed with FERC corresponding to an Agreement with the Delaware County Electric Cooperative Inc. (the Cooperative). The proposed amendment would decrease revenues by $182.56 based on the twelve month period ending December 31, 1996.

This rate filing is made pursuant to 1(c) and 3(a) through (c) of Article IV of the June 1, 1977 Facilities Agreement between NYSEG and the Cooperative, filed with FERC. The annual charges of routine operation and maintenance and general expenses, as well as revenue and property taxes are revised based on data taken from NYSEG's Annual Report to the Federal Energy Regulatory Commission (FERC Form 1) for the twelve months ended December 31, 1994. The revised facilities charge is levied on the cost of the 34.5 kV tie line from Taylor Road to the Jefferson Substation, constructed by NYSEG for the sole use of the Cooperative.

NYSEG requests an effective date of January 1, 1996, and, therefore, requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Delaware County Electric Cooperative Inc. and on the Public Service Commission of the State of New York.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Wisconsin Public Service Corporation

[Docket No. ER96–910–000]

Take notice that on January 25, 1996, Wisconsin Public Service Corporation, tendered for filing, executed service agreements with Coastal Electric Services Company and K N Marketing Inc. under its CS–1 Coordination Sales Tariff.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. New York State Electric & Gas Corporation

[Docket No. ER96–911–000]

Take notice that on January 25, 1996, New York State Electric & Gas Corporation (NYSEG), tendered for filing a supplement to its Agreement with the Municipal Board of the Village of Bath (the Village), designated Rate Schedule FERC No. 72. The proposed amendment would increase revenues by $46.82 based on the twelve month period ending December 31, 1996.

This rate filing is made pursuant to Section 2 (a) through (c) of Article IV of the December 1, 1977 Facilities Agreement—Rate Schedule FERC No. 72. The annual charges for routine operation and maintenance and general expenses, as well as revenue and property taxes are revised based on data taken from NYSEG's Annual Report to the Federal Energy Regulatory Commission (FERC Form 1) for the twelve months ended December 31, 1994. The revised facilities charge is levied on the cost of the tap facility constructed and owned by NYSEG to connect its 34.5 Kv electric transmission line located in the Village of Bath to the Village's Fairview Drive Substation.

NYSEG requests an effective date of January 1, 1996, and, therefore, requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Municipal Board of the Village of Bath and on the Public Service Commission of the State of New York.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Southern Company Services, Inc.

[Docket No. ER96–912–000]

Take notice that on January 24, 1996, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (Southern Companies), tendered for filing an Interchange Service Contract between Southern Companies and Heartland Energy Services, Inc. The Interchange Service Contract establishes the terms and conditions of power supply, including provisions relating to service conditions, control of system disturbances, metering and other matters related to the administration of the agreement.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Southern Company Services, Inc.

[Docket No. ER96–913–000]

Take notice that on January 24, 1996, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (Southern Companies), tendered for filing an Interchange Service Contract between Southern Companies and LG&E Power Marketing Inc. of Fairfax, Virginia. The Interchange Service Contract establishes the terms and conditions of power supply, including provisions relating to service conditions, control of system disturbances, metering and other matters related to the administration of the agreement.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Southern Company Services, Inc.

[Docket No. ER96–914–000]

Take notice that on January 24, 1996, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power

Company, Mississippi Power Company and Savannah Electric and Power Company (Southern Companies), tendered for filing an Interchange Service contract between Southern Companies and CATEX Vitol Electric, L.L.C. The Interchange Service Contract establishes the terms and conditions of power supply, including provisions relating to service conditions, control of system disturbances, metering and other matters related to the administration of the agreement.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Northern States Power Company (Minnesota); Northern States Power Company (Wisconsin)

[Docket No. ER96–915–000]

Take notice that on January 24, 1996, Northern States Power Company-Minnesota (NSP–M) and Northern States Power Company-Wisconsin (NSP–W) jointly tendered and request the Commission to accept two Transmission Service Agreements which provide for Limited and Interruptible Transmission Service to Enron Power Marketing, Inc.

NSP requests that the Commission accept for filing the Transmission Service Agreements effective as of January 1, 1996. NSP requests a waiver of the Commission's notice requirements pursuant to Part 35 so the Agreements may be accepted for filing effective on the date requested.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Northern States Power Company (Minnesota); Northern States Power Company (Wisconsin)

[Docket No. ER96–916–000]

Take notice that on January 24, 1996, Northern States Power Company-Minnesota (NSP–M) and Northern States Power Company-Wisconsin (NSP–W) tendered and request the Commission to accept two Transmission Service Agreements which provide for Limited and Interruptible Transmission Service to Rainbow Electric Marketing Corp. These Transmission Service Agreements replace the previously approved Limited and Interruptible Transmission Service Agreements which were in effect January 1, 1995, through December 31, 1995.

NSP requests that the Commission accept for filing the Transmission Service Agreements effective as of January 1, 1996. NSP requests a waiver of the Commission's notice requirements pursuant to Part 35 so the Agreements may be accepted for filing effective on the date requested.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. Northern States Power Company (Minnesota); Northern States Power Company (Wisconsin)

[Docket No. ER96–917–000]

Take notice that on January 24, 1996, Northern States Power Company-Minnesota (NSP–M) and Northern States Power Company-Wisconsin (NSP–W) jointly tendered and request the Commission to accept two Transmission Service Agreements which provide for Limited and Interruptible Transmission Service to Wisconsin Electric Power Company. These Transmission Service Agreements replace the previously approved Limited and Interruptible Transmission Service Agreements which were in effect January 1, 1995, through December 31, 1995.

NSP requests that the Commission accept for filing the Transmission Service Agreements effective as of January 1, 1996. NSP requests a waiver of the Commission's notice requirements pursuant to Part 35 so the Agreements may be accepted for filing effective on the date requested.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. Federal Energy Sales, Inc.

[Docket No. ER96–918–000]

Take notice that on January 24, 1996, Federal Energy Sales, Inc. (FES), tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1 to be effective no later than sixty (60) days from the date of its filing.

FES intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where FES sells electric energy, it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. Neither FES nor any of its affiliates are in the business of generating, transmitting, or distributing electric power.

Rate Schedule No. 1 provides for the sale of energy and capacity at agreed prices. Rate Schedule No. 1 also provides that no sales may be made to affiliates.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

23. Kansas City Power & Light Company

[Docket No. ER96–919–000]

Take notice that on January 23, 1996, Kansas City Power & Light Company (KCPL), tendered for filing revised Service Schedule reflecting the rates which, pursuant to ER94–1011, would be based on the outcome of the proceeding in Docket No. ER94–1045.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

24. Wisconsin Public Service Corporation

[Docket No. ER96–920–000]

Take notice that on January 25, 1996, Wisconsin Public Service Corporation (WPSC), tendered for filing executed Transmission Service Agreements between WPSC and Coastal Electric Services Company. The Agreements provide for transmission service under the Comparable Transmission Service Tariff, FERC Original Volume No. 7.

WPSC asks that the agreements become effective retroactively to the date of execution by WPSC.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

25. Northeast Utilities Service Company

[Docket No. ER96–921–000]

Take notice that on January 19, 1996, Northeast Utilities Service Company (NUSCO), tendered for filing on behalf of the Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company, Holyoke Power and Electric Company and Public Service Company of New Hampshire (together, the NU System Companies) an amendment to the Capacity Agreement previously filed by NUSCO in the above-referenced docket.

NUSCO renews its request that the proposed rate schedule changes be permitted to become effective January 24, 1996. NUSCO states that a copy of the filing has been mailed or delivered to the effected parties.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

26. Union Electric Company

[Docket No. ER96–925–000]

Take notice that on January 25, 1996, Union Electric Company (UE), tendered for filing a Transmission Service Agreement dated July 21, 1995 between Electric Clearinghouse, Inc. (ECI) and UE. UE asserts that the purpose of the Agreement is to set out specific rates,

terms, and conditions for transmission service transactions from UE to ECI.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

27. Calpine Power Marketing, Inc.

[Docket No. ER96–926–000]

Take notice that on January 25, 1996, Calpine Power Marketing, Inc. (CPMI), tendered for filing a letter from the Executive Committee of the Western Systems Power Pool (WSPP) approving CPMI's application for membership in the WSPP. CPMI requests that the Commission amend the WSPP Agreement to include it as a WSPP member.

CPMI requests that its membership be made immediately effective and therefore requests waiver of the Commission's notice requirement. CPMI also requests that the Commission waive such other filing requirements as may be necessary or appropriate to allow the filing to become effective.

Copies of the filing were served upon counsel for the WSPP and the members of WSPP Executive Committee.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

28. Northern States Power Company (Minnesota Company)

[Docket No. ER96–927–000]

Take notice that on January 25, 1996, Northern States Power Company (Minnesota) (NSP), tendered for filing an Agreement dated December 20, 1995, between NSP and the City of Shakopee (City). In a previous agreement dated June 30, 1995, between the two parties, City agreed to continue paying NSP the current wholesale distribution substation rate of $0.47/Kw-month until December 31, 1995. Since the June 30, 1995, agreement has terminated, this new Agreement has been executed to continue the current wholesale distribution substation rate of $0.47/Kw-month until June 30, 1996.

NSP request the Agreement be accepted for filing effective January 1, 1996, and requests waiver of the Commission's notice requirements in order for the Agreement to be accepted for filing on the date requested.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

29. Connecticut Light & Power Company

[Docket No. ER96–928–000]

Take notice that on January 25, 1996, Northeast Utilities Service Company (NUSCO), on behalf of the Northeast Utilities System Companies, tendered for filing a First Amendment to Dispatchable System Power Sales Agreement between NUSCO and Sterling Municipal Light Department (Sterling).

NUSCO states that a copy of this filing has been mailed to Sterling.

NUSCO requests that the First Amendment to Dispatchable System Power Sales Agreement become effective on March 1, 1996.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

30. Pennsylvania Power & Light Company

[Docket No. ER96–930–000]

Take notice that on January 25, 1996, Pennsylvania Power & Light Company (PP&L), tendered for filing a request for approval of rate changes, under the Capacity and Energy Sales Agreement (Agreement) dated June 29, 1983, as supplemented, between PP&L and Atlantic City Electric Company. PP&L proposes to implement depreciation life study changes, to change accounting methods for Office Furniture, Tools and Equipment (FTE), and to segregate all FTE into certain General Plant accounts. PP&L also proposes to include as depreciation amortized portions of the expected negative salvage and dismantling costs of its fossil-fired power plants.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

31. Pennsylvania Power & Light Company

[Docket No. ER96–932–000]

Take notice that on January 25, 1996, Pennsylvania Power & Light Company (PP&L), tendered for filing a request for approval of rate changes under the Capacity and Energy Sales Agreement (Agreement) dated March 9, 1984, as supplemented, between PP&L and Jersey Central Power & Light Company. PP&L proposes to increase its rate under the Agreement to more accurately reflect the projected costs of decommissioning PP&L's nuclear-fueled Susquehanna Steam Electric Station units. PP&L also proposes to include as depreciation amortized portions of the expected negative salvage dismantling costs of its non-nuclear power plants. In addition, PP&L proposes to levelize its current modified sinking fund depreciation methodology for the Susquehanna Steam Electric Station units so that, rather than increasing each year, the depreciation amount will be consistent for the three years. PP&L also proposes to convert the depreciation of Hydraulic Production plant from the remaining life, straight-line, broad group system of depreciation to the remaining life, life-spanned system of depreciation. PP&L proposes to extend the deactivation dates for the life spanning system of depreciation for two jointly-owned plants. Finally, PP&L seeks to implement depreciation life study changes, to change accounting methods for Office Furniture, Tools and Equipment (FTE), and to segregate all FTE into certain General Plant accounts.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

32. Pennsylvania Power & Light Company

[Docket No. ER96–933–000]

Take notice that on January 25, 1996, Pennsylvania Power & Light Company (PP&L) tendered for filing a request for approval of rate changes under the Capacity and Energy Sales Agreement (Agreement) dated December 1, 1992, as supplemented, between PP&L and UGI Utilities, Inc. PP&L proposes to increase its rate under the Agreement to more accurately reflect the projected costs of decommissioning PP&L's nuclear-fueled Susquehanna Steam Electric Station units. PP&L also proposes to include as depreciation amortized portions of the expected negative salvage dismantling costs of its non-clear power plants. In addition, PP&L proposes to levelize its current modified sinking fund depreciation methodology for the Susquehanna Steam Electric Station units so that, rather than increasing each year, the depreciation amount will be constant for the next three years. PP&L also proposes to convert the depreciation of Hydraulic Production plant from the remaining life, straight-line, broad group system of depreciation to the remaining life, life-spanned system of depreciation. PP&L also proposes to extend the deactivation dates for the life spanning system of depreciation for two jointly-owned plants. Finally, PP&L proposes to implement depreciation life study changes, to change accounting methods for Office Furniture, Tools and Equipment (FTE), and to segregate all FTE into certain General Plant accounts.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

33. Richard M. Kovacevich

[Docket No. ID–2937–000]

Take notice that on January 30, 1996, Richard M. Kovacevich (Applicant) tendered for filing an application under

Section 305(b) of the Federal Power Act to hold the following positions:

Director, Northern States Power Company
President, Chairman, and Chief Executive Officer, Norwest Corporation

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

34. David A. Christensen

[Docket No. ID–2938–000]

Take notice that on January 30, 1996, David A. Christensen (Applicant) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions:

Director, Northern States Power Company (Minnesota)
Director, Norwest Corporation
Director, Norwest Bank South Dakota, N.A.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

35. David A. Coulter

[Docket No. ID–2939–000]

Take notice that on January 30, 1996, David A. Coulter (Applicant) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions:

Director, Pacific Gas and Electric Company
Director, Chief, Executive Officer and President, BankAmerica Corporation
Director, Chief Executive Officer and President, Bank of America National Trust and Savings Association

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

36. Selkirk Cogen Partners, L.P.

[Docket No. QF89–274–013]

On January 29, 1996, Selkirk Cogen Partners, L.P. (Applicant), 24 Power Park Drive, Selkirk, New York 12158, submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to Section 292.205(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to Applicant, the topping-cycle cogeneration facility is located in Selkirk, New York. The Commission originally certified the facility as a qualifying cogeneration facility in *JMC Selkirk, Inc.*, 48 FERC ¶ 62,228 (1989) and recertified the facility in *Selkirk Cogen Partners, L.P.*, 51 FERC ¶ 61,264 (1990). Additionally, on June 18, 1990, October 16, 1992, March 10, 1993, and June 16, 1993, Applicant filed notices of self-recertification with respect to Phase I's qualifying status. The Commission recertified the facility, including Phase I and Phase II, in *Selkirk Cogen Partners, L.P.*, 59 FERC ¶ 62,254 (1992). On October 16, 1992, March 10, 1993, June 16, 1993, May 2, 1994, and August 25, 1994, Applicant filed notices of self-recertification with respect to the qualifying status of the facility. The Commission most recently recertified the facility in *Selkirk Cogen Partners, L.P.*, 70 FERC ¶ 62,084 (1995) and in *Selkirk Cogen Partners, L.P.*, 71 FERC ¶ 62,163 (1995). Applicant states that the instant recertification is requested due to changes in the operation of the facility.

Comment date: 30 days after the date of publication of this notice in the Federal Register, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 96–3373 Filed 2–14–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ER96–108–001, ***et al.***]

Duke/Louis Dreyfus, L.L.C., et al.; Electric Rate and Corporate Regulation Filings

February 8, 1996.

Take notice that the following filings have been made with the Commission:

1. Duke/Louis Dreyfus, L.L.C.

[Docket No. ER96–108–001]

Take notice that on January 16, 1996, Duke/Louis Dreyfus, L.L.C. tendered for filing its compliance filing in the above-referenced docket pursuant to the Commission's order issued in Docket No. ER96–108–000 on December 14, 1995.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Citizens Power & Light Corporation, InterCoast Energy Company, CRSS Power Marketing, Inc., Catex Vitol Electric L.L.C., C.C. Pace Energy Services, Valero Power Services, and JEB Corporation

[Docket Nos. ER89–401–025, ER94–6–002, ER94–142–008, ER94–155–001, ER94–1181–006, ER94–1394–006, ER94–1432–006 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 30, 1996, Citizens Power & Light Corporation filed certain information as required by the Commission's August 8, 1989 order in Docket No. ER89–401–000.

On January 31, 1996, InterCoast Energy Company filed certain information as required by the Commission's August 19, 1994 order in Docket No. ER94–6–000.

On January 30, 1996, CRSS Power Marketing, Inc. filed certain information as required by the Commission's December 30, 1993 order in Docket No. ER94–142–000.

On February 2, 1996, Catex Vitol Electric L.L.C. filed certain information as required by the Commission's January 14, 1994 order in Docket No. ER94–155–000.

On January 26, 1996, C.C. Pace Energy Services filed certain information as required by the Commission's July 25, 1994 order in Docket No. ER94–1181–000.

On January 30, 1996, Valero Power Services filed certain information as required by the Commission's August 24, 1994 order in Docket No. ER94–1394–000.

On January 31, 1996, JEB Corporation filed certain information as required by the Commission's September 8, 1994 order in Docket No. ER94–1432–000.

3. EDC Power Marketing, Inc., CNG Power Services Corporation, Destec Power Services, Inc., Citizens Lehman Power, PanEnergy Power Services, Inc., Koch Power Services Inc., and Williams Energy Services Co.

[Docket Nos. ER94–1538–005, ER94–1554–007, ER94–1612–006, ER94–1685–006, ER95–7–007, ER95–218–004, and ER95–305–005 (not consolidated)]

Take notice that the following informational filings have been made

with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 30, 1996, EDC Power Marketing, Inc. filed certain information as required by the Commission's September 14, 1994, order in Docket No. ER94–1538–000.

On January 31, 1996, CNG Power Services Corporation filed certain information as required by the Commission's October 25, 1994, order in Docket No. ER94–1554–000.

On January 30, 1996, Destec Power Services, Inc. filed certain information as required by the Commission's January 20, 1995, order in Docket No. ER94–1612–000.

On January 31, 1996, Citizens Lehman Power filed certain information as required by the Commission's February 2, 1995 order, in Docket No. ER94–1685–000.

On January 30, 1996, PanEnergy Services, Inc. filed certain information as required by the Commission's December 16, 1994, order in Docket No. ER95–7–000.

On January 30, 1996, Koch Power Services, Inc. filed certain information as required by the Commission's January 4, 1995, order in Docket No. ER95–218–000.

On January 31, 1996, Williams Energy Services Company filed certain information as required by the Commission's March 10, 1995, order in Docket No. ER95–305–000.

4. Howard Energy Company, Inc., IGI Resources, Inc., Conoco Power Marketing, Inc., Proler Power Marketing, Inc., Vantus Energy Corporation, USGEN Power Services, L.P., and Wicor Energy Services, Inc.

[Docket Nos. ER95–252–004, ER95–1034–002, ER95–1441–002, ER95–1433–001, ER95–1614–001, ER95–1625–002, and ER96–34–001 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On February 2, 1996, Howard Energy Company, Inc. filed certain information as required by the Commission's February 24, 1995, order in Docket No. ER95–252–000.

On January 30, 1996, IGI Resources, Inc. filed certain information as required by the Commission's July 11, 1995, order in Docket No. ER95–1034–000.

On January 26, 1996, Conoco Power Marketing, Inc. filed certain information as required by the Commission's August 30, 1995, order in Docket No. ER95–1441–000.

On January 30, 1996, Proler Power Marketing, Inc. filed certain information as required by the Commission's October 16, 1995, order in Docket No. ER95–1433–000.

On January 26, 1996, Vantus Energy Corporation filed certain information as required by the Commission's October 20, 1995, order in Docket No. ER95–1614–000.

On January 30, 1996, USGEN Power Services, L.P. filed certain information as required by the Commission's December 13, 1995, order in Docket No. ER95–1625–000.

On January 31, 1996, Wicor Energy Services, Inc. filed certain information as required by the Commission's November 9, 1995, order in Docket No. ER96–34–000.

5. Stand Energy Corporation, Citizens Lehman Power, Tenneco Energy Marketing Company, Western Gas Resources Power, Marketing, Inc., CL Power Sales One, L.L.C., Delhi Energy Services, Inc. and CNB/Olympic Gas Services

[Docket Nos. ER95–362–004, ER95–393–007, ER95–428–004, ER95–748–002, ER95–892–003, ER95–940–003, ER95–964–003 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 30, 1996, Stand Energy Corporation filed certain information as required by the Commission's February 24, 1995, order in Docket No. ER95–362–000.

On January 31, 1996, Citizens Lehman Power filed certain information as required by the Commission's February 22, 1995, order in Docket No. ER95–393–000.

On January 31, 1996, Tenneco Energy Marketing Company filed certain information as required by the Commission's February 22, 1995, order in Docket No. ER95–428–000.

On January 30, 1996, Western Gas Resources Power Marketing, Inc. filed certain information as required by the Commission's May 16, 1995, order in Docket No. ER95–748–000.

On January 31, 1996, CL Power Sales One, L.L.C. filed certain information as required by the Commission's June 8, 1995, order in Docket No. ER95–892–000.

On January 29, 1996, Delhi Energy Services, Inc. filed certain information as required by the Commission's June 1, 1995, order in Docket No. ER95–940–000.

On January 29, 1996, CNB/Olympic Gas Services filed certain information as required by the Commission's July 10, 1995, order in Docket No. ER95–964–000.

6. Duke Power Company

[Docket No. ER96–109–002]

Take notice that on January 16, 1996, Duke Power Company tendered for filing an amendment to its market-based rate schedule.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Central Illinois Public Service Company

[Docket No. ER96–934–000]

Take notice that on January 26, 1996, Central Illinois Public Service Company (CIPS) submitted a Service Agreement, dated January 18, 1996, establishing Coastal Electric Services Company (Coastal) as a customer under the terms of CIPS' Coordination Sales tariff CST–1 (CST–1 Tariff).

CIPS requests an effective date of January 18, 1996, for the service agreement with Coastal. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon Coastal and the Illinois Commerce Commission.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Florida Power Corporation

[Docket No. ER96–935–000]

Take notice that on January 26, 1996, Florida Power Corporation (FPC), tendered for filing a contract for the provision of interchange service between itself and InterCoast Power Marketing Company (InterCoast). The contract provides for service under Schedule J, Negotiated Interchange Service and OS, Opportunity Sales. Cost support for both schedules has been previously filed and approved by the Commission. No specifically assignable facilities have been or will be installed or modified in order to supply service under the proposed rates.

FPC requests Commission waiver of the 60-day notice requirement in order to allow the contract to become effective as a rate schedule on January 29, 1996. Waiver is appropriate because this filing does not change the rate under these two Commission accepted, existing rate schedules.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Duke Power Company

[Docket No. ER96–936–000]

Take notice that on January 26, 1996, Duke Power Company (Duke), tendered for filing a Transmission Service Agreement (TSA) between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, and Sonat Power Marketing, Inc. (Sonat). Duke states that the TSA sets out the transmission arrangements under which Duke will provide Sonat non-firm transmission service under its Transmission Service Tariff.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Duke Power Company

[Docket No. ER96–937–000]

Take notice that on January 26, 1996, Duke Power Company (Duke), tendered for filing a Transmission Service Agreement (TSA) between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, and Koch Power Services, Inc. (Koch). Duke states that the TSA sets out the transmission arrangements under which Duke will provide Koch non-firm transmission service under its Transmission Service Tariff.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Potomac Electric Power Company

[Docket No. ER96–938–000]

Take notice that on January 26, 1996, the Potomac Electric Power Company (Pepco), tendered for filing a Seventh Amendment to the 1982 agreement for electric service to its full requirements customer, Southern Maryland Electric Cooperative, Inc. (Smeco), including reduced rates for the years 1996 through 1998. These revisions to the Pepco-Smeco electric service agreement are the result of extensive negotiations and are supported by both parties. An effective date of January 1, 1996 for the revised rates and terms is requested, with waiver of notice.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Public Service Company of Colorado and Cheyenne Light, Fuel and Power Company

[Docket No. ER96–939–000]

Take notice that on January 26, 1996, Public Service Company of Colorado (Public Service) and Cheyenne Light, Fuel and Power Company (Cheyenne) filed revised versions of their Point-to-Point Transmission Service Tariffs and their Network Integration Transmission Service Tariffs, which had previously been filed in Docket No. ER95–1268–000. Public Service and Cheyenne state that the purpose of their filing is to conform the terms and conditions of their comparable transmission tariffs to the terms and conditions of the Commission's *pro forma* tariffs as set out by the Commission in its Notice of Proposed Rulemaking and Supplemental Notice of Proposed Rulemaking in Docket No. RM95–8–000.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. The Washington Water Power Company

[Docket No. ER96–940–000]

Take notice that on January 26, 1996, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, a signed service agreement under FERC Electric Tariff Volume No. 4 with Coastal Electric Services Company. Also submitted with this filing is a Certificate of Concurrence with respect to exchanges. WWP requests waiver of the prior notice requirement and requests an effective date of February 1, 1996.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Aquila Power Corporation

[Docket No. ER96–941–000]

Take notice that on January 26, 1996, Aquila Power Corporation (Aquila), tendered for filing a letter from the Executive Committee of the Western Systems Power Pool (WSPP) indicating that Aquila has satisfied the requirements for WSPP membership. Accordingly, Aquila requests that the Commission amend the WSPP Agreement to include it as a member.

Aquila requests waiver of the 60-day prior notice requirement to permit its membership in the WSPP to become effective as of January 23, 1996, the date Aquila accepted membership in the WSPP.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Wisconsin Power and Light Company

[Docket No. ER96–942–000]

Take notice that on January 29, 1996, Wisconsin Power and Light Company (WP&L), tendered for filing an Agreement dated January 2, 1996, establishing Jpower, Inc. as a customer under the terms of WP&L's Point-to-Point Transmission Tariff.

WP&L requests an effective date of January 2, 1996 and accordingly seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Wisconsin Power and Light Company

[Docket No. ER96–943–000]

Take notice that on January 29, 1996, Wisconsin Power and Light Company (WP&L), tendered for filing an Agreement dated January 2, 1996, establishing Valero Power Services Company as a customer under the terms of WP&L's Point-to-Point Transmission Tariff.

WP&L requests an effective date of January 2, 1996 and accordingly seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Wisconsin Power and Light Company

[Docket No. ER96–944–000]

Take notice that on January 29, 1996, Wisconsin Power and Light Company (WP&L), tendered for filing an Agreement dated January 2, 1996, establishing Delhi Energy Services, Inc. as a customer under the terms of WP&L's Point-to-Point Transmission Tariff.

WP&L requests an effective date of January 2, 1996 and accordingly seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Wisconsin Power and Light Company

[Docket No. ER96–945–000]

Take notice that on January 29, 1996, Wisconsin Power and Light Company (WP&L), tendered for filing an Agreement dated January 23, 1996, establishing Louis Dreyfus Electric Power Company, Inc. as a customer under the terms of WP&L's Point-to-Point Transmission Tariff.

WP&L requests an effective date of January 23, 1996 and accordingly seeks waiver of the Commission's notice

requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. PECO Energy Company

[Docket No. ER96–946–000]

Take notice that on January 29, 1996, PECO Energy Company (PECO) filed a Service Agreement dated January 22, 1996, with Central Maine Power Company (CMP) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds CMP as a customer under the Tariff.

PECO requests an effective date of January 22, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to CMP and to the Pennsylvania Public Utility Commission.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Northeast Utilities Service Company

[Docket No. ER96–948–000]

Take notice that on January 29, 1996, Northeast Utilities Service Company (NUSCO), tendered for filing, a Service Agreement to provide non-firm transmission service to Phibro, Inc. (Phibro) under the NU System Companies' Transmission Service Tariff No. 2.

NUSCO states that a copy of this filing has been mailed to Phibro.

NUSCO requests that the Service Agreement become effective sixty (60) days after receipt of this filing by the Commission.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. Public Service Company of Oklahoma and Southwestern Electric Power Company

[Docket No. ER96–949–000]

Take notice that on January 29, 1996, Public Service company of Oklahoma and Southwestern Electric Power Company (collectively the Companies) submitted a Transmission Service Agreement, dated January 1, 1996, establishing Oklahoma Municipal Power Authority (OMPA) as a customer under the terms of the SPP Coordination Transmission Service Tariff.

The Companies request an effective date of January 1, 1996, for the service agreement. Accordingly, the Companies request waiver of the Commission's notice requirements.

A copy of the filing has been sent to OMPA, the Louisiana Public Service Commission, the Arkansas Public Service Commission and the Oklahoma Corporation Commission.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. Houston Lighting & Power Company

[Docket No. ER96–950–000]

Take notice that on January 29, 1996, Houston Lighting & Power Company (HL&P), tendered for filing an executed transmission service agreement (TSA) with Tenneco Energy Marketing Company (TEMC) for Economy Energy and Emergency Power Transmission Service under HL&P's FERC Electric Tariff, Original Volume No. 1, for Transmission Service To, From and Over Certain HVDC Interconnections. HL&P has requested an effective date of January 25, 1996.

Copies of the filing were served on TEMC and the Public Utility Commission of Texas.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

23. Mid-Georgia Cogen, L.P.

[Docket No. QF96–26–000]

On February 5, 1996, Mid-Georgia Cogen, L.P., (Applicant) tendered for filing a supplement to its filing in this docket. No determination has been made that the submittal constitutes a complete filing.

The supplement provides additional information pertaining primarily to the ownership structure of the cogeneration facility.

Comment date: February 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

24. AES Puerto Rico, L.P.

[Docket No. QF96–28–000]

On January 31, 1996, AES Puerto Rico, L.P. of 1001 North 19th Street, Arlington, Virginia 22209, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to Section 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the cogeneration facility will be located in the city of Barrio Jobos, in Guayama County, Puerto Rico. The facility will consist of two circulating fluidized bed boilers and one or two extraction/condensing steam turbine generators. Steam recovered from the facility will be used by Phillips Puerto Rico Core, Inc. for various process uses at a petrochemical facility. The maximum net power production capacity of the facility will be 454.3 MW. The primary energy source will be bituminous coal. Construction of the facility is expected to commence in late 1996.

Comment date: March 6, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3426 Filed 2–14–96; 8:45 am]

BILLING CODE 6717–01–P

Notice of Application Filed With the Commission

February 9, 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:* 5276–036.

c. *Date Filed:* January 19, 1996.

d. *Applicant:* Niagara Mohawk Power Corp. and Northern Electric Power Co., L.P.

e. *Name of Project:* Hudson Falls Project.

f. *Location:* Hudson River, Saratoga and Warren Counties, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. section 791(a)–825(r).

h. *Applicant Contact:*

Keith F. Corneau, Adirondack Hydro Development Hampshire Development Corporation, Civic Center Plaza, Suite 100, 5 Warren Street, Glens Falls, NY 12801, (518) 761–3085

Michael Murphy, Niagara Mohawk Power Corp., 300 Erie Boulevard West, Syracuse, NY 13202, (315) 428–6941

i. *FERC Contact:* Hillary Berlin, (202) 219–0038.

j. *Comment Date:* March 15, 1996.

k. *Description of Application:* The licensee has filed as-built exhibit A showing the installed capacity (44 MW) and the hydraulic capacity (8,750 cfs) of the project.

l. The 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'', ''PROTESTS'', 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. 96–3367 Filed 2–14–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–161–000, et al.]

Texas Gas Transmission Corporation, et al.; Natural Gas Certificate Filings

February 6, 1996.

Take notice that the following filings have been made with the Commission:

1. Texas Gas Transmission Corporation

[Docket No. CP96–161–000]

Take notice that on January 30, 1996, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP96–161–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate a new natural gas delivery point for Eaton Corporation (Eaton) under Texas Gas's blanket certificate issued in Docket No. CP82–407–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Texas Gas proposes to construct and operate a side valve, 2-inch skid-mounted meter station, and appurtenant facilities on its Park City-Glasgow 8-inch Line located in Barren County, Kentucky. Texas Gas states that Eaton has requested up to 1,000 MMBtu per day of interruptible natural gas transportation service to its Glasgow plant. Texas Gas mentions that Western Kentucky Gas Company, a local distribution company and customer of Texas Gas, currently supplies Eaton on an interruptible and firm sales basis. Texas Gas asserts that Eaton would reimburse it for the cost of the new facilities estimated to be $59,600.

Comment date: March 22, 1996, in accordance with Standard Paragraph G at the end of this notice.

2. Northern Natural Gas Company

[Docket No. CP96–162–000]

Take notice that on January 30, 1996, Northern Natural Gas Company (Northern), P.O. Box 3330, Omaha, Nebraska, 68103–0330, filed in Docket No. CP96–162–000 a request pursuant to Section 157.205, and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for approval to install and operate three new delivery points to accommodate deliveries of natural gas to Greater Minnesota Gas Inc. (GMG), a local distribution company, under a currently effective transportation service agreement for residential and commercial consumption, under Northern's blanket certificate authority issued in Docket No. CP82–401–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern proposes to install and operate three new delivery points located in Blue Earth and Le Sueure Counties, Minnesota. Northern indicates that the three new delivery points will increase its peak day deliveries by 270 MMBtu, 1,020 MMBtu, and 1,020 MMBtu, respectively. It is further indicated that the three proposed delivery points will increase Northern's annual deliveries by 13,280 MMBtu, 79,250 MMBtu, and 79,250 MMBtu, respectively. Northern states that the total estimated cost to install the proposed facilities is $80,600.

Northern advises that the total volumes to be delivered to the customer after the request do not exceed the total volumes prior to the request. Northern states that the proposed activity is not prohibited by its existing tariff and that it has sufficient capacity to accommodate the changes without detriment or disadvantage to Northern's other customers.

Comment date: March 22, 1996, in accordance with Standard Paragraph G at the end of this notice.

3. Florida Gas Transmission Company

[Docket No. CP96–163–000]

Take notice that on January 30, 1996, Florida Gas Transmission Company (FGT), P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP96–163–000, an application pursuant to Section 7(b) of the Natural Gas Act (NGA) and Part 157 of the Federal Energy Regulatory Commission's (Commission) Regulations, for a certificate of public convenience and necessity authorizing FGT to abandon (1) an emergency exchange service between FGT, South Georgia Natural Gas Company (South Georgia), and Southern Natural Gas Company (Southern), and (2) the related interconnecting facilities used to deliver the emergency natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

FGT requests that the Commission issue an order authorizing the abandonment of the emergency exchange agreement performed under FGT's Rate Schedule E–16 and the related facilities that include a 3-inch orifice meter, valves, pressure regulator and miscellaneous connecting pipe. FGT states that, by a letter agreement dated November 14, 1994, South Georgia and Southern agreed to

terminate the emergency exchange agreement, and to make the termination effective September 26, 1995.

Comment date: February 26, 1996, in accordance with Standard Paragraph F at the end of this notice.

4. Tuscarora Gas Transmission Company

[Docket No. CP96–166–000]

Take notice that on January 31, 1996, Tuscarora Gas Transmission Company (Tuscarora), 6100 Neil Road, P.O. Box 30057, filed in Docket No. CP96–166–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate two taps and meter stations and appurtenant facilities in Klamath County, Oregon and Diskiyou County, California, for the delivery of gas to a new customer, WP Natural Gas for redelivery and resale to consumers in Malin, Oregon, under Tuscarora's blanket certificate issued in Docket No. CP93–685–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tuscarora proposes to install: (a) 7.34 miles of 4-inch line (b) a 1-inch pressure regulation and meter station, and (c) two 1-inch taps and associated meter stations, at an estimated cost of $889,000.

Comment date: March 22, 1996, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., 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 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing 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 the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3427 Filed 2–14–96; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5423–4]

Clean Air Scientific Advisory Committee, Science Advisory Board; Emergency Notification of Public Advisory Committee Meetings: February 29, 1996 and March 1, 1996

This is an emergency notification for meetings of a Federal Advisory Committee and one of its subcommittees. Scheduling and announcement of these meetings has been delayed due to ongoing litigation that has set the schedule for the Advisory Committee's review of certain scientific documents. Information concerning this court schedule is given below.

Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, notice is hereby given that two meetings of Committees of the Science Advisory Board (SAB) will be held on the dates and times indicated below. Times noted are Eastern Time and meetings are open to the public. Due to limited space, seating at these meetings will be on a first-come first-serve basis. Important Notice: Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB Office—information concerning document availability from the relevant Program area is included below.

1. Clean Air Scientific Advisory Committee (CASAC)

The Clean Air Scientific Advisory Committee (CASAC) of the Science Advisory Board (SAB) will meet on February 29, 1996 at the Omni Europa Hotel, One Europa Drive, Chapel Hill, North Carolina 27514. The hotel phone number is 919–968–4900. The meeting will begin at 8:30 am and end no later than 5:00 pm.

Purpose of the Meeting

The CASAC previously met on December 14–15, 1995 to review the draft criteria document for particulate matter (Air Quality Criteria for Particulate Matter) and the draft staff paper for particulate matter (Review of National Ambient Air Quality Standards for Particulate Matter: Policy Assessment of Scientific and Technical Information) (See Federal Register, Vol 60, No. 232, pages 62089–62090 for further information concerning that meeting). At that meeting and in its subsequent report to the EPA Administrator (EPA–SAB–CASAC–LTR–96–003, dated January 5, 1996—see below for ordering information), the Committee reached closure on portions of the draft Criteria Document. However, it was the Committees' view that Chapters 1 (Executive Summary), 5 (Sources and Emissions), 6 (Air Quality) and 13 (Integrative Synthesis) of the draft Criteria Document required further review. The Committee also recommended revisions and further review of the draft Staff Paper. As part of their comments on the draft Staff Paper, the Committee recommended that the staff conduct and summarize the results of a quantitative risk assessment for the current and recommended alternative particle standards.

Preparation and review of the draft Criteria Document and draft Staff Paper are being conducted according to a schedule imposed by court orders

entered in American Lung Association v. Browner, No. CIV 93–643 (D. Ariz.). That schedule would not permit the additional review and revisions recommended by CASAC. For this reason, the Agency has filed an unopposed motion with the Court, seeking to extend the schedule by the amount needed for further revisions and review. At the time of this submission to the Federal Register, there is no word as to when or whether this motion will be granted. In order to avoid unnecessary delays, however, EPA believes it is imperative to make arrangements that would be needed to meet the extended schedule. Accordingly, in order to secure meeting facilities and to provide CASAC and interested members of the public adequate notice of the meeting and the availability of documents, EPA is issuing this notice on the assumption that the Court will grant the motion to extend the schedule, even though there is no certainty that the Court will do so.

At the February 29, 1996 meeting, the Committee will review and provide advice to EPA on Chapters 1, 5, 6, and 13 of the draft Criteria Document. The Committee will consider presentations from Agency staff and the interested public prior to making recommendations to the Administrator. The Committee will also receive a briefing from the Office of Air Quality Planning and Standards (OAQPS) on the proposed methodology for conducting the recommended risk assessment. The proposed methodology is summarized in two documents: (a) Particulate Matter NAAQS Risk Analysis Project Plan, and (b) Proposed Methodology for PM Risk Analysis in Selected Cities. In addition, the Committee has tentatively scheduled a public review meeting in May 1996 for the revised Particulate Matter Staff Paper.

Availability of Review Materials

(a) Air Quality Criteria for Particulate Matter (The Draft Criteria Document)—Copies of revised Chapters 1, 5, 6 and 13 materials to be reviewed by the Committee at the February 29th meeting will be made available to the public at that meeting. Full copies of all PM Criteria Document draft chapters will also be available for public inspection at the February 29, 1996 CASAC meeting.

Hard copies of the revised materials will also be made available in the Air Docket at EPA Headquarters, 401 M Street, Washington, DC, and in each of the EPA Regional Office Libraries during the week of February 12, 1996, shortly after they are forwarded to the CASAC Review Panel. For information regarding locations and office hours for the EPA Air Docket or Regional Office Libraries, please consult 60 FR 20085, April 24, 1995. For the benefit of interested parties, an electronic version of the revised draft Particulate Matter Criteria materials (EPA 600/BP–95/001 a–c) will be available on the Agency's TTN Bulletin Board (reachable via modem on (919) 541–5742). To access the TTN Bulletin Board, a modem and communications software will be necessary. The terminal emulation needs to be VT100, VT102 or ANSI. The following parameters on the communications software are required: Data bits—8; Parity—N; and Stop Bits—1. The document will be located under the Clean Air Act Amendments BBS under Title I, Policy and Guidance. For INTERNET access—go to Telenet Site and enter TTNBBS.RTPNC.EPA.GOV or IP Number 134.67.234.17. For INTERNET, we do not have FTP to download documents. Requester must have Kermit Protocol Program or pay a fee for SLIP account for downloading capabilities. Once in the TTN Bulletin Board, you must register (there is no charge for this). At the prompt for name, you should enter your name; at the prompt for password, make up a password (8 characters); select registration and enter registration information including company name. Then follow instructions.

For assistance in assessing the draft materials, please contact the Help Desk at (919) 541–5384 in Research Triangle Park, NC. Copies of figures for some chapters (e.g., Chapter 6) may not be available by this electronic bulletin board, but can be obtained by contacting Ms. Diane Ray at the numbers given below. For further information concerning the availability of the four draft chapters under review (Chapters 1, 5, 6 and 13), please contact: Ms. Diane Ray at the numbers listed below.

Due to tight time constraints imposed for completion of the Particulate Matter Criteria Document, on the assumption that EPA's motion to extend the schedule is granted, EPA will accept written public comments received by March 15, 1996 only on the revised draft chapter (Chapters 1, 5, 6 & 13) materials reviewed at the February 29th CASAC meeting. Given prior opportunities for public comment and review on the other draft Criteria Document chapters and relatively limited revisions to them, EPA will not accept further comments on those other chapters. Written comments on revised Chapter 1, 5, 6 and 13 materials of the draft Particulate Matter Criteria Document must be received no later than March 15, 1996 by Ms. Diane Ray, US EPA, 3200 Progress Center, Highway 54, Research Triangle Park, NC 27709. Telephone: (919) 541–3637; fax: (919) 541–1818.

(b) *Particulate Matter NAAQS Risk Analysis Project Plan, and Proposed Methodology for PM Risk Analyses in Selected Cities*—Hard copies of these materials will be available from Ms. Tricia Crabtree, Office of Air Quality Planning and Standards (MD–15), U.S. EPA, Research Triangle Park, NC 27711. Ms. Crabtree can also be reached by telephone at (919) 541–5655 or by fax at (919) 541–0237. An electronic version of both documents will be available on the Agency's TTN Bulletin Board, under the Clean Air Act Amendments BBSA under Title I, Policy and Guidance. Other details for TTN access are as indicated above for the criteria document. To arrange for copies of specific figures/graphs, not adequately reproduced with the TTN Bulletin Board, contact Ms. Trish Crabtree at the previously stated location/phone number. The OAQPS will accept written comments from the public on both documents through March 7, 1996. Written comments should be sent to Ms. Crabtree at the previously stated address.

For Further Information

Members of the public desiring additional information about the meeting, including an agenda, should contact Mr. Robert Flaak, Designated Federal Official, Clean Air Scientific Advisory Committee, Science Advisory Board (1400F), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; telephone/voice mail at (202) 260–5133; fax at (202) 260–7118; or via the INTERNET at FLAAK.ROBERT@EPAMAIL.EPA.GOV. To obtain copies of CASAC reports such as the one noted earlier, please contact Ms. Lori Gross on (202) 260–8414, fax on (202) 260–1889 or via the Internet at GROSS.LORI@EPAMAIL.EPA.GOV.

Members of the public who wish to make a brief oral presentation to the Committee must contact Mr. Flaak in writing (by letter or by fax—see previously stated information) no later than 12 noon Eastern Time, Friday, February 23, 1996 in order to be included on the Agenda. Since the Committee has already received oral and written public comments on the entire draft criteria document (including Chapters 1, 5, 6, and 13), public comments during this meeting will be limited to a discussion of those new issues contained in the relevant chapters of the Criteria Document (Chapters 1, 5, 6 and 13) and any comments concerning the risk assessment methodology. The request should identify the name of the

individual who will make the presentation, the organization (if any) they will represent, any requirements for audio visual equipment (e.g., overhead projector, 35mm projector, chalkboard, etc), and at least 35 copies of an outline of the issues to be addressed or the presentation itself.

Written comments to CASAC (as part of its FACA process) on Chapters 1, 5, 6 and 13 and the risk assessment methodology will be accepted up until the meeting, as is our normal practice. In case of extreme hardship, provision can be made for individual commentors to provide written comments directly to Committee members/consultants up through March 6, 1996. This limitation is imposed because, on the assumption that EPA's motion to extend the schedule is granted, the Committee must close on its review and forward its final recommendations on the Criteria Document to the EPA Administrator by Friday, March 15, 1996. Please contact Mr. Flaak (address above) for further details.

2. CASAC Technical Subcommittee for Fine Particle Monitoring

The CASAC Fine Particle Monitoring Subcommittee will meet on March 1, 1996 at the Omni Europa Hotel, One Europa Drive, Chapel Hill, North Carolina 27514. The hotel phone number is 919–968–4900. The meeting will begin at 8:30 a.m. and end no later than 1:00 p.m. This is the first meeting of this Subcommittee. An additional public meeting or public teleconference is planned but not yet scheduled.

Purpose of the Meeting

This technical subcommittee of CASAC has been established to provide advice and comment to EPA on appropriate methods and network strategies for monitoring fine particles in the context of implementing a possible revised national ambient air quality standard for particulate matter. In preparation for the meeting, EPA has produced the following three draft documents: (a) Office of Air Quality Planning and Standards Staff Recommendations for Characteristics of a Fine Particle Federal Reference Method; (b) Development of a Federal Reference Method for Fine Particles: Current Methodology; and (c) Regulatory Monitoring Strategy for a Revised PM NAAQS: A Blueprint for a New National Monitoring Program for PM.

At the meeting, staff from the Office of Air Quality Planning and Standards and the National Exposure Research Laboratory will provide a briefing regarding its approach to a possible fine particle Federal Reference Method and Performance Requirements for Reference and Equivalent Methods and give an overview of the draft guidance for network design, siting and operations.

Availability of Review Materials

Hard copies of the materials will be available from Ms. Tricia Crabtree, Office of Air Quality Planning and Standards (MD–15), U.S. EPA, Research Triangle Park, NC 27711. Ms. Crabtree can also be reached by telephone at (919) 541–5655 or by fax at (919) 541–0237. Electronic versions of the documents will be available on the Agency's TTN Bulletin Board, under the Clean Air Act Amendments BBSA under Title I, Policy and Guidance. Other details for TTN access are as indicated above for the criteria document. To arrange for copies of specific figures/graphs, not adequately reproduced with the TTN Bulletin Board, contact Ms. Trish Crabtree at the previously stated location/phone number. The OAQPS will accept written comments from the public on both documents through March 15, 1996. Written comments should be sent to Ms. Crabtree at the previously stated address.

For Further Information

Members of the public desiring additional information about the meeting, including an agenda, should contact Mr. Robert Flaak, Designated Federal Official, Clean Air Scientific Advisory Committee, Science Advisory Board (1400F), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; telephone/voice mail at (202) 260–5133; fax at (202) 260–7118; or via the INTERNET at FLAAK.ROBERT@EPAMAIL.EPA.GOV.

Members of the public who wish to make a brief oral presentation to the Subcommittee concerning the regulatory packages must contact Mr. Flaak in writing (by letter or by fax—see previously stated information) no later than 12 noon Eastern Time, Friday, February 23, 1996 in order to be included on the Agenda. The request should identify the name of the individual who will make the presentation, the organization (if any) they will represent, any requirements for audio visual equipment (e.g., overhead projector, 35mm projector, chalkboard, etc), and at least 35 copies of an outline of the issues to be addressed or the presentation itself.

Written comments to the Subcommittee concerning the regulatory packages will be accepted until March 15, 1996. Please send these comments directly to Mr. Flaak (35 copies please).

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of five minutes. For conference call meetings, opportunities for oral comment are limited to no more than five minutes per speaker and no more than fifteen minutes total. Written comments of any length (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of its meeting, unless other publicly announced arrangements have been made.

Date: February 9, 1996.

Robert Flaak,

Acting Staff Director, Science Advisory Board.

[FR Doc. 96–3484 Filed 2–14–96; 8:45 am]

BILLING CODE 6560–50–P 214

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by the Federal Communications Commission

February 8, 1996.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before April 15, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov. Copies may also be obtained via fax by contacting the Commission's Fax on Demand System. To obtain fax copies call 202–418–0177 from the handset on your fax machine, and enter the document retrieval number indicated below for the collection you wish to request, when prompted.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: New Collection.

Title: Alternative Broadcast Inspection Program (ABIP) Compliance Notification.

Form No.: N/A.

Type of Review: New Collection.

Respondents: State broadcast associations; other broadcast related associations; small businesses.

Number of Respondents: 50.

Estimated Time Per Response: 5 minutes.

Total Annual Burden: 125 hours.

Needs and Uses: The Commission is establishing a voluntary ABIP where entities that conduct the ABIP inspection (usually state broadcast associations) will notify the Commission of the stations that have passed inspection. This information collection will require entities to file a statement with their local FCC field office, by regular or electronic mail, that a given station with the field office's geographic district has passed an ABIP inspection. The Commission will use the information to determine which stations are exempted for a two or three year period from random inspections conducted by the local FCC field office.

OMB Approval No.: 3060–0550.

Title: Certification of Franchising Authority to Regulate Basic Cable Service Rates and Initial Finding of Lack of Effective Competion.

Form No.: FCC Form 328.

Type of Review: Extension of currently approved collection.

Respondents: State, Local or Tribal Government.

Number of Respondents: 800.

Estimated Time Per Response: 30 minutes.

Total Annual Burden: 400 hours.

Needs and Uses: On 4/1/93, the Commission adopted a Report and Order, FCC 93–177, MM Docket No. 92–266. Among other things, this Report and Order implements Section 623(a)(3) of the Communications Act of 1934, as amended, wherein a local franchise authority is required to file with the Commission a written certification when it requests to regulate basic service rates. Subsequently, the Commission developed the FCC Form 328 to provide a standardized, simple form for meeting this requirement.

To fulfill the obligations set forth under Section 623(a)(3) a franchise authority must: (1) adopt regulations consistent with the Commission's regulations for basic cable service; (2) have legal authority to regulate basic service which comes from state law; (3) the personnel to administer such regulations; and (4) have procedural regulations allowing for public participation in rate regulation proceedings. The FCC Form 328 is reviewed by FCC staff to ensure that a franchising authority has met the criteria specified in Section 623(a)(3) of the Communications Act of 1934 as amended.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–3421 Filed 2–14–96; 8:45 am]

BILLING CODE 6712–01–F

Public Information Collection Requirement Submitted to OMB for Emergency Review and Approval

February 8, 1996.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the Functions of the Commission, including whether the information will have practical utility; (b) the accuracy of the provided burden estimate; (c) ways to enhance the quality, utility, and clarity of the information colleted and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated information techniques. The Commission has requested an emergency OMB review of this collection with an approval by February 12, 1996.

DATES: Persons wishing to comment on this information collection should submit comments March 18, 1996.

ADDRESS: Direct all comments to Timothy Fain, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–3561 or via internet at fain_t@a1.eop.gov, and Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: None.

Title: Past Performance Evaluation (in compliance with the Federal Acquisitions Regulations (FAR)).

Form No.: N/A.

Type of Review: New Collection.

Respondents: Business or other for-profit;small businesses or organizations, federal government, and State, local or Tribal government.

Number of Respondents: 50.

Estimated Time Per Response: 15 minutes (.25 hours per response).

Total Annual Burden: 125 hours total annual burden.

Needs and Uses: The information will be used by the Commission to evaluate past performance of potential offerors for various government contracts. The evaluation information will be used for determining responsibility and as a comparison of which offeror provides the best value for the Government. The Commission will focus on information that demonstrates quality of performance relative to the size and complexity of the procurement under consideration.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–3422 Filed 2–14–96; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1092–DR]

Connecticut; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Connecticut (FEMA–1092–DR), dated January 24, 1996, and related determinations.

EFFECTIVE DATE: January 24, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 24, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Connecticut resulting from ''the Blizzard of 1996'' which occurred on January 7–13, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Connecticut.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that were required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Other assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Sharon L. Stoffel of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. County designations will be made at a later date.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 96–3468 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1092–DR]

Connecticut; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Connecticut, (FEMA–1092–DR), dated January 24, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Connecticut, is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 24, 1996:

Fairfield, Hartford, Litchfield, Middlesex, New Haven, New London, Tolland, and Windham Counties for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3463 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1082–DR]

Delaware; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Delaware, (FEMA–1082–DR), dated January 12, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Delaware is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 12, 1996:

Kent, New Castle, and Sussex Counties for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3476 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1089–DR]

Kentucky; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Kentucky, (FEMA–1089–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Kentucky, is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by

the President in his declaration of January 13, 1996:

Adair, Allen, Anderson, Ballard, Barren, Bath, Bell, Boone, Bourbon, Boyd, Boyle, Bracken, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Campbell, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clay, Clinton, Crittenden, Cumberland, Daviess, Edmonson, Elliott, Estill, Fayette, Fleming, Floyd, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jackson, Jefferson, Jessamine, Johnson, Kenton, Knott, Knox, Larue, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, Livingston, Logan, Lyon, McCracken, McCreary, McLean, Madison, Magoffin, Marion, Marshall, Martin, Mason, Meade, Menifee, Mercer, Metcalfe, Monroe, Montgomery, Morgan, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Owsley, Pendleton, Perry, Pike, Powell, Pulaski, Robertson, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Trimble, Union, Warren, Washington, Wayne, Webster, Whitley, Wolfe, and Woodford Counties for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3482 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1094–DR]

Maryland; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Maryland, (FEMA–1094–DR), dated January 23, 1996, and related determinations.

EFFECTIVE DATE: February 5, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Maryland, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 23, 1996:

Carroll County for Individual Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3465 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1081–DR]

Maryland; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Maryland, (FEMA–1081–DR), dated January 11, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Maryland, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 11, 1996:

Allegany, Calvert, Caroline, Cecil, Charles, Dorchester, Frederick, Garrett, Kent, Queen Anne's, Somerset, St. Mary's, Talbot, Washington, Wicomico, and Worcester Counties and Ocean City for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3475 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1090–DR]

Massachusetts; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Massachusetts, (FEMA–1090–DR), dated January 24, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Massachusetts, is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 24, 1996:

Barnstable, Berkshire, Bristol, Dukes, Essex, Franklin, Hampden, Hampshire, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, and Worcester Counties for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3473 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1090–DR]

Massachusetts; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Massachusetts (FEMA–1090–DR), dated January 24, 1996, and related determinations.

EFFECTIVE DATE: January 24,1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal

Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 24,1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the Commonwealth of Massachusetts, resulting from ''the Blizzard of 1996'', on January 7–13, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the Commonwealth of Massachusetts.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that were required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Other assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Sharon L. Stoffel of the Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. County designations will be made at a later date.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 96–3469 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1095–DR]

New York; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New York (FEMA–1095–DR), dated January 24, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective January 30, 1996.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3466 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1097–DR]

Ohio; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Ohio, (FEMA–1097–DR), dated January 27, 1966, and related determinations.

EFFECTIVE DATE: February 8, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Ohio, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 27, 1996:

Adams County for Individual Assistance, Public Assistance and Hazard Mitigation;
Brown County for Individual Assistance and Hazard Mitigation;
Gallia County for Public Assistance and Hazard Mitigation; and
Scioto County for Individual Assistance (already designated for Public Assistance and Hazard Mitigation).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3467 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania, (FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: February 8, 1996

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1996:

Bucks and Jefferson Counties for Public Assistance (already designated for Individual Assistance and Hazard Mitigation).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3464 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania,

(FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: February 6, 1996

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1996:

Clearfield, Fayette, Fulton, Greene, Northampton, Perry, and Washington Counties for Public Assistance and Hazard Mitigation (already designated for Individual Assistance); and

Beaver, Berks, Bucks, Butler, Cambria, Chester, Clarion, Crawford, Delaware, Erie, Forest, Franklin, Jefferson, Lancaster, Lawrence, Lebanon, Mercer, Montgomery, Philadelphia, Venango, Warren, and York for Hazard Mitigation (already designated for Individual Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3472 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1091–DR]

Rhode Island; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Rhode Island, (FEMA–1091–DR), dated January 24, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Rhode Island, is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 24, 1996:

Bristol, Kent, Newport, Providence, and Washington Counties for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3483 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1091–DR]

Rhode Island; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Rhode Island (FEMA–1091–DR), dated January 24, 1996, and related determinations.

EFFECTIVE DATE: January 24, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 24, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Rhode Island, resulting from ''the Blizzard of 1996'', on January 7–13, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Rhode Island.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that were required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Other assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Sharon L. Stoffel of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. County designations will be made at a later date.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 96–3471 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1098–DR]

Commonwealth of Virginia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Virginia (FEMA–1098–DR), dated January 27, 1996, and related determinations.

EFFECTIVE DATE: February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective February 1, 1996.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3477 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1098–DR]

Virginia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Virginia, (FEMA–1098–DR), dated January 27, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Virginia, is hereby amended to include Public Assistance for the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 27, 1996:

The counties of Alleghany, Augusta, Bath, Botetourt, Frederick, Loudoun, Page, Rockbridge, Rockingham and Shenandoah and the City of Covington for Public Assistance (already designated for Individual Assistance and Hazard Mitigation Assistance).

The counties of Bland, Giles, Grayson, Highland, Rappahanock, Washington and Wythe for Public Assistance and Hazard Mitigation Assistance.

The City of Harrisonburg for Individual Assistance and Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3478 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1086–DR]

Virginia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Virginia, (FEMA–1086–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: February 6, 1996

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Virginia, is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 13, 1996:

The Cities of Bedford, Chesapeake, Fairfax, Hampton, Manassas Park, Norfolk, Poquoson, Suffolk, Williamsburg; and

The Counties of Accomack, Amherst, Appomattox, Bath, Brunswick, Carroll, Charlotte, Cumberland, Dinwiddie, Essex, Fauquier, Floyd, Fluvanna, Giles, Gloucester, Goochland, Grayson, Greensville, Hanover, Isle of Wight, King & Queen, King William, Mecklenburg, Middlesex, Nelson, Northampton, Northumberland, Nottoway, Page, Pittsylvania, Powhatan, Pulaski, Rappahannock, Southampton, Spotsylvania, Stafford, Sussex and Westmoreland for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3480 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1086–DR]

Virginia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Virginia, (FEMA–1086–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Virginia, is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 13, 1996:

The Cities of Alexandria, Bristol, Buena Vista, Charlottesville, Clifton Forge, Colonial Heights, Covington, Danville, Emporia, Falls Church, Franklin, Fredericksburg, Galax, Harrisonburg, Hopewell, Lexington, Lynchburg, Manassas, Martinsville, Newport News, Norton, Petersburg, Portsmouth, Radford, Richmond, Roanoke, Salem, South Boston Town, Staunton, Virginia Beach, Waynesboro, and Winchester; and

The Counties of Alleghany, Albemarle, Amelia, Arlington, Augusta, Bedford, Bland, Botetourt, Buchanan, Buckingham, Campbell, Caroline, Charles City, Chesterfield, Clarke, Craig, Culpeper, Dickenson, Fairfax, Franklin, Frederick, Greene, Halifax, Henrico, Henry, Highland, James City, King George, Lancaster, Lee, Loudoun, Louisa, Lunenburg, Madison, Mathews, Montgomery, New Kent, Orange, Patrick, Prince Edward, Prince George, Prince William, Richmond, Roanoke, Rockbridge, Rockingham, Russell, Scott, Shenandoah, Smyth, Surry, Tazewell, Warren, Washington, Wise, Wythe, and York for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3481 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1098–DR]

Virginia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Virginia (FEMA–1098–DR), dated January 27, 1996, and related determinations.

EFFECTIVE DATE: January 27, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 27, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the Commonwealth of Virginia, resulting from flooding on January 19, 1996, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the Commonwealth of Virginia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. Public Assistance and Hazard Mitigation may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert J. Gunter of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Commonwealth of Virginia to have been affected adversely by this declared major disaster:

Alleghany, Bath, Botetourt, Shenandoah, and Warren Counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 96–3470 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1079–DR]

Washington; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Washington, (FEMA–1079–DR), dated January 3, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Washington, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 3, 1996:

Pierce County for Public Assistance and Hazard Mitigation Assistance (already designated for Individual Assistance)

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3474 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1084–DR]

West Virginia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of West Virginia, (FEMA–1084–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of West Virginia is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 13, 1996:

Barbour, Berkeley, Boone, Braxton, Brooke, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hancock, Hardy, Harrison, Jackson, Jefferson, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall, Mason, McDowell, Mercer, Mineral, Mingo, Monongalia, Monroe, Morgan, Nicholas, Ohio, Pendleton, Pleasants, Pocahontas, Preston, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Wayne, Webster, Wetzel, Wirt, Wood, and Wyoming Counties for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3479 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Farmers State Corporation, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 96-2042) published on pages 3713 and 3714 of the issue for Thursday, February 1, 1996.

Under the Federal Reserve Bank of Minneapolis heading, the entries for JRS Investments, Limited Partnership, Billings, Montana, and Nbar5, Limited Partnership, Ranchester, Wyoming, are revised to read as follows:

1. JRS Investments, Limited Partnership, Billings, Montana; to become a bank holding company by acquiring 17.30 percent of the voting shares of First Interstate BancSystem of Montana, Inc., Billings, Montana, and thereby indirectly acquire First Interstate Bank of Commerce, Billings, Montana, and First Interstate Bank of Commerce, Sheridan, Wyoming.

2. Nbar5, Limited Partnership, Ranchester, Wyoming; to become a bank holding company by acquiring 24.78 percent of the voting shares of First Interstate BancSystem of Montana, Inc., Billings, Montana, and thereby indirectly acquire First Interstate Bank of Commerce, Billings, Montana, and First Interstate Bank of Commerce, Sheridan, Wyoming.

Comments on this application must be received by February 25, 1996.

Board of Governors of the Federal Reserve System, February 9, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–3340 Filed 2–14–96; 8:45 am]

BILLING CODE 6210–01–F

FCNB Corp; 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 29, 1996.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. FCNB Corp, Frederick, Maryland; to acquire Harbor Investment Corporation, Odenton, Maryland, and thereby indirectly acquire Odenton Federal Savings and Loan Association, Odenton, Maryland, 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, February 9, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–3339 Filed 2–14–96; 8:45 am]

BILLING CODE 6210–01–F

Magnolia Bancorp, Inc.; 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 March 11, 1996.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Magnolia Bancorp, Inc., Magnolia, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Magnolia Company, Magnolia, Ohio.

Board of Governors of the Federal Reserve System, February 9, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–3341 Filed 2–14–96; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

The Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB.

1. 42 CFR 50 Subpart B: Sterilization of Persons in Federally Assisted Family Planning Projects—0937–0166—Extension no Change—These regulations and informed consent procedures are associated with Federally-funded sterilization services. Selected consent forms are audited during site visits and program reviews to ensure compliance with regulations and the protection of the rights of individuals undergoing sterilization. Respondents: individuals, state or local governments, not-for-profit institutions; Burden Estimate for Consent Form—Annual Responses: 40,000; Burden per Response: one hour; Total Burden for Consent Form: 40,000 hours—Burden Estimate for Recordkeeping Requirement—Number of Recordkeepers: 4,000; Average Burden per Recordkeeper: 2.5 hours; Total Burden for Recordkeeping: 10,000 hours. Total Burden: 50,000 hours.

2. Evaluation of Family Preservation and Reunification Services—New—The key goals of family preservation programs are to avoid unnecessary foster care placement, ensure the safety of children, and improve family functioning. This evaluation will test, in six sites, whether these service delivery objectives are attained. The results will be used to inform policy decisions. Child welfare case workers, investigating workers and caretakers of families receiving services will be interviewed. Respondents: individuals or households, state or local governments, not-for-profit institutions. Burden Information—Investigating Worker Interviews—Numbers: 2,000; Times per Interview: 20 minutes; Burden: 667 hours—Caseworker Interviews—Number: 3,000; Frequency: twice; Time: 20 minutes; Burden: 2,000 hours—Caretaker Interviews—Number: 3,000; Frequency: 3 times; Average Time: 55 minutes; Burden: 8,250 hours—Staff Questionnaire—Number:

150: Time: 15 minutes; Burden: 38 hours—Contact Sheets—Number: 21,000; Time: 5 minutes; Burden: 1,750 hours—Administrative Burden—468 hours—Total Burden—13,173 hours.

OMB Desk Officer: Allison Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 619–1053. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503.

Dated: February 5, 1996.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 96–3336 Filed 2–14–96; 8:45 am]

BILLING CODE 4150–04–M

Program Support Center; Statement of Organization, Functions and Delegations of Authority

Part P, (Program Support Center) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (60 FR 51480, October 2, 1995 as amended most recently at 61 FR 1761, January 23, 1996) is amended to reflect changes in Chapter PA within Part P, Program Support Center (PSC), Department of Health and Human Services (DHHS).

Program Support Center

Under Section P–20, Functions, after the title and statement for Chapter PA, Office of the Director, add the following titles and statements:

Office of Budget and Finance (PA2)

(1) Prepares the PSC budget for presentation to and approval by the Board of Directors to the HHS Service and Supply Fund; (2) Executes approved PSC budgets, issuing allotments and allowances as approved by the Director, PSC, and consistent with funding levels approved by the Board; (3) Provides leadership and direction for PSC financial management activities; (4) Develops policies and instructions for PSC budget preparation and presentation; (5) Prepares periodic reports on the status of PSC funds; (6) Issues FTE ceiling vouchers to PSC components, controls FTEs allocated to the PSC components and prepares quarterly FTE reports for submission to the Department and OMB; (7) Collaborates in the development of financial planning for PSC; (8) Prepares responses and special analyses to answer inquiries with budgetary implications; (9) Provides technical financial consultation, advice and training to staff located in PSC components; and (10) Reviews and coordinates arrangements of inter- and intra-agency funding for projects and functions.

Office of Marketing (PA3)

(1) Provides an overall marketing program for the PSC to market services on a fee-for-service basis to current and prospective customers both internally and externally of DHHS; (2) Develops products to support and enhance the marketing of PSC services, including presentations, brochures, and detailed technical descriptions; (3) Develops, directs and markets strategic promotional plans to add to the customer base and enhance the visibility, credibility and utility of the PSC; and (4) Designs and conducts customer surveys and research projects to determine customer attitudes and determine if PSC Services' products are meeting customer requirements.

Office of Equal Employment Opportunity (PA4)

(1) Develops and recommends for adoption PSC-wide EEO policies, goals, and priorities designed to carry out the intent of the Office of Personnel Management, Equal Employment Opportunity Commission and DHHS equal employment opportunity policies and requirements under Executive Order 11478; (2) Provides leadership, direction, and technical guidance to PSC Services for the development of comprehensive EEO programs and plans; (3) Develops plans, programs, and procedures designed to assure the prompt receipt, investigation, and resolution of complaints of alleged discrimination by reason of race, sex, age, religion, national origin, or handicap; (4) Coordinates the development of comprehensive special emphasis programs to assure full recognition of the needs of women, Hispanics, other minorities, and the handicapped in hiring and employment; (5) Assures the development of training courses in EEO for all PSC supervisory personnel; (6) Monitors the effectiveness of EEO progress in PSC and prepares, or coordinates the preparation of, reports and analyses designed to show the status of employment of women and minorities in the PSC; and (7) Provides technical assistance and coordinates and monitors the development and preparation of the PSC-wide Affirmative Action Program.

Office of Management Operations (PA5)

(1) Provides administrative and staff support services to the Office of the Director, PSC; (2) Develops, coordinates, and implements policies, standards, and procedures governing the administration of the PSC delegations of authority; (3) Develops, coordinates, and implements policies, standards, and procedures governing the establishment and maintenance of effective organizational structures and functional alignments within the PSC; (4) Administers the Standard Administrative Code (SAC) system for the PSC; (5) Monitors, evaluates, and controls the preparation of PSC responses and proposed DHHS responses to PSC-related OIG reports (including internal reviews, analyses and inspections, and investigations); (6) Coordinates and implements DHHS policies and procedures regarding the Privacy Act of 1974 and the Freedom of Information Act for the PSC; (7) Coordinates the implementation of the Government Performance and Results Act (GPRA) within the PSC; and (8) Provides management analysis assistance to PSC components and/or task groups, conducts management improvement studies, and special management problem analyses.

This reorganization is effective upon date of signature.

Dated: February 9, 1996.

John C. West,

Acting Director, Program Support Center.

[FR Doc. 96–3486 Filed 2–14–96; 8:45 am]

BILLING CODE 4160–17–M

Health Care Financing Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) this notice is publishing the following summaries of proposed collections for public comment. The title, description, and respondent description of the information collection are shown below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Interested persons are invited to send comments regarding this 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 collection; *Title of Information Collection:* Hospital Standard for Potentially HIV Infectious Blood and Blood Products; *Form No.:* HCFA–R–190; *Use:* Hospitals must establish policies and procedures and document patient notification efforts if they have administered potentially HIV infectious blood and blood products; *Frequency:* On occasion; *Affected Public:* Business or other for profit, Not for profit institutions; *Number of Respondents:* 16; *Total Annual Responses:* 16; *Total Annual Hours Requested:* 16.

To request copies of the proposed paperwork collection referenced above, call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Zaneta Davis, 7500 Security Boulevard, Room C2–26–17, Baltimore, Maryland 21244–1850.

Dated: February 6, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff.

[FR Doc. 96–3434 Filed 2–14–96; 8:45 am]

BILLING CODE 4120–03–M

Agency Information Collection Activities: Proposed Collection: Comment Request

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, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information. Interested persons are invited to send comments regarding this 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 Request:* Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Medicaid Eligibility Criteria; *Form No.:* HCFA–SP–1; *Use:* To standardize the display of information on the posteligibility process in the State's Medicaid plan. The State plan is issued as a basis for Federal Financial Participation in the State program; *Frequency:* On occasion; *Affected Public:* Federal Government and State, local, or tribal government; *Number of Respondents:* 56; *Total Annual Responses:* 896; *Total Annual Hours:* 529.

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 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Linda Mansfield, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 8, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–3432 Filed 2–14–96; 8:45 am]

BILLING CODE 4120–03–P

Information Collection Requirements Submitted for Public Comment: Submission for Office of Management and Budget (OMB) Review

AGENCY: Health Care Financing Administration, HHS.

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirement abstracted below has been submitted to the Office of Management and Budget (OMB) for review and comment. Because of the many concerns raised by both suppliers and physicians during this review process, HCFA has made several changes to the forms used to collect this 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 budget.

1. *Type of Information Collection Request:* Revision of a Currently Approved Collection; *Title of Information Collection:* Durable Medical Equipment Regional Carrier, Certificate of Medical Necessity; *Form No.:* HCFA–R–182; *Use:* A Certificate of Medical Necessity is a standardized format used to communicate information provide by an attending physician and a supplier of medical equipment and supplies. The information is used by carriers to determine the medical necessity of an item or service covered by the Medicare program and being used for the treatment of the Medicare beneficiary's condition. The CMNs currently under OMB review are necessary in order for HCFA to determine the medical necessity of the item or service. The information needed to make this determination requires application of medical judgment that can only be provided by a physician or other clinician who is familiar with the condition of the beneficiary. *Frequency:* On Occasion; *Affected Public:* Suppliers and Physicians, Business or other for profit, Federal Government; *Number of Respondents:* 140,000; *Total Annual Responses:* 6.8 million; *Total Annual Hours Requested:* 1.7 million.

The Federal Register notice with a 60-day comment period soliciting comments on this collection of information was published on October 13, 1995. To request copies of the proposed paperwork collection referenced above, call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collection should be sent before March 9, 1996, 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, D.C. 20503.

Dated: February 8, 1996.

Kathleen B. Larson,

Director Management Planning and Analysis Staff.

[FR Doc. 96–3433 Filed 2–14–96; 8:45 am]

BILLING CODE 4120–03–P

Office of Inspector General

Program Exclusions: December 1995 and January 1996

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the months of December 1995 and January 1996, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, Maternal and Child Health Services Block Grant and Block Grants to States for Social Services programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject, city, state	Effective date
Program-Related Convictions	
Adeyemi, Mukaila B., Owings Mills, MD	02/15/96
Archuleta, Sheila K., Lakewood, CO	02/13/96
Armstrong Medical Transport, Bryan, TX	02/12/96
Balorac, Inc., TX	02/12/96
Branch, Freddie L., Baltimore, MD	02/15/96
Browder, Deborah A., Greenville, OH	12/28/95
Christmas, Harry M., Bunkie, LA	02/12/96
Coker, Ronald D., Anthony, NM	02/13/96
Delgado-Corbas, Froilan, Miami, FL	02/15/96
Fares, Abdelkader H., Dearborn Heights, MI	02/12/96
Franklin County EMS Inc., Christopher, IL	02/12/96
Gansz, Sherry L., Jerseyville, IL	02/12/96
Geiser, Grace Baldeo, Glendale, CA	02/14/96
Hale, Dan E., Morristown, TN	02/15/96
Hall, Sandra Y. Baltimore, MD	02/15/96
Hart, John, Kewanee, IL	12/28/95
Jaramillo, James D.C., Los Lumas, NM	02/13/96
Jenkins, Linda Faye, Bryan, TX	02/12/96
Johnson, Floyd, Cairo, IL	02/12/96
Jones, Thomas W., Gretna, LA	02/12/96
Keatts, James G. El Paso, TX	02/12/96
Lamas, Elva R., Hialeah, FL	02/15/96
Liebowitz, Theodore, N Woodmere, NY	02/13/96
Mares, Alberto, Three Rivers, TX	02/12/96
Miller, Gerald A., Ellicott City, MD	02/15/96
Monato, Benjamin A., Bloomfield Hills, MI	02/12/96
Peregoy, Karen L., Evans, CO	02/13/96
Pullen, Sonia A., Baltimore, MD	02/15/96
Rehman, Khalil, Shirley, NY	02/13/96
Reyes, Patricia A., N Little Rock, AR	02/12/96
Richardson, Carolyn E., Baltiomore, MD	02/15/96
Robinson, Bertha L., Bryan, TX	02/12/96
Rose, William W. Jr., Cerritos, CA	02/14/96
Sacay, Emmanuel E., Cincinnati OH	12/28/95
Vest, Thomas Bruce, Godfrey, IL	02/12/96
Villalva, Amado B., Grand Junction, CO	02/13/96
Walayat, Kahn A., MD, PC, Ypsilanti, MI	02/12/96
Patient Abuse/Neglect Convictions	
Aymat, Fernando, Cleveland, OH	02/12/96
Boles, Margaret A., N Little Rock, AR	02/12/96
Donaldson, Bridgette, Memphis, TN	02/15/96
Ehler, Richard G., Grady, AR	02/12/96
Griffin, James H., San Antonio, TX	02/12/96
Grippo, Michael A., Thorton, CO	02/13/96
Hudspeth, Robert III, Eunice, LA	02/12/96
Iqbal, Shahid, Madison Heights, MI	02/12/96
Kellogg, Lyle R., Harrison, MI	02/12/96
Kelly, Gary Don, Brickeys, AR	02/12/96
Kennedy, Richard D., Camp Hill, PA	02/15/96
Lee, Patricia M., Memphis, TN	02/15/96
McLaughlin, Joseph Eric, Hope, AR	02/12/96
Moore, Shelonda, Dayton, OH	12/28/95
Peh, Khang Hong, Xenia, OH	02/12/96
Woolridge, Clifton, Columbus, OH	02/12/96
Conviction for Health Care Fraud	
Briggs, Karen Marie, New Orleans, LA	02/12/96
Harmason, Tonya Laverne, Plaquemine, LA	02/12/96
Jones, Betty Channel, Plaquemine, LA	02/12/96
Landrum, Tammie B., New Orleans, LA	02/12/96
Neu, Nanette M., Milwaukee, WI	02/12/96
Richardson, Cassandra Yvette, New Orleans, LA	02/12/96
Swerdloff, Fred, Los Angeles, CA	02/14/96
Controlled Substance Convictions	
Gold, Arnold Z., Oil City, PA	02/15/96
Griffin, William R. Jr., Pickerington, OH	02/12/96
Parker, Kenneth C., Akron, OH	02/12/96
License Revocation/Suspension/Surrender	
Andrew, Dorothy W., Lubbock, TX	02/12/96
Boylan, Richard J., Sacramento, CA	02/14/96
Buckingham, Vada P., Tyngsboro, MA	02/13/96
Carey, Donna M., Arlington, MA	02/13/96
Cobb, Charles R., Saipan, MP 96950, CA	02/14/96
Cohen, Linda Willis Darlene, Sylmar, CA	02/14/96
Cohen, Steven S., Mercersburg, PA	02/15/96
Dibenedetto, Francis W., Galloway, OH	02/12/96
Dobrow, Bernard, Los Gatos, CA	02/14/96
Farmer, Robert A., Vacaville, CA	02/14/96
Frederick, Thomas B., Fond Du Lac, WI	02/12/96
Giannattasio, Vincent A., Brookfield, WI	02/12/96
Hardee, Myra J., Kerrville, TX	02/12/96
Hicks, William J., Rochester, NY	02/13/96
Jones, Jeanette N., San Antonio, TX	02/12/96
Lauzier, Peter L., Plymouth, MA	02/13/96
Martin, Richard A., Santa Rosa, CA	02/14/96
Navarro, Ernesto A., Laredo, TX	02/12/96
Odams, David J., Albuquerque, NM	02/13/96
Popovic, Deyan N., New York, NY	02/13/96
Reardon, Lynne, North Haven, CT	02/13/96
Sahlin, Peter B., Dedham, MA	02/13/96
Springfield, Steven Douglas, Little Rock, AR	02/12/96
Tobin, Mary, New London, CT	02/13/96

Subject, city, state	Effective date
Vasquez, Edward L., Victoria, TX	02/12/96
Westfall, Robert E., Berkeley, CA	02/14/96
Williams, David K., London, W1A 1GU	02/14/96
Wolkoff, Kenneth A., Palm Beach Garden, FL	02/13/96
Zuefelt, Sherri Lee, London Ontario, TX	02/12/96
Federal/State Exclusion/Suspension	
A&I Health Aids, NY	02/13/96
Akery, Earl J., Deming, NM	02/13/96
Aronoff, Nathaniel, Oceanside, NY	02/13/96
McFarland, James A., Redding, CA	02/14/96
Metellus, Fritz, Far Rockaway, NY	02/13/96
Piselli, Ronald R., Philadelphia, PA	02/15/96
Villanueva, Thelma C., Scarsdale, NY	02/13/96
Owned/Controlled by Convicted/Excluded	
Allant Health Care Inc., Miami, FL	02/15/96
Armstrong, Carolyn Ann, Bryan, TX	02/12/96
Barbara's Transportation, Bunkie, LA	02/12/96
Carolyn's Medical Transport, Bryan, TX	02/12/96
Courie Medical Center Corp., Miami, FL	02/15/96
Erickson Eye Clinic, Great Falls, NE	02/13/96
Express Health Care Services, Miami, FL	02/15/96
Genesis Services, Inc., Aurora, CO	02/13/96
Grove Health Care, Inc., Miami, FL	02/15/96
James D.C. Jaramillo, MD, PC., Los Lunas, NM	02/13/96
Joergens' Chiropractic Ctr., Staten Island, NY	02/13/96
Karil Health Care, Inc., Miami, FL	02/15/96
L & M Health Care and Mgmt Inc., Miami, FL	02/15/96
Morfa Healthcare, Inc., Miami, FL	02/15/96
Nutrition and Health Care Inc., Miami, FL	02/15/96
Pocono Immediate Medical Care, Stroudsburg, PA	02/15/96
Ron Coker Drug, Inc., Anthony, NM	02/13/96
Sterling Optical, West Seneca, NY	02/13/96
Default on Heal Loan	
Alvarado, Mario, Sacramento, CA	02/14/96
Atiga, Schubert Jusay, Chula Vista, CA	02/15/96
Becchetti, Sondra D., Belmont, CA	02/14/96
Cooke, Lawrence William, Riverside, CA	02/14/96
Cordes, John C., Bloomfield, MI	02/12/96
Dorman, Patrick L. Jr., San Diego, CA	02/14/96
Eslao, Caesar G., Carson, CA	02/14/96
Fagan, Barbara L., Minneapolis, MN	02/13/96
Farkas, Edward F., Brooklyn, NY	02/13/96
Fiore, Dominick, Bridgeport, CT	02/13/96
Gordon, Wanda C., Philadelphia, PA	02/15/96
Grubstein, Alan P., Rancho Cucamonga, CA	02/14/96
Hall, Barry S., Milpitas, CA	02/14/96
Hatfield, Brian L., Santa Monica, CA	02/14/96
Hempsey, William C., Sherman Oaks, CA	02/14/96
Leung, Leo S., Woodside, NY	02/13/96
Lindley, Frank A., Philadelphia, PA	12/14/96
Martin, Craig J., Appleton, WI	02/12/96
Moy, John R., Queens Village, NY	02/13/96
OSEI-Tutu, Ernest P., Sagamore Beach, MA	02/13/96
Smith, Larry W., Nashville, TN	02/15/96
Steinke, Charles T., Richmond Hill, NY	02/13/96
Ward, Stephanie A., Philadelphia, PA	02/15/96
Peer Review Organization Cases	
Burke, Bernard James, Little Falls, NY	01/05/96

Dated: February 6, 1995.

William M. Libercci,

Director, Health Care Administrative Sanctions, Office of Civil Fraud and Administrative Adjudication.

[FR Doc. 96–3503 Filed 2–14–96; 8:45 am]

BILLING CODE 4150–04–P–M

Office of Refugee Resettlement

Modifications to the Standing Announcement Published in the Federal Register on January 17, 1995 (60 FR 3416)

AGENCY: Office of Refugee Resettlement (ORR), ACF, DHHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the ORR Standing Announcement, 60 FR 3416, with application due dates in March 1996, for Category 1 Preferred Communities, Category 2 Unanticipated Arrivals, and Category 3 Ethnic Communities will have the following changes.

Category 3 is hereby canceled. The intent of the director is to modify this program announcement later this year.

Also, notice is given that ORR offers prospective applicants to Category 2 to participate in a bidders' conference call. Applicants who intend to participate in the bidders' conference call, must reserve by leaving a message at (202) 401–9324 by February 26, 1996.

The bidders' conference call is scheduled for 2:00 PM, February 27, 1996. To participate in the conference call, applicants may call (700) 991–1838. The caller access code to give to the operator is 466–87. If the caller has difficulty, assistance is available by calling (800) 545–4387.

DATES: The application due date of March 15, 1996 is for Categories 1 and 2.

FOR FURTHER INFORMATION CONTACT: For information on Preferred Communities and Unanticipated Arrivals, call Marta Brenden (202) 205–3589. For information on Ethnic Community Organizations call AnnaMary Portz at (202) 401–1196.

Dated: February 9, 1996.

Regina Lee,

Deputy Director, Office of Refugee Resettlement.

[FR Doc. 96–3415 Filed 2–14–96; 8:45 am]

BILLING CODE 4184–01–P

Substance Abuse and Mental Health Services Administration

Cancellation of Receipt Date for SAMHSA Conference Grant Applications

AGENCY: Center for Substance Abuse Prevention and Center for Substance Abuse Treatment, SAMHSA

ACTION: Cancellation of May 10, 1996 Application Receipt Date.

SUMMARY: Pending certainty on the fiscal year 1996 appropriation for SAMHSA, the Center for Substance Abuse Prevention (CSAP) and the Center for Substance Abuse Treatment (CSAT) are canceling the May 10, 1996, receipt date for applications for the following grant programs:

CSAP's Knowledge Dissemination Conference Grants (CFDA No. 93.174)

CSAT's Substance Abuse Treatment Conference Grants (CFDA No. 93.218)

For information regarding future receipt dates or for programmatic assistance, potential applicants should contact the following individuals:

CSAP: Ms. Luisa del Carmen Pollard, Division of Public Education and Dissemination, CSAP, Rockwall II Building, Suite 800 5600 Fishers Lane, Rockville, Maryland 20857, Tele: (301) 443–0377

CSAT: Ms. Nancy Kilpatrick, Office of Scientific Analysis and Evaluation, CSAT, Rockwall II Building, Suite 840, 5600 Fishers Lane, Rockville, Maryland 20857, Tele: (301) 443–8831.

Dated: February 8, 1996.

Richard Kopanda,

Acting Executive Officer, SAMHSA.

[FR Doc. 96–3385 Filed 2–14–96; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–040–1430–00; AA–76879, AA–77643, AA–77776, AA–76936 , AA–76935]

Management Framework Plan; Correction

ACTION: Correction to Notice of Intent to prepare an amendment to Southcentral Planning Area Management Framework Plan (MFP).

SUMMARY: The Notice of Intent published in the Federal Register on October 16, 1995, at page 53637, should have stated that Parcels Four and Five, approximately 46 acres of the proposed plan amendment, are within the Southwest Planning Area MFP dated November 11, 1981, *not* the Southcentral Planning Area MFP. This reduces the acreage in the Southcentral Planning Area MFP to 83 acres.

ADDRESSES: Comments should be sent to District Manager, Anchorage District Office, 6881 Abbott Loop Road, Anchorage, Alaska 99507–2599.

FOR FURTHER INFORMATION CONTACT: Dennis R. Benson, BLM, Anchorage District Office, 6881 Abbott Loop Road, Anchorage, Alaska 99507–2599, (907) 267–1212, or (800) 478–1263.

SUPPLEMENTARY INFORMATION: The BLM will prepare a MFP Amendment/EA and Record of Decision. A Notice of Availability/Notice of Realty action (NOA/NORA) will announce the availability of the Plan Amendment/EA and Record of Decision in a subsequent publication. This Corrected Notice of Availability/Notice of Realty Action (NOA/NORA) amends the previous publication for the plan amendment for the Southcentral MFP (60 FR 53637, October 16, 1995).

Dated: January 29, 1996.

Nicholas Douglas,

District Manager.

[FR Doc. 96–3399 Filed 2–14–96; 8:45 am]

BILLING CODE 4310–JA–P

[AK–910–0777–51]

Alaska Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Alaska Resource Advisory Council Meeting.

SUMMARY: The Alaska Resource Advisory Council will conduct an open meeting Thursday, March 21, 1996, from 9 a.m. to 5 p.m. and Friday, March 22, 1996, from 8:30 a.m. until 4:30 p.m. in Anchorage, Alaska. The meeting will be held in room 154 of the Anchorage Federal Office Building. Public comments will be taken from 1:30 p.m. to 2:30 p.m. Thursday, March 21. Written comments may be submitted at the meeting. The council will elect officers and will discuss:

1. Fortymile River management;
2. Land selection program status;
3. Old and new business.

ADDRESSES: Inquiries about the meeting should be sent to External Affairs, Bureau of Land Management, 222 W. 7th Ave., #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Teresa McPherson at (907) 271–5555.

Dated January 31, 1996

Tom Allen,

State Director.

[FR Doc. 96–3392 Filed 2–14–96; 8:45 am]

BILLING CODE 4310–JA–P

[CA–026–1020–01]

Notice of Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Susanville Resource Advisory Council, Susanville, California.

ACTION: Notice of Meetings.

SUMMARY: Notice is hereby given in accordance with Public Law 95–579 (FLPMA) that the Bureau of Land Management's Susanville Resource Advisory Council will meet at the following locations and times:

1. Friday and Saturday, March 15 and 16, 1996, at the BLM office, 705 Hall Street, Susanville, CA. The March 15 meeting begins at 10 a.m. and includes a day-long field tour of livestock grazing allotments. The March 16 meeting is from 9 a.m. to 2 p.m. Public comments will be taken at 9:30 a.m. The council will continue development of standards for healthy rangelands and guidelines for livestock grazing. Managers of the BLM Alturas, Eagle Lake and Surprise resource areas will present status reports.

2. Friday and Saturday, April 5 and 6, 1996, at the BLM Office, 708 West 12th Street, Alturas, CA. The April 5 meeting begins at 10 a.m. and includes a field tour of rangeland areas near Alturas. The April 6 meeting runs from 9 a.m. to 2 p.m. Public comments will be taken at 9:30 a.m. Other agenda topics will include continued work on rangeland standards and guidelines development, information on deer herd management in northeast California, and resource area status reports.

3. Friday and Saturday, April 26 and 27, 1996, at the BLM Office, 602 Cressler Street, Cedarville, CA. The April 26 meeting begins at 10 a.m. and will include a tour of livestock grazing areas in extreme northwest Nevada. The April 27 meeting runs from 9 a.m. to 2 p.m. Public comments will be taken at 9:30 a.m. Other agenda items include continued work on rangeland standards and guidelines, a BLM briefing on wilderness status, wild horse and burro population modeling, and resource area status reports.

All meetings are open to the public. Depending on the number of people wishing to speak, time limits may be imposed during the public comment periods.

Summary meeting minutes of each meeting will be maintained at the Susanville BLM Office, 705 Hall Street, Susanville, CA.

FOR FURTHER INFORMATION, CONTACT: Jeff Fontana (916) 257–5381.

Linda D. Hansen,

Eagle Lake Resource Area Manager.

[FR Doc. 96–3461 Filed 2–14–96; 8:45 am]

BILLING CODE 4310–40–P

[CA–026–1430–00; CA–4300, CA–4301, S–5810, SAC–079547]

Notice of Realty Actions; Recreation and Public Purposes (R&PP) Act Classification; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Conveyance Notice.

SUMMARY: The following public lands in Lassen County, California have been examined and found suitable for conveyance to the County of Lassen under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The County of Lassen is currently leasing these sites as landfills or transfer stations.

Mount Diablo Meridian

(CA–4300) T.33N., R.11.E., Sec. 15, SE¼NE¼SW¼NW¼, containing 2.5 acres more or less; (CA–4301) T.37N., R.13.E., Sec. 11, SW¼SW¼SW¼, containing 10 acres

more or less; (S–5810) T.29N., R.13E., Sec. 19, W½SE¼, N½NE¼SE¼, S½SE¼SE¼ and Sec. 30, NW¼NE¼, containing 160 acres more or less; and (SAC–79547) T.26N., R.16E., Sec. 10, E½NE¼NW¼, containing 20 acres more or less.

ADDRESSES: Any inquiries should be sent the Bureau of Land Management, Eagle Lake Resource Area Office, 705 Hall Street, Susanville, California.

FOR FURTHER INFORMATION CONTACT: Linda Hansen, Area Manager or Susan Wannebo, Realty Specialist, (916) 257–0456.

SUPPLEMENTARY INFORMATION: The lands are not essential to any Bureau of Land Management program and no resource needed by the public will be lost through the transfer to private ownership. Conveyance is consistent with current BLM land use planning and is in the public interest. Mineral interests would be conveyed pursuant to the Federal Land Policy and Management Act (FLPMA) of 1976, Section 209 entitled Reservation and Conveyance of Minerals.

The patent, when issued, will be subject to the following terms, conditions and reservations: (1) A right-of-way for ditches and canals constructed by the authority of the United States; (2) Those rights for roadway purposes granted to the County of Lassen under right-of-way CACA–8823; and (3) Those rights for roadway purposes granted to the State of California, Department of Transportation under right-of-way SAC–069790.

Upon publication of this notice in the Federal Register, the lands will be segregated from all forms of appropriation under the public land laws, including general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice in the Federal Register, interested persons may submit comments regarding the proposed conveyance of the lands to the Area Manager, Eagle Lake Resource Area Office, 705 Hall Street, Susanville, California 96130.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the Federal Register.

Linda D. Hansen,

Area Manager.

[FR Doc. 96–3435 Filed 2–14–96; 8:45 am]

BILLING CODE 4310–43–P

[UT–040–06–1430–00; UTU–74777]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, recreation and public purpose conveyance.

SUMMARY: The following described public land in Garfield County, Utah has been examined and found suitable for lease or conveyance under the provisions of the Recreation and Public Purposes Amendment Act of 1988, (Pub. L. 100–648). The land to be leased or conveyed and the proposed patentee is:

Patentee: Garfield County

Location: Salt Lake Meridian, Utah T. 37 S., R. 3 W., Sec. 13, SW¼NE¼SE¼, NE¼SE¼NE¼SE¼, W½SE¼NE¼SE¼, containing 17.5 acres.

This land is hereby segregated from all forms of appropriation under the public land laws, including the mining laws.

Garfield County proposes to use approximately 8 acres of this land for a maintenance shed and storage area, and approximately 9½ acres for a recreational facility. The land is not needed for Federal purposes. Conveyance or Lease is consistent with current BLM land use planning and would be in the public interest.

The patent when issued will be subject to the following terms, conditions and reservations:

1. All minerals, including oil and gas, shall be reserved to the United States, together with the right to prospect for, mine and remove the same.

2. A right-of-way will be reserved for ditches and canals constructed by the authority of the United States (Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945).

3. The conveyance will be subject to all valid rights and reservations of record.

4. Garfield County will assume all liability for and shall defend, indemnify, and save harmless the United States and its officers, agents, representatives, and employees (hereinafter referred to as the United States), from all claims, loss, damage, actions, causes of action, expense, and liability resulting from, brought for, or on account of, any personal injury, threat of personal injury, or property damage received or sustained by any person or persons (including the patentee's employees), or property growing out of, occurring, or the release of hazardous substances from the above listed tract, regardless of whether such claims shall be attributable to: (1) The concurrent, contributory, or partial fault, failure, or negligence of the United States, or (2) the sole fault, failure, or negligence of the United States.

5. Title may revert to the United States upon a finding, after notice and opportunity for a hearing, that the patentee has not substantially developed the lands in accordance with the approved plan of development on or before the date five years after the date of lease or conveyance, No portion of the land shall under any circumstance revert to the United States if any such portion has been used for solid waste disposal or for any other purpose which may result in the disposal, placement, or release of any hazardous substance.

DATES: Any comments shall be submitted by March 18, 1996. Comments may be sent to the District Manager, Cedar City District Office, 176 D. L. Sargent Drive, Cedar City, Utah 84720. Any adverse comments will be reviewed by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any adverse comments, this notice will become the final determination of the Department of the Interior on [60 days after the date of publication].

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this action is available for review at the Escalante Resource Area office by contacting Darrell Olsen, P.O. Box 225, Escalante, Utah 84726, or telephone (801) 826–4291.

Dated: February 6, 1996.

A.J. Meredith,

District Manager.

[FR Doc. 96–3442 Filed 2–14–96; 8:45 am]

BILLING CODE 4310–DQ–M

[CA–930–5410–00–B071; CACA 34911]

Conveyance of Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of segregation.

SUMMARY: The private land described in this notice, aggregating 88.190 acres, is segregated and made unavailable for filings under the general mining laws and the mineral leasing laws to determine its suitability for conveyance of the reserved mineral interest pursuant to section 209 of the Federal Land Policy and Management Act of October 21, 1976. The mineral interests

will be conveyed in whole or in part upon favorable mineral examination. The purpose is to allow consolidation of surface and subsurface of minerals ownership where there are no known mineral values or in those instances where the reservation interferes with or precludes appropriate nonmineral development and such development is a more beneficial use of the land than the mineral development.

FOR FURTHER INFORMATION CONTACT: Kathy Gary, California State Office, Federal Office Building, 2800 Cottage Way, Room E–2845, Sacramento, California 95825, (916) 979–2858.

Mount Diablo Meridian

T. 22 S., R. 19E.,
Sec 30, Assessor's Parcel numbers 42–150–66 and 42–150–86
County—Kings.
Minerals Reservation—All coal and other minerals.

Upon publication of this Notice of Segregation in the Federal Register as provided in 43 CFR 2720.1–1(b), the mineral interests owned by the United States in the private lands covered by the application shall be segregated to the extent that they will not be subject to appropriation under the mining and mineral leasing laws. The segregative effect of the application shall terminate by publication of an opening order in the Federal Register specifying the date and time of opening; upon issuance of a patent or other document of conveyance to such mineral interest; or two years from the date of publication of this notice, whichever occurs first.

Dated: February 6, 1996.

David McIlnay,

Chief, Branch of Lands.

[FR Doc. 96–3436 Filed 2–14–96; 8:45 am]

BILLING CODE 4310–40–P

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–810740

Applicant: Exotic Feline Breeding Compound, Rosamond, CA.

The applicant requests a permit to import two pair of captive-held flat-headed cat (*Prionailurus planiceps*) from Taman Nor Badia Wildlife Park, Kuching, Sarawak, Borneo, for the purpose of enhancement of the species through captive breeding.

PRT–810453

Applicant: University of Georgia, Athens, GA.

The applicant requests a permit to import tissue samples taken from wild and captive born birds from Ardastra Gardens and Zoo, Nassau, Bahamas for the purpose of enhancement of the survival of the species through scientific research.

PRT–810443

Applicant: Cherie D. Ecker, Lake Forest, IL.

The applicant requests a permit to export one pair of White-eared pheasant (*Crossoptilon crossoptilon*), one pair of Brown-eared pheasant (*Crossoptilon mantchuricum*), one pair of Swinhoe's pheasant (*Lophura swinhoii*), to Al Bustan Farms, Sharjah, United Arab Emirates for the purpose of enhancement of the survival of the species through propagation.

PRT–673366

Applicant: The Hawthorn Corporation, Grayslake, IL.

The applicant requests a permit to re-export and re-import captive-born tigers (*Panthera tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

PRT–810428

Applicant: Bobby C. Hudson, Dacula, GA.

The applicant requests a permit to import the sport-hunted trophy of one bontebok (*Damaliscus pygarcus dorcas*) culled from the captive herd maintained by Andrew Austin, Grahamstown, Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–810432

Applicant: Eric Golting, Englewood, CO.

The applicant requests a permit to import the sport-hunted trophy of one bontebok (*Damaliscus pygarcus dorcas*) culled from the captive herd maintained by Overberg Test Site, Bradasdorp, Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–810457

Applicant: Harry P. Samarin, Bakersfield, CA.

The applicant requests a permit to import the sport-hunted trophy of one bontebok (*Damaliscus pygarcus dorcas*) culled from the captive herd maintained by Fred Burchell, Amatola, Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–810445

Applicant: David R. White, Thompson Station, TN.

The applicant requests a permit to import the sport-hunted trophy of one bontebok (*Damaliscus pygarcus dorcas*) culled from the captive herd maintained by Contour, Ciskei, Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–810859

Applicant: Ringling Bros.—Barnum & Bailey, Vienna, VA.

The applicant requests a permit to re-export and re-import captive-born tigers (*Panthera tigris*), Asian elephants (*Elephas maximus*), leopard (*Panthera pardus*), and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

PRT–810856

Applicant: Franklin T. Flynn, Towsend, MT.

The applicant requests a permit to import the sport-hunted trophy of one bontebok (*Damaliscus pygarcus dorcas*) culled from the captive herd maintained by Lewes Tonks, Graaff-Reinet, Republic of South Africa, for the purpose of enhancement of the survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: February 9, 1996.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 96–3376 Filed 2–14–96; 8:45 am]

BILLING CODE 6717–01–P

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information, the related form and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirements should be made directly to the Bureau clearance officer listed below and to the Office of Management and Budget, Paperwork Reduction Project (1029–0090), Washington, DC 20503, telephone 202–395–7340.

Title: Abandoned Mine Reclamation Fund—Fee Collection and Coal Production Reporting, 30 CFR 870.

OMB Number: 1029–0090.

Abstract: Section 402 of the Surface Mining Control and Reclamation Act of 1977 requires fees to be paid to the Abandoned Mine Reclamation Fund by coal operators on the basis of coal tonnage produced. This information collection requirement is needed to support verification of the moisture deduction allowance. The information will be used by the regulatory authority during audits to verify that the amount of excess moisture taken by the operator is appropriate.

Bureau Form Number: None.

Frequency: On Occasion.

Description of Respondents: Coal Mine Operators.

Annual Responses: None.

Annual Burden Hours: 2,100.

Estimated Recordkeeping Time: 2 hours.

Bureau clearance officer: John A. Trelease (202) 208–2617.

Dated: January 26, 1996.

Gene E. Krueger,

Acting Chief, Division of Technology Development and Transfer.

[FR Doc. 96–3412 Filed 2–14–96; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: International Trade Commission.

ACTION: Notice of proposed collection; comment request.

SUMMARY: The proposed information collection is a 3-year extension, pursuant to the Paperwork Reduction Act of 1995 (Pub L. 104–13), of the current ''generic clearance'' (approved by the Office of Management and Budget under control no. 3117–0016) under which the Commission can issue specific questionnaires for the following types of investigations with statutory deadlines: countervailing duty, antidumping, escape clause, market disruption, and ''interference with programs of the USDA.'' Comments concerning the proposed information collection are requested in accordance with 5 CFR 1320.8(d); such comments are described in greater detail in the section of this notice entitled supplementary information.

DATES: To be assured of consideration, written comments must be received not later than April 23, 1996.

ADDRESSES: Signed comments should be submitted to Donna R. Koehnke, Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection (and related instructions) and draft Paperwork Reduction Act Submission and Supporting Statement to be submitted to the Office of Management and Budget may be obtained from either of the following persons: Debra Baker, Office of Investigations, U.S. International Trade Commission, telephone 202–205–3180, or Lynn Featherstone, Director, Office of Investigations, U.S. International Trade Commission, telephone 202–205–3160.

SUPPLEMENTARY INFORMATION:

Request for Comments

Comments are solicited as to (1) whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used; (3) the quality, utility, and clarity of the information to be collected; and (4) minimization of the burden of the proposed information collection on those who are to respond (including through the use of appropriate automated, electronic, mechanical, or other technological forms of information technology, e.g., permitting electronic submission of responses). Comments are also solicited as to whether questionnaires gather adequate information on the burden respondents incur in answering the questionnaire. Historically, the Commission has requested that questionnaire respondents report the actual number of hours required and the cost to them of preparing the reply and completing the form. (This information is compiled by the Commission for each specific questionnaire issued under the ''generic clearance'' and submitted to the Office of Management and Budget for their review on a quarterly basis. It also forms the basis for the Commission's burden estimates reported below.) Under the proposed information collection, the Commission will request that respondents divide the cost data they report into two components (or wage rate categories), namely costs incurred (1) by managers, accountants, attorneys, and other professional and supervisory personnel and (2) for clerical support.

Need for the Proposed Information Collection

The Commission conducts countervailing duty and antidumping investigations under the provisions of Title VII of the Tariff Act of 1930 to determine whether domestic industries are being injured or threatened with injury by reason of imports of the product(s) in question which are being subsidized (countervailing duty cases) or sold at less than fair value (antidumping cases). Escape-clause investigations are conducted by the Commission to determine whether increased imports are a substantial cause of serious injury or threat of serious injury to a domestic industry. If the Commission makes an affirmative determination in escape-clause investigations it is also required to recommend a remedy that will eliminate the injury to the domestic industry. Market disruption investigations are conducted to determine whether imports of an article produced in a Communist country are causing injury to a domestic industry. In addition, the Commission conducts investigations to determine whether imports are interfering with programs of the Department of Agriculture for agricultural commodities or products.

Specific investigations are instituted in response to petitions received from U.S. manufacturers of the product(s) in question or, in rare instances, in response to a request from the U.S. trade representative or the Department of Commerce. Data received in response to the questionnaires issued under the terms of the proposed information collection (or ''generic clearance'') are consolidated and form much of the statistical base for the Commission's determinations in these statutorily-mandated investigations.

Information Collection Plan

Using the sample ''generic clearance'' questionnaires as a guide, questionnaires for specific investigations are prepared and are sent to all U.S. producers manufacturing the product(s) in question and to all significant importers of the products, particularly those importing from the country(ies) subject to investigation, except in cases involving an unusually large number of firms. In these instances, questionnaires are sent to a representative sample of firms. Purchaser questionnaires are also sent to all significant purchasers of the product(s) in cases involving as many as 50 consuming firms. Firms receiving questionnaires include businesses, farms, and/or other for-profit institutions; responses are mandatory.

Description of the Information to be Collected

Producer questionnaires generally consist of the following four parts: (part I) general questions relating to the organization and activities of the firm; (part II) data on capacity, production, inventories, employment, and the quantity and value of the firm's shipments and purchases from various sources; (part III) financial data, including income-and-loss data on the production in question, data on asset valuation, research and development expenses, and capital expenditures; and (part IV) price-related information. (Questionnaires may, on occasion, also contain part V, an abbreviated version of the above-listed parts, used for gathering data on additional product categories.)

Importer questionnaires generally consist of three parts: (part I) general questions relating to the organization and activities of the firm; (part II) data on the firm's imports and the shipment and inventories of its imports; and (part III) data on price-related information similar to that requested in the producer questionnaire.

Purchaser questionnaires generally consist of six parts: (part I) general questions relating to the organization and activities of the firm; (part II) data concerning the purchases of the product by the firm; (part III) general questions about the market for the production in question and about the purchaser's purchasing practices; (part IV) a number of questions related to competition between the domestic product and the subject imports; and (parts V and VI) actual purchase prices for specific types of domestic and subject imported products and the names of the firm's vendors.

The Commission solicits input from petitioners and other potential recipients when preparing questionnaires for individual investigations. Where possible, the Commission also circulates draft questionnaires to parties for their comment.

Estimated Burden of the Proposed Information Collection

The Commission estimates that questionnaires issued under the proposed information collection will impose an average annual burden of 90,000 response hours on 2,800 respondents (i.e., recipients that provide a response to the Commission's questionnaires). The tabulation below lists the estimated average annual burden for each type of questionnaire for August 1997 through July 2000.

	Producers' questionnaire	Importers' questionnaire	Purchasers' questionnaire
No. of respondents	940	980	880
Frequency of response	1	1	1
Total annual responses	940	980	880
Hours per response	36.4	37.2	22.0
Total hours	34,200	36,450	19,350

These estimates are based upon an analysis of the burden actually imposed by specific questionnaires issued under the Commission's currently approved ''generic clearance'' authority for fiscal years 1993 through 1995. The methodology is based on the average number of times questionnaires were sent to 10 or more recipients per investigation, the average number of responses per questionnaire, the average burden per respondent, and the Commission's anticipated workload. The estimates are annual averages and take into consideration the increase in workload expected for the Commission in fiscal years 1997 and 1998 resulting from the mandated sunset review of title VII determinations issued previously.

The estimated annual cost to respondents of the proposed information collection for August 1997 through July 2000 is $3.8 million in fiscal year 1995 dollars. The cost was obtained by multiplying the estimated number of questionnaires to be cleared under the generic clearance by the average cost of completing the questionnaire by respondents. In fiscal year 1995 dollars, the average reported cost per producing firm was $897; the average reported cost per importing firm was $1,734; the average reported cost per purchasing firm was $1,007. The cost estimate provided is an average and is not broken out by wage rate categories. (Information to be collected by the proposed information collection will permit such analysis in the future.) Because the specific questionnaires issued under the ''generic clearance'' are not repetitive, all of the costs imposed on respondents fall into the ''total operation and maintenance and purchase of services'' component. There are no known capital and start-up costs (e.g., purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities) to respondents. (Estimates of annualized cost to the Commission are presented in a draft Paperwork Reduction Act Submission and Supporting Statement available upon request from the Commission.)

Variation in Estimated Burden

The hourly burden estimates presented above can be expected to vary widely from one hour to several times the reported average burden. The reasons for the variation are as follows: (1) the respondent may not produce, import, or purchase the product(s) under investigation (such respondents need only to so certify and return the

first page of the questionnaire to the Commission); (2) the respondent may only produce, import, or purchase the products during a short time period or handle only one of the products reviewed; and (3) the questionnaires include the maximum number of reporting categories to ensure that meaningful data will be obtained from firms with complex business operations, and some sections of the questionnaires will not apply to smaller-sized firms.

In addition to variation in hourly burden among firms completing a specific questionnaire, there is also variation in hourly burden among questionnaires prepared for different investigations. The Tariff Act of 1930 identifies certain economic factors that the Commission is to take into account in arriving at determinations in countervailing duty and antidumping investigations; the Commission is also provided with guidelines concerning the relevant economic factors it is to assess in escape clause investigations. In some investigations, questionnaires will solicit data pertaining to other economic factors not listed in the statutes (e.g., channels of distribution) because such data have been found to be particularly useful in past Commission determinations or are relevant to the case in question. A key factor which leads to variation in hourly burden among investigations is the number of product categories for which data must be collected.

Description of Efforts to Reduce Burden

To facilitate the preparation of its questionnaires, the Commission has proposed to amend its rules to require that the petition identify the proposed domestic like product(s) and further identify each product on which the Commission should seek information in its questionnaires (see Notice of Proposed Amendments to Rules of Practice and Procedure, 60 FR 51748, Oct. 3, 1995). Further, the Commission has issued proposals to formalize the process for parties to comment on data collection in final phase countervailing and antidumping duty investigations. The Commission has also adopted a new format and otherwise revised the basic content of Commission questionnaires (60 FR 51748, Oct. 3, 1995). The content of the new generic forms are described above and are available from the Commission; they are much shorter in length than those used in the past and facilitate the development of a less burdensome questionnaire for use in specific investigations. Finally, the Commission may utilize a ''short form'' for use in cases were numerous small businesses must be surveyed. This form is a simplified and abbreviated version of the questionnaire sent to larger firms. To further reduce respondent burden, the Commission permits the submission of carefully prepared data estimates and will accept information in electronic format.

Issued: February 9, 1996.
By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–3334 Filed 2–14–96; 8:45 am]

BILLING CODE 7020–02–P

[Inv. No. 337–TA–370]

Certain Salinomycin Biomass and Preparations Containing Same; Notice of Commission Decision Not To Review a Final Initial Determination Terminating the Investigation Based on a Finding of No Violation of Section 337

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the final initial determination (ID) issued on November 6, 1995, by the presiding administrative law judge (ALJ) in the above-captioned investigation, thereby terminating the investigation with a finding of no violation of section 337 of the Tariff Act of 1930.

FOR FURTHER INFORMATION CONTACT: Jean H. Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202–205–3104.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation, which concerns allegations of violations of section 337 of the Tariff Act of 1930 in the importation, sale for importation, and sale after importation of certain salinomycin biomass and preparations containing same on February 6, 1995. The Commission named the following firms as respondents: Hoechst Aktiengesellschaft, Hoechst Veterinar GmbH, and Hoechst-Roussel Agri-Vet Co. (collectively, Hoechst), and Merck & Co. Inc. (Merck).

An evidentiary hearing was held commencing June 5, 1995, and continuing through June 20, 1995, in which Kaken, Hoechst, and the Commission investigative attorney (IA) participated. On September 18, 1995, the ALJ issued an ID finding that Merck's activities did not violate section 337 and terminated Merck from the investigation. That ID became the Commission's final determination on October 10, 1995.

On November 6, 1995, the ALJ issued his final ID in which he found no violation of section 337. His decision was based on his finding that the patent at issue was invalid due to concealment of best mode and unenforceable due to inequitable conduct in its procurement. Petitions for review were filed by complainant Kaken and respondent Hoechst on November 21, 1995. Responses to the petitions were filed on December 1, 1995, by Kaken, Hoechst, and the IA.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, and section 210.42(h)(3) of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.42(h)(3).

Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: February 9, 1996.
By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–3335 Filed 2–14–96; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 to 9675

Notice is hereby given that a proposed consent decree in *United States* v. *Amtel, Inc., et al.*, Civil Action No. 91–CV–10366–BC, was lodged on December 18, 1995 with the United States District Court for the Eastern District of Michigan, Northern Division. The proposed consent decree resolves the United States' claims against Frank Barber for unreimbursed past costs incurred in connection with the Hedblum Superfund Site located in Oscoda, Michigan in return for a payment of $50,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Amtel, Inc., et al.,* DOJ Ref. #90–11–2–475.

The proposed consent decree may be examined at the office of the United States Attorney, 1000 Washington Street, 203 Federal Building, Bay City, Michigan 48707; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $4.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environment and Natural Resources Division.

[FR Doc. 96–3395 Filed 2–14–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

Notice is hereby given that on February 1, 1996, a proposed Consent Decree in *United States* v. *Estate of Richard R. Christopherson,* Civil Action No. C96–0166C (W.D. Washington), was lodged with the United States District Court for the Western District of Washington. This Consent Decree resolves the United States' claims in this action against the Estate of Richard R. Christopherson (''Estate'') regarding its liability under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for response costs incurred or to be incurred by the United States in connection with the Advance Electroplating Site in Seattle, Washington.

The Decree requires, *inter alia,* that the Estate reimburse the United States' response costs in the amount of $100,000 plus interest through the date of payment. In addition, the Decree requires the Estate to take certain steps in an effort to market and sell specified real property and to pay to the United States, for deposit in the Superfund, eighty percent of the proceeds of any such sale. The Decree grants to the Estate the contribution protection afforded by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2). The Decree also contains a reopener that permits the United States, in certain situations, to institute additional proceedings to require that this defendant perform further response actions or to reimburse the United States for additional costs of response.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Estate of Richard R. Christopherson,* D.O.J. No. 90–11–2–1116A.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the Western District of Washington, 800 Fifth Avenue, Suite 3600, Seattle, Washington, 98104–3190; the Region 10 Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005 (Tel: 202–624–0892). A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $7.75 (25 cents per page reproduction cost) payable to Consent Decree Library.

Joel Gross,

Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 96–3397 Filed 2–14–96; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

United States v. Computer Associates International, Inc. and Legent Corporation, Civ. No. 1:95CV01398 (TPJ) (D. D.C.); Response of the United States to Public Comments Concerning the Proposed Final Judgment

Pursuant to section 2(d) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(d), the United States publishes below the written comments received on the proposed Final Judgment in *United States* v. *Computer Associates International, Inc. and Legent Corporation,* Civil Action No. 1:95CV01398 (TPJ), United States District Court for the District of Columbia, together with its response thereto.

Copies of the written comments and the response are available for inspection and copying in Suite 200 of the Antitrust Division, United States Department of Justice, 325 Seventh Street, N.W., Washington, D.C. 20530 (telephone 202/514–2481) and for inspection at the Office of the Clerk of the United States District Court for the District of Columbia, Third Street & Constitution Avenue, NW., Washington, D.C. 20001.

Constance K. Robinson,

Director of Operations.

Response of the United States to Public Comments

Pursuant to the Antitrust Procedures and Penalties Act (''APPA'' or ''TUNNEY Act''), 15 U.S.C. § 16(b)–(h), the United States is filing this Response to public comments it has received relating to the proposed Final Judgment in this civil antitrust proceeding. The United States has carefully reviewed the public comments on the proposed Final Judgment and continues to believe that entry of the proposed Final Judgment will be in the public interest. After the comments and this Response have been published in the Federal Register, under 15 U.S.C. § 16(d), the United States will move the Court to enter the proposed Final Judgment.

This action began on July 28, 1995, when the United States filed a Complaint charging that the acquisition of Legent Corporation (''Legent'') by Computer Associates International, Inc. (''CA'') would violate Section 7 of the Clayton Act, 15 U.S.C. § 18. The Complaint alleges that the acquisition would eliminate significant competition between CA and Legent in five markets for systems management software used with mainframe computers that work with the VSE operating system: VSE tape management software; VSE disk management software; VSE security software; VSE job scheduling software; and VSE automated operations software. In addition, the Complaint alleges that the transaction would substantially lessen competition in the market for ''cross-platform'' systems management software, used in computer installations where a mainframe computer is linked together with other types of computer ''platforms'' (such as midrange computers or networks of workstations or personal computers).

Simultaneously with filing the Complaint, the United States filed a

proposed Final Judgment and a Stipulation signed by the defendants consenting to the entry of the proposed Final Judgment, after compliance with the requirements of the APPA.

Pursuant to the APPA, the United States filed a Competitive Impact Statement (''CIS'') on August 18, 1995. The defendants filed a Submission Pursuant to 15 U.S.C. § 16(g) of the APPA, on August 11, 1995. A summary of the terms of the proposed Final Judgment and CIS, and directions for the submission of written comments relating to the proposal, were published in *The Washington Post* for 7 days from September 3, 1995 through September 9, 1995. The proposed Final Judgment and CIS were published in the Federal Register on September 8, 1995. 60 Fed. Reg. 46861–46870 (1995). The 60 day period for public comments began on September 8, 1995 and expired on November 7, 1995. The United States has received three comments, which are attached as Exhibits 1–3.

I. Background

The proposed Final Judgment is the culmination of an intensive two-month investigation of the proposed acquisition of Legent by CA. The Government interviewed 55 customers and 14 competitors, who would have been affected by the proposed acquisition in various product lines. In addition, the Government issued 49 Civil Investigative Demands (''CIDs'') and reviewed over 950 boxes of documents in connection with this investigation.

At the conclusion of its investigation, the Government determined that the proposed acquisition violated the Clayton Act. The Government challenged the proposed acquisition and negotiated a proposed Final Judgment with the defendants that adequately resolves its competitive concerns.

II. The Legal Standard Governing the Court's Public Interest Determination

When the United States proposes an antitrust consent decree, the Tunney Act requires the Court to determine whether ''the entry of such judgment is in the public interest.'' 15 U.S.C. § 16(e) (1988). As the D.C. Circuit explained, however, the purpose of a Tunney Act proceeding ''is not to determine whether the resulting array of rights and liabilities 'is one that will *best* serve society,' but only to confirm that the resulting settlement is 'within the *reaches* of the public interest.' '' *U.S.* v. *Microsoft Corp.*, 56 F.3d 1448, 1460 (D.C. Cir. 1995) (emphasis in original); *accord*, *United States* v. *Western Elec. Co.*, 993 F.2d 1572, 1576 (D.C. Cir.), *cert. denied*, 114 S. Ct. 487 (1993); *see also United States* v. *Bechtel*, 648 F.2d 660, 666 (9th Cir.), *cert. denied*, 454 U.S. 1083 (1981); *United States* v. *Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass 1975).[1] Hence, a court should not reject a decree ''unless 'it has exceptional confidence that adverse antitrust consequences will result—perhaps akin to the confidence that would justify a court in overturning the predictive judgments of an administrative agency.' '' *Microsoft*, 56 F.3d at 1460 (quoting *Western Elec.*, 993 F.3d at 1577).

Tunney Act review is confined to the terms of the proposed decree and their adequacy as remedies for the violations alleged in the Complaint. *Microsoft*, 56 F.3d at 1459. The Tunney Act does not contemplate evaluating the wisdom or adequacy of the Government Complaint or considering what relief might be appropriate for violations that the United States has not alleged. *Id.* Nor does it contemplate inquiring into the Government's exercise of prosecutorial discretion in deciding whether to make certain allegations. To the extent that comments raise issues not charged in the Complaint, those comments are irrelevant to the court's review. *Id.* at 1460. The Court's inquiry here is whether the relief sought in the markets of concern in the Complaint has been tailored to maintain the level of competition that existed in those markets prior to the acquisition.

It is not the function of the Tunney proceeding ''to make [a] de novo determination of facts and issues'' but rather ''to determine whether the Government's explanations were reasonable under the circumstances'' for ''[t]he balancing of competing social and political interests affected by a proposed antitrust decree must be left, in the first instance, to the discretion of the Attorney General.'' *Western Elec.*, 993 F.2d at 1577 (internal quotations omitted). Courts have consistently refused to consider ''contentions going to the merits of the underlying claims and defenses.'' *Bechtel*, 648 F.2d at 666.

In addition, no third party has a right to demand that the Government's proposed decree be rejected or modified simply because a different decree would better serve its private interests. For, as this Circuit has emphasized, unless the ''decree will result in positive injury to third parties,'' a district court ''should not reject an otherwise adequate remedy simply because a third party claims it could be better served.'' *Microsoft*, 56 F.3d at 1461 n.9.[2] The United States—not a third party—represents the public interest in Government antitrust cases. *See e.g.*, *Bechtel*, 648 F.2d at 660, 666; *United States* v. *Associated Milk Products*, 534 F.2d 113, 117 (8th Cir.), *cert. denied*, 429 U.S. 940 (1976).

III. Entry of the Proposed Final Judgment is in the Public Interest

Entry of the proposed Final Judgment in this case is clearly within the reaches of the public interest under the standards articulated in *Microsoft* and other decided cases. The proposed Final Judgment resolves the competitive concerns that led to the filing of this case as to each of the five VSE systems management product markets and the cross-platform systems management software market identified in the Complaint.

IV. Response to Public Comments

We received only three comments, one from a customer, one from a competitor, and one from a former Legent employee.

A. Comment of Pete Clark (Exhibit 1)

Pete Clark, a VSE customer, submitted a comment expressing concerns as to: (1) Whether certain Legent products apart from the five named in the proposed Final Judgment (the ''Subject Software Products,'' as defined in paragraph II.H. of the proposed Final Judgment, hereafter referred to as the ''subject products'') should also be included within the scope of relief; (2) the adequacy of CA licensing, rather than completely divesting, the subject products as an effective remedy to the competitive harm posed by CA's acquisition of Legent; and (3) the adequacy of provisions of the proposed Final Judgment aimed at helping a licensee recruit and hire former Legent personnel responsible for development of the subject products.

1. Product Coverage

Mr. Clark believes that six additional Legent products should also be covered by the proposed Final Judgment because of their close relationship in functionality to two of the subject products—FAQS/PCS, for VSE automated job scheduling, and FAQS/ASO, for VSE automated operations. Mr. Clark appears not to regard the six

[1] The *Western Elec.* decision involved a consensual modification of an antitrust decree. The Court of Appeals assumed that the Tunney Act standards were applicable in that context.

[2] *Cf. United States* v. *Associated Milk Producers, Inc.*, 534 F.2d 113, 116 n.3 (8th Cir.), *cert. denied*, 429 U.S. 940 (1976) (''The cases unanimously hold that a private litigant's desire for [the] *prima facie* effect [of a litigated government judgment] is not an interest entitling a private litigant to intervene in a government antitrust case.'').

additional products as constituting markets of competitive concern apart from the markets alleged in the Complaint and addressed in the proposed Final Judgment, in which case, his criticism would not be cognizable. *Microsoft,* 56 F.3d at 1459. Rather, he asserts that being able to market the six products is important to the competitive viability of the eventual licensee of FAQS/PCS and FAQS/ASO in the markets for job scheduling software and automated operations software respectively.

In defining relevant markets and evaluating competitive capabilities of firms in the markets, the Government considered the possible effects of CA's acquisition of Legent with reference to many products and combinations of products marketed by either of the parties, including Mr. Clark's six candidates for coverage by the proposed Final Judgment. Our investigation did not, however, support Mr. Clark's view that a vendor's success or effectiveness in marketing FAQS/PCS or FAQS/ASO depends on its ability also to market any of the six additional products.

To whatever extent that it might be useful for users of FAQS/PCS or FAQS/ASO to also have access to any of Mr. Clark's six products, those products are likely to continue to be available in the marketplace. Having acquired Legent, CA now supplies the six products as well as FAQS/PCS and FAQS/ASO. If Mr. Clark is correct about the existence of valuable functional inter-relationships among these products, CA should have the same incentives to continue marketing all of them as Legent had before CA's acquisition of it, and customers will have the same access to them.

In addition, a licensee of CA under the proposed Final Judgment may, to the extent it deems necessary, seek licenses from CA as to any of the six products. Where appropriate, such additional licenses may be facilitated by application of paragraph II.H.2. of the proposed Final Judgment, which defines ''subject software product'' to include ''all optional modules, add-ons, enhancements and software customization sold or distributed to customers for use with the Subject Software Product.''

The overriding objective of the proposed Final Judgment is to ensure that the contemplated licenses will result in the establishment of a viable and effective new competitor in the markets where competition would otherwise be reduced substantially by CA's acquisition of Legent. Pursuant to paragraphs IV.A.8. and IV.C.2. of the proposed Final Judgment, the Government has the responsibility to determine, in its sole discretion, whether this objective is satisfied. The Government will be monitoring the license negotiation process and the scope of the proposed licenses carefully in exercising this responsibility. Moreover, the proposed Final Judgment, at paragraph IV.C.6., gives the Government the right to seek additional relief should a Court-appointed trustee's efforts to license the subject products fail to produce, to the satisfaction of the Government, an effective new competitor in any of the relevant markets. The Court is then authorized to enter additional orders ''as it shall deem appropriate in order to carry out the purpose of the trust * * *.'' *Id.*

2. Adequacy of Licensing Remedy

Mr. Clark's general assertion that complete and total divestiture is the only means of effectively addressing the competitive concerns posed by CA's acquisition of Legent is unfounded. While Mr. Clark notes specific issues pertinent to the fashioning of appropriate relief in this case, all of his points had been fully anticipated and considered by the Government, and all have been addressed in the proposed Final Judgment with measures aimed at ensuring the establishment of an effective competitor for each of the subject products.

For example, Mr. Clark correctly points out the importance of ensuring that any new marketer of the subject products acquires not merely the right to sell the product but also capabilities to provide competitive levels of customer support and to engage in sufficient levels of product research and development necessary for long-term competitive viability. With respect to these points, various provisions of the proposed Final Judgment require CA to provide a licensee with all the software codes, specifications, development tools, and other information or know-how needed to compete effectively in terms of product support and development. Paragraph II.H. of the proposed Final Judgment. In addition, the proposed Final Judgment provides the licensee with the opportunity and assistance of CA to recruit and hire former Legent product development and technical support personnel retained by CA after acquiring Legent. Paragraph IV. B. 4–5. of the proposed Final Judgment.

In any event, as noted above, paragraph VI.C.6 of the proposed Final Judgment permits the Government to seek additional relief consistent with the purpose of the proposed Final Judgment, if that proves to be necessary. In such case, the Court is authorized to enter additional orders as appropriate, ''which shall, if necessary, include disposing of any or all assets of the Subject Software Product businesses, including Customer contracts and/or software assets * * *.'' *Id.*

3. Access to Developers

Mr. Clark raised concerns that provisions of the proposed Final Judgment requiring CA to assist licensee recruitment of former Legent personnel are overly restrictive in applying only to individuals whose job duties related to development or technical support of the subject products as of the date on which the proposed Final Judgment was filed. Mr. Clark suggested that prior to filing of the proposed Final Judgment many Legent employees with relevant product development expertise were transferred to other assignments to avoid subjecting them to the provisions of the proposed Final Judgment governing licensee recruitment.

The proposed Final Judgment, at paragraph VI, prohibits CA from taking any action that would thwart the disposition of the Subject Software Products or undermine the Judgment's objectives. Thus, the proposed Final Judgment already addresses Mr. Clark's concern.

In any event, the Government investigated Mr. Clark's concerns, particularly in light of his suggestion that the parties may have engaged in conduct to frustrate a significant term of the proposed Final Judgment. Our investigation did not, however, substantiate Mr. Clark's concerns, and we are presently satisfied that expanding the scope of CA's obligations to assist in licensee recruitment efforts is not necessary. Moreover, nothing prevents any former Legent employees interested in working for a licensee—including employees not covered by the Judgment's recruitment terms—from seeking out the licensee and pursuing employment discussions without CA's assistance.

B. Comment of Syncsort, Inc. (Exhibit 2)

Syncsort, Inc. (''Syncsort'') submitted a comment expressing concerns that the proposed Final Judgment does not address a VSE systems management software product known as sort software, which is commonly used in connection with two of the subject products, disk and tape management software. Syncsort markets a sort software product that it sells in competition with a CA product. Legent does not have a sort software product, so CA's acquisition of Legent does not reduce current competitive choices for VSE sort products. However, Legent has

in the past cooperated with Syncsort by providing it with software interface information to help Syncsort develop a sort product that works well with Legent's disk and tape management products.

Syncsort believes that Legent's new owner, CA, being a competitor in sort software, will not have the incentives that Legent once had to cooperate with Syncsort; instead, CA may have incentives to try to disadvantage Syncsort by withholding information on future Legent interface developments and by making new versions of Legent's disk and tape management products increasingly less compatible with Syncsort's sort product. To address these concerns, Syncsort suggests that the proposed Final Judgment be modified to require CA and its licensee to maintain the levels of cooperation and interface information sharing that previously existed between Syncsort and Legent.

The issues raised by Syncsort are adequately addressed by the proposed Final Judgment. As noted before, the central purpose of the proposed Final Judgment is to enable another firm to step in Legent's place as a viable and effective competitor in the markets for the subject products. The accomplishment of this objective should alleviate Syncsort's concerns by establishing and maintaining an independent developer and marketer of tape and disk management software with which Syncsort could work to develop compatible sort software. There is little reason to suppose that Legent's competitive replacement would have any less incentives to cooperate with Syncsort on software interfaces than Legent had. To the extent that this interface cooperation confers significant marketplace advantages to the new supplier of the subject products, competitive pressures may compel CA itself to engage in such cooperation.

C. Comment of Brian W. Gore (Exhibit 3)

Brian W. Gore, a former employee of Legent, stated concerns similar to those of Pete Clark relating to the scope of the products that are the subject of the proposed Final Judgment. Although Mr. Gore identified different additional products for coverage than those named by Mr. Clark, his reasons in support of adding the products are similar to the views expressed by Mr. Clark. For the reasons previously stated in response to Mr. Clark's comments, the Government does not believe it appropriate or necessary to provide relief focusing on any of the products identified by Mr. Gore.

Mr. Gore also raised concerns similar to Mr. Clark's comments with respect to the primary requirement of the proposed Final Judgment that CA license with subject products rather than completely divest them. Again, the Government's previously stated response to Mr. Clark's comments is equally responsive to Mr. Gore's.

Lastly, Mr. Gore indicated that the proposed Final Judgment does not contain sufficient provision for actions against CA for violations of the proposed Final Judgment. Here, Mr. Gore's concerns appear largely to be based upon CA's terminations, previously brought to the Government's attention, of several former Legent employees associated with the subject products. The Government has thoroughly investigated these terminations and has concluded that they did not pose violations of any provisions of the proposed Final Judgment.

V. Conclusion

The Court should enter the proposed Final Judgment upon the Government's compliance with the APPA. The issue in this proceeding is whether the settlement is ''within the reaches of the public interest.'' *Microsoft,* 56 F.2d at 1460. Because the proposed decree is within the scope of the public interest, the Court should enter it after the Government's responses to the public comments are published in the Federal Register and the Government certifies compliance with the APPA and moves for entry of judgment.

Dated: February 1, 1996.

Respectfully submitted,

John F. Greaney, Weeun Wang, Minaksi Bhatt,

Attorneys, U.S. Department of Justice, Antitrust Division, 555 4th Street, N.W., Room 9901, Washington, D.C. 20001, Tel: 202/307–6200, Fax: 202/616–8544.

From: Pete Clark, Technical Support Manager, Olan Mills, Inc., P.O. Box 23456, Chattanooga, TN 37422

To: Judge Thomas Penfield Jackson, United States District Court for the District of Columbia, Washington, DC 20549

Weeum Wang, United States Department of Justice, Washington, DC 20549

Paku Kahn, Tennessee State Attorney General's Office, Nashville, TN

Christine Rosso, Illinois State Attorney General's Office, Chicago, IL 60601

Subject: Case # 1:95CV01398—Computer Associates/Legent Acquisition

The information following is a result of having read the Department of Justice Complaint, of having been gainfully employed in the VSE systems software arena for the last 30+ years, of having been a customer of both Legent and Computer Associates, and of having been immediately involved with this industry, its vendors, and its customers since the industry began.

Introduction

While it is somewhat presumptuous of myself to lay claim to being an expert in the field of VSE system software. It is perhaps more accurate to indicate that many users, many vendors (including Computer Associates and Legent) and many trade press persons have certainly labeled myself as ''the expert in the VSE systems software arena''.

I certainly have spent the last 30+ years in efforts to become proficient in the VSE systems software. In my 30+ years of employment, I have been involved in almost every position in a VSE data center. Operations, programming, system programming, education, systems design, system analysis and management are just a few of the areas. In addition to the preceding areas, I have taught various VSE-related college level courses, written many articles that have been published in national and international periodicals, have conducted many seminars for VSE user groups and VSE software vendors around the world and have done numerous private software/hardware consultations for both VSE vendors and users I have throughout the years written several modifications to the VSE operating system and/or vendor products that received wide spread adoption among users and these modifications have historically been incorporated into the facilities they were written for by the respective vendors.

The purpose of the preceding paragraph is simply to convince the court that I have sufficient knowledge of the VSE systems area to make valid, accurate observations that have merit.

I have several concerns with the Department of Justice Final Judgment, Civil Action Number 95 1398. These concerns all relate to maintaining a healthy competitive VSE system software market.

Product Issues

The DOJ Final Judgment specifically addresses five products. My concern is that there are several other products, that inter-relate closely with the five products, that are not addressed. These products are FAQS/CALL, PREVAIL/PCS, PREVAIL/XPE, EXPLORE/VSE, EXPLORE/CICS and EXPLORE/VTAM. These six products are closely associated with one or more of the five products that are to be available for licensing.

Excluding these six products from the licensing agreement significantly devalues the original five products value to a vendor and to the ultimate customer. Not including these six products in the licensing program seriously impacts the probability of creating a successful competitive arena. There are defined interfaces and functional relationships between the five licensable products and the six excluded products that are critical to attracting and maintaining customers.

Separate licensing of the five products without some or all of the other six products results in a significant function loss for many of the customers. This loss of function

dramatically affects the competitiveness of the VSE systems software market, requiring customers to remain with Computer Associates to prevent function loss, even if they prefer another product licensee.

To explain: FAQS/ASO and FAQS/PCS are closely allied with PREVAIL/PCS, FAQS/CALL, and PREVAIL/XPE Manager. WHY? Because all revolve closely around operator console automation and job scheduling. Having access to only FAQS/ASO and FAQS/PCS via the licensed vendor means I cannot institute cross platform scheduling. I cannot automatically notify persons of problems via computer and telephone interfaces of issues or problems. I cannot manage my complete multiple platform systems from a single control station. I basically have a very one dimensional automation and scheduling capability. THIS IS NOT ACCEPTABLE IN TODAY'S BUSINESS ENVIRONMENT. The functions discussed with automation and scheduling are critical to my business capability and strategy and to many other VSE customers.

The FAQS/ASO and FAQS/PCS relationship with the EXPLORE group of products (VSE/VTAM/CICS) are somewhat less dramatic but are definitely important. With the integrated EXPLORE products I can gather performance information and monitor critical performance thresholds and take action automatically via FAQS/PCS and FAQS/ASO to limit degradation, improve performance and thruput, and enable automatic notification of problem areas. Again a significant set of functions that would not be available without a consistent set of product interfaces, typically via a single vendor.

If licensing is appropriate for the 5 products identified in the Judgment then it is also especially appropriate for PREVAIL/XPE, PREVAIL/PCS and FAQS/CALL and definitely warrants serious consideration for EXPLORE/VSE, EXPLORE/CICS and EXPLORE/VTAM. The eleven products complete a cohesive functional product suite that can be truly competitive with Computer Associates existing product suite.

Having five products from the licensee and the other six products from Computer Associates presents a daunting challenge. I have personally had experience in this environment before, trying to interface Computer Associates products closely with other vendor products. Because of co-operation issues product problems and interface errors, after 2 years we closed that project and committed to not ever utilize that approach again. It simply is not a workable alternative.

We currently hold permanent licenses for four of the five licensed products and all six of the additional products mentioned in this document and in addition six other Legent products that were purchased by Computer Associates that are not discussed in this document.

Product Licensing

Is licensing an acceptable way to ensure competitiveness in this market place?

NO. I do not think so. This is system software, a significant competitive part of system software is ingenuity, unique solutions, complementary product interactions, proprietary system interfaces, product support, product enhancements, developer capability, and a close vendor/customer working relationship.

Most of these issues are not adequately addressed with this Judgment and all are very critical to maintaining a competitive environment. This Judgment does not address these issues in a manner that ensures and maintains a competitive market place.

This Judgment segregates and separates products preventing complementary product integration and negatively affecting competition and customer ability to effectively build a product suite that utilizes cross product synergy to maximize capabilities.

By instituting licensing rather than divestiture Computer Associates is the benefactor of having complete and total access to both their existing product line and complete and total access to all of Legents product line. A significant advantage Legent had over Computer Associates in the market place was incorporated into the software it had developed.

The licensee only has access to the licensed products and is definitely placed into the market at a distinct disadvantage. As if startup was not already enough of a challenge the licensee must deal with a competitor with ''inside product knowledge''. This scenario ensures that the licensee is NOT competing on equal footing within the market place.

Complete and total divestiture is the only way to ensure a truly competitive market

Access to Developers

While the Judgment makes provisions for the licensee to be able to potentially obtain developers with knowledge of the product set, it severely restricts who the licensee may considered. Perhaps it was not known that many of the developers, who had expertise in the area, were ''transferred'' to other assignments prior to this Judgment. This had the effect of making them ineligible for consideration by the licensee and severely limits the talent pool. Almost without exception the original developer was not associated with the licensed product on the day of Judgment signing.

This part of the Judgment must be modified to include persons involved with the product in any substantial way within one year prior to the initial Legent/Computer Associates acquisition agreement.

Conclusion

Three modifications must be made to the original Judgment to make it a viable competitive environment:

1. Add the following products PREVAIL/XPE, PREVAIL/PCS, FAQS/CALL, EXPLORE/VSE, EXPLORE/CICS and EXPLORE/VTAM into the Judgment.

2. Alter the Judgment to require divestiture instead of licensing of all 11 products.

3. Alter access to personnel to include anyone who has performed substantive work on any of the products in the past year, dating from 5/25/95.

Many VSE customers including myself believe that without these three modifications the Judgment has very little if any chance of being successful. Who will be impacted if these three issues are not addressed? Every Legent customer.

State's Attorney Generals

I respectively request that the State's Attorney General's of states with customers affected by this Judgment intervene to ensure that a fair, competitive market in VSE system software products is maintained and that active harm is not done to customers information systems installations by allowing this acquisition to proceed.

Thanks

Pete Clark,

Technical Support Manager, Olan Mills, Inc.

November 6, 1995.

VIA FEDERAL EXPRESS

John F. Greaney, Esq., Chief, Computers & Finance Section, Antitrust Division, United States Department of Justice, Suite 9901, 555 4th Street, N.W., Washington, D.C. 20001

Re: *United States* v. *Computer Associates International, Inc. and Legent Corporation* (95 CV 1398) (United States District Court for the District of Columbia)

Dear Mr. Greaney: On behalf of our client, Syncsort, Inc. (''Syncsort'') we submit these comments to bring to your attention certain facts about competition in the market for VSE sort software and the impact of the proposed consent decree on that market which we believe require a minor, but nonetheless important, modification to the Final Judgment.

Syncsort is a company which, among other things, specializes in developing sophisticated, high performance sort software for main-frame computer environments, including the VSE system environment which is the subject of the proposed decree. A summary of the technical specifications of Syncsort's current VSE sort product, SyncSort VSE Release 2.3, is enclosed as Attachment A. Sorting software permits efficient operation of main-frame computers, effectively speeding their operation and increasing their practical capacity through use of sort algorithms in virtual memory. Competition in price and improvement of sorts benefits VSE computer users by reducing computer time and enabling them to use their computer resources with maximum efficiency, reducing overall computer costs.

Syncsort's sort product must interface with the systems management software which is the subject of the proposed decree, and particularly the disk/tape manager programs. In the VSE environment, this has meant attempting to interface either with the Dynam/D and Dynamt/T program of defendant Computer Associates International, Inc. (''CA'') or the EPIC/VSE program of defendant Legent Corporation (''Legent'').

CA markets its own sort product which competes with Syncsort's and therefore has an incentive not to cooperate with Syncsort. In fact, CA's systems management software is structured so that Syncsort's product does not have ''PreOpen'' access to file

information although CA's own sort product does have such access. Legent, on the other hand, does not offer its own sort product, and Legent has historically cooperated with Syncsort, permitting the sort to access crucial information through EPIC®/VSE before a file is open.

Without the modification Syncsort proposes, there is a danger that the acquisition will disadvantage Syncsort—and ultimately VSE users—despite the best intentions of the proposed Final Judgment. Under the proposed Judgment, those VSE users who continue using the Legent products will now be divided among two companies (CA and the licensee). One of these companies has a history of not affording competitive third party sort products PreOpen access to file information through its disk and tape management software; the other company has no history either way but faces uncertain prospects for a long-term role in the market. As a step toward maintaining the status quo, the decree should provide that the EPIC®/VSE PreOpen interface or its equivalent will be maintained—by both CA and the licensee—for all Legent/VSE products or VSE products subsequently derived from the Legent products.

Even with this relief, the competitive equation will change after the acquisition takes place. Another small step is therefore in order. Since current Legent users can choose to become CA users (and since some at least will conclude that this is the least risky choice), CA is likely to have even more users of its software management programs than in the past. CA will therefore have more market power and more opportunity than in the past to engage in strategic behavior to extend that market power into the sort product market. To deal with this change in market conditions, the decree should provide explicitly that neither CA nor the licensee will discriminate among other sort programs (including their own sort programs) in the interface and interface information made available for the sort function.

These are relatively minor modifications to the Final Judgment, entailing no real costs or burdens on the parties. They are nevertheless of considerable importance for the future. They serve much the same purpose as, and are even lesser mandatory in nature than, the provision in the decree requiring CA to assure competitors potential access to PIPES for cross-platform customers. (Final Judgment ¶ VII.) Suggested language to accomplish these purposes is set forth on the enclosed attachment B.

The need for provisions such as these is well illustrated by past history. Legent has cooperated with Syncsort in the development of EPIC®/VSE so that file information is exchanged before a file to be sorted is opened. The information provided includes the following nine items:

1. file size
2. tape/disk
3. device type
4. blocksize/CIsize
5. concatenated
6. record length
7. record format
8. file type
9. spanned

The PreOpen availability afforded by EPIC®/VSE permits *dynamic device switching* by the customer—switching between devices without the computer user having to change programs or its job control language (''JCL''). PreOpen availability also permits *dynamic reblocking*—changing from one blocksize to another without the computer user having to change programs or JCL. Finally, the PreOpen interface improves performance of the sort by allowing the *optimal sorting algorithms* to be chosen *before* the file is open. In short, the current, PreOpen EPIC®/VSE interface permits Syncsort to design, and VSE customers to use, efficient, state of the art sorts without sacrificing flexibility; reduces the amount of computer time needed for a particular operation; and provides a high performance sort option for main frame users in the VSE environment.

Syncsort's history with CA, which markets its own program in competition with Syncsort's, has been quite different. CA has arbitrarily refused to provide PreOpen access to Syncsort of the type afforded by EPIC®/VSE—but nevertheless has provided such access to its own sort product. File information can now be obtained by Syncsort's program only much later, after the file is actually opened. This denial of access means that, for many users, Syncsort is unable to provide dynamic device switching or dynamic reblocking, providing less flexibility and degrading the sort's potential utility for the customer. Moreover, without PreOpen information about file size, record length and the like, the Syncsort sort may be precluded from choosing the optimal sort algorithms.

There is no technological, cost or other acceptable reason for this difference in access. It has been explained to Syncsort as dictated entirely by CA's perceived competitive advantage. After the divestiture CA's ability to exploit this unfair competitive advantage is likely to be greater, not less, than it is today. According to the complaint, CA already has 96% of the market for one of the software management products (disk management, ¶ 19) with which the sort must interface; if even as few as one quarter of the Legent customers switch, CA will control nearly 60% of the other (tape management ¶ 18). There is no guarantee, absent the suggested decree modification, that CA will maintain PreOpen Access—or any access at all—for third party sorts for any of these users. If, ultimately, the licensee should fail or be unable to compete effectively with CA, CA could abandon or change the former Legent products and Syncsort and VSE sort users would have no protection at all.*

These circumstances mandate that the Judgment be modified so that whoever inherits a former Legent customer—the licensee or CA—will continue to maintain PreOpen access in EPIC®/VSE. In addition, protection is required against the type of discrimination CA has employed in the past to favor its own sort product so that CA cannot anticompetitively translate any market power gained through the acquisition into a forclosure of the competition and VSE choices that now exist in the sort market.

Support for such terms can be found in the proposed Final Judgment in *United States* v. *AT&T and McCaw Cellular Communications, Inc.*, 59 F.R. 44158, August 26, 1994. There, the Department of Justice recognized that, after its merger with McCaw, AT&T would possess both the incentive and the ability to discriminate against additional third parties. 59 F.R. at 44168. As a means of requiring AT&T ''to continue to deal with its customers on terms in place prior to the merger [with McCaw], and on terms not less favorable than those offered to McCaw,'' (59 FR at 44158), that decree proposes requiring AT&T to provide on-going support for ''locked-in'' customers and to arrange an alternative source of supply for certain products if they are discontinued by AT&T. 59 FR at 44164. Similarly, the Final Judgment here should be modified to require (i) that CA and the licensee maintain the EPIC®/VSE PreOpen interface, or its equivalent, and (ii) that neither CA, nor the licensee, will discriminate among other sort programs in the interface and interface information made available for the sort function.

Respectfully submitted,

James B. Kobak, Jr.

cc: Richard Rosen, Esq., Arnold & Porter, 555 12th Street N.W., Washington, D.C. 20004

Michael Byowitz, Esq., Wachtell, Lipton, Rosen & Katz, 51 W. 52nd Street, New York, NY 10019

Attachment A

SyncSort VSE

Technical specifications

Release 2.3

Introduction

SyncSort VSE is a high performance sort/merge/copy utility designed for IBM VS, VSE, VSE/SP, and VSE/ESA operating systems. SyncSort provides significant savings in program and supervisor CPU time, elapsed time, and I/O activity.

Performance

In benchmark tests of SyncSort VSE Release 2.3 against SM2 Release 5, SyncSort reduced total CPU time by 25–30%, elapsed time by 25–30%, and SIOs by 30–40%.

SyncSort achieves superior performance through optimization for specific computer make and model, proprietary sorting algorithms, advanced access methods, and Data Space utilization. SyncSort dynamically responds to system activity such as real and virtual storage availability, and paging rates to ensure optimum performance.

In a VSE/ESA environment, SyncSort VSE exploits Data Space technology with two unique features,''virtual library'' and ''virtual sortwork''. These capabilities maximize the use of high speed virtual memory, minimizing resource consumption and reducing elapsed time.

SyncSort VSE's Dynamic Storage Manager ensures that all sorts attain optimum

*Syncsort believes the 25% figure for switching customers is low; if one half the Legent customers switch, CA would have market shares of approximately 95% and well over 70% and virtually no market constraints on its behavior.

performance by intelligently managing a Data Space so that numberous concurrent sorts can exploit virtual sortwork.

Sort/Merge/Copy Processing

- EBCDIC or user-defined collating sequences.
- Up to 64 control fields, with length up to 4092 bytes. Fields in fixed length records may be located anywhere in the record.
- All standard field formats, including character, binary, packed decimal, zoned decimal, fixed point, floating point, and various signed formats.
- High performance MERGE combines up to 9 pre-presequenced data sets into one output dataset sequenced identically to the input datasets.
- High performance copy function (SORT FIELDS=COPY) can be used alone or with data editing.

Input/Output

SyncSort supports:

- SAM, VSAM, and VSAM-managed SAM formats and devices, including devices connected via the ESCON architecture.
- Fixed-length and variable-length records.
- Processing of variable-length records shorter than control field.

Intermediate Files

- Disk.
- Automatic secondary sortwork allocation with up to 31 extents.
- Automatic space release for DASD output files via disk space manager.

Resource Management Features

- Dynamic Storage Manager. Automatically monitors and controls memory utilization, and reduces or eliminates physical sortwork I/O for concurrent sorts. Optimizes the use of a Data Space by allowing up to 15 concurrent sorts running in different partitions to use the virtual sortwork area. Maximizes sort performance while optimizing overall system throughput.
- Disk Space Manager Interface. Minimizes DASD resources used for sorting while preventing ''sortwork capacity exceeded'' abends. Compatible with all disk space managers.

Attachment B

Computer Associates and any licensee or successor in interest to Legent's interest in the Subject Software Programs (''Legent's Successor'') shall each maintain and provide, from and after the effective date of this Final Judgment, at least the same degree of PreOpen Access to file information through EPIC/VSE (including without limitation any successor to or substitute for EPIC/VSE, any upgraded or modified version of EPIC/VSE or any program derived from the EPIC/VSE program) as that made available to sort programs through Legent's EPIC/VSE program prior to the acquisition of Legent by Computer Associates. In addition, and without limiting Computer Associate's or Legent's Successor's obligations with respect to the foregoing sentence, neither Computer Associates nor Legent's Successor shall, from and after the effective date of this Decree, discriminate among sort programs, including any sort program of its own, concerning (i) the timing and manner of access to any disk or tape manager or similar program made available to VSE customers and (ii) provision of relevent information.

November 7, 1995

U.S. Department of Justice, Antitrust Division, 555 4th Street, N.W., Room 9903 JCB, Washington, D.C. 20001

Re: Civil Action No. 95 1398; *U.S.A.* v. *Computer Associates, Int'l. and Legent Corp.*

Gentlemen: This a comment concerning the Proposed Final Judgement for the aforementioned case. As a 20-year veteran of (IBM mainframe computer) VSE operating system software operations and support, I find the Proposed Final Judgement to be deficient in the following four areas:

1. No provisions for other Legent VSE products also using G.S.S. common code.

Explanation: G.S.S. is a proprietary integrated on-line transaction processor subsystem used by all (or at least most) Legent VSE products that contain an on-line component. While some of those products such as FAQS/ASO, FAQS/PCS and EPIC/VSE are covered by the Proposed Final Judgement, others such as Mastercat, SAR-Express/Delivery, FLEE, etc.) are not. This poses a serious dilemma for any Legent customers running VSE products in both of the aforementioned categories.

Because while it has already been ascertained from discussions with D.O.J. lawyers assigned to this case that the G.S.S. code would be included with any license agreement, there is no requirement that Computer Associates and the licensee keep their respective copies of G.S.S. compatible once a licensee has been assigned. Indeed, such a requirement would not be practical, and at some point (most likely soon) in the future, the Computer Associates and the licensee's versions of G.S.S. would become incompatible, requiring any customer running G.S.S.-based VSE products from both companies to run separate copies of G.S.S.

This type of arrangement would not be acceptable to most customers since it needlessly complicates installation, maintenance and usage of the VSE products, reduces integration and is fraught with operational problems since G.S.S. was never designed to be used in such a fashion. Thus all customers with G.S.S.-based VSE products that are not covered by the Proposed Final Judgement and remain only available from Computer Associates would be forced to get their G.S.S.-based VSE products that are covered by the Proposed Final Judgement from Computer Associates as well to avoid the complications of incompatible versions of G.S.S. This situation ends up creating a ''restraint of competition'' condition that would promulgate the Computer Associates monopoly in VSE products that the Proposed Final Judgement was originally designed to prevent (or at least reduce).

(I estimate this situation involves a substantial portion of the VSE product customer base, possibly even a majority.)

2. No provisions for other Legent VSE products also using the EPIC DSN catalog.

Explanation: The EPIC DSN catalog is a proprietary database file used by EPIC-based products on various mainframe platforms to accomplish disk and tape file management across those platforms. In this case, while the EPIC/VSE product is covered by the Proposed Final Judgement, other EPIC-base products, namely EPIC/CMS for the VM operating system, is not. This poses a serious dilemma for any Legent customers running EPIC-based products in both aforementioned categories, (or in this case, platforms).

The arguments for this point are essentially the same as those outlined in #1 above; however, this case concerns a database file shared across operating system platforms (VSE and VM) instead of a subsystem shared within the same operating system (VSE). The end result however, is the same: restraint of competition. Since there is no provision in the Proposed Final Judgement to keep the database file shared by these 2 products compatible nor any mention of the EPIC/CMS product (meaning that it would not be available from the licensee), those customers running both the EPIC/VSE and EPIC/CMS would effectively be forced to obtain them both from Computer Associates.

(I estimate that this situation affects about 10–20% of the EPIC/VSE customer base.)

3. No specific provisions for action(s) against Computer Associates when conditions of the Proposed Final Judgement are violated.

Explanation: It appears to most of us in the VSE community that Computer Associate's intent IS to create a monopoly in the VSE systems software market, and they are quite ruthless and devious about it. They have already directly violated certain provisions of the Proposed Final Judgement, and also seem to be deliberately delaying its execution. Specific retribution for willful disregard of the provisions of the Proposed Final Judgement need to be clearly defined and carried out.

For example, under section ''VI. PRESERVATION OF ASSETS'', Computer Associates is ordered to ''* * * continue to commit resources, development and support to each Subject Software Product at a level not materially less than that committed prior to the announcement of the subject acquisition * * *''. However within 2 weeks after the Proposed Final Judgement was issued, in just the EPIC/VSE group alone, 8 out of 20 employees were let go, including developers and technical support personnel. The D.O.J. was notified immediately, yet to date, nothing known has been done.

More recently, technical support was moved to a different office to be handled by inexperienced personnel, and EPIC/VSE developers have been assigned to other products. Computer Associates is definitely not pursuing a ''hands-off'' approach to the subject products while the terms of the Proposed Final Judgement are being carried out, but rather one that appears to be deliberately sabotaging them.

4. Non-exclusivity of the license proposal.

Explanation: In the VSE tape and disk management arena alone, Computer Associates started with a product it developed, called Dynam/T/D/FI. Then it brought up all the other major players: Epat, System/Manager, and IPIC/VSE, creating a complete monopoly. It appears that the D.O.J.

compromised with Computer Associate's lawyers in coming up with the non-exclusive license idea.

Who ever heard of 2 companies marketing the same product(s) to foster competition? Do Ford and GM market any of the same products? No, they market different products. If Computer Associates could be equated to General Motors, it would already own Ford and all the Japanese and European automobile manufacturers; and Legent would be Chrysler. Then the D.O.J. Proposed Final Judgement would be equivalent to an order requiring GM to jointly market Jeeps with Hyundai, while maintaining ownership of the engine and vehicle assembly plants. It's ludicrous, and simply won't work in the real world.

In conclusion, the only workable solution I see is to require Computer Associates to divest, i.e. completely sell-off and cease marketing, all Legent products that are in any way integrated with the five already covered by the Proposed Final Judgement. And this must be done quickly, before Legent's entire VSE product line and customer base are destroyed. And finally, Computer Associates should be severely fined for all present violations of the Proposed Final Judgement and forced in complete compliance ASAP.

One final note: although I am a former Legent employee, I am not ''disgruntled''. I worked in the VSE community long before I worked for Legent, and still desire to see it prosper. A Computer Associate's monopoly on VSE systems software is in no one's best interest except theirs. I urge the court to modify the Proposed Final Judgement to prevent such an occurrence at ALL levels.

Sincerely,

Brian W. Gore,

101 Mira Mesa, Rancho Santa Margarita, CA 92688.

Certificate of Service

The undersigned certifies that he is a paralegal employed by the Antitrust Division of the United States Department of Justice, and is a person of such age and discretion to be competent to serve papers. The undersigned further certifies that on February 1, 1996, he caused true copies of the Response of the United States to Public Comments, and this Certificate of Service, to be served upon the person at the place and address stated below:

Counsel for Computer Associates

Richard L. Rosen, Esq., Arnold & Porter, 555 12th Street, NW., Washington, D.C. 20004 (by hand delivery)

Dated: February 1, 1996.

Joshua Holian,

Paralegal, U.S. Department of Justice, Antitrust Division, Computers & Finance Section, 555 4th Street, NW., Room 9901, Washington, D.C. 20001, (202) 307–6200.

[FR Doc. 96–3393 FIled 2–14–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed Consent Decree in *United States of America* v. *Southern Ohio Coal Company,* Civil Action No. C2–96–0097, was lodged on January 30, 1996, with the United States District Court for the Southern District of Ohio, Eastern Division. The proposed consent decree would require the Settling Defendant to: (1) Perform actions necessary to restore two stream systems affected by certain of its discharges; (2) perform a detailed assessment and improvement plan for the entire watershed of the more severely affected stream system; (3) pay to the United States $1.9 million for damages to natural resources; (4) pay to the State of West Virginia $100,000 for benefaction of aquatic communities or habitat in the Ohio River; (5) pay to the United States a civil penalty of $300,000; and (6) reimburse the United States for $240,200 in costs incurred in connection with monitoring and assessing the impact of the discharges at issue.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044. Comments should refer to *United States of America* v. *Southern Ohio Coal Company,* DOJ Ref. #90–5–1–1–5033.

The proposed consent decree may be examined at the office of the United States Attorney, 2 Nationwide Plaza, 280 N. High Street, 4th Floor, Columbus, OH 43215; the Region V the Environmental Protection Agency, Office of Regional Counsel, 77 West Jackson Boulevard, Chicago, IL 60604–3590; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington DC 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library.

In requesting a copy, please enclose a check in the amount of $37.50 (25 cents per page reproduction cost) payable to the ''Consent Decree Library.''

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–3396 Filed 2–14–96; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

United States of America v. Texas Television, Inc., Gulf Coast Broadcasting Company, and K-Six Television Inc., Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. section 16(b) through (h), that a proposed Final Judgment, Stipulations, and a Competitive Impact Statement have been filed with the United States District Court for the Southern District of Texas, Corpus Christi Division in *United States of America* v. *Texas Television, Inc., Gulf Coast Broadcasting Company, and K-Six Television Inc.,* Civil Action No. C–96–64.

The complaint in the case alleges that the three defendants, which respectively operate the ABC, NBC and CBS affiliates in Corpus Christi, engaged in a combination and conspiracy to increase the price of retransmission consent rights being sold to local cable operators, in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1. Retransmission consent rights, granted by a television broadcast station, permit a cable operator to carry that station on its cable system.

The proposed Final Judgment agreed to by the defendants prohibits them for a period of ten years from engaging in the type of combination of conspiracy alleged in the Complaint. Specifically, each defendant is enjoined from entering into any agreement with any broadcaster not affiliated with it that relates to retransmission consent or retransmission consent negotiations. The defendants are also prohibited from communicating to any non-affiliated broadcaster any information relating to retransmission consent or retransmission consent negotiations, or from communicating certain types of information that relate to any actual or proposed transaction with any cable operator or other multichannel video programming distributor.

Public comment on the proposed Final Judgment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the Federal Register and filed with the Court. Comments should be directed to Donald J. Russell, Chief; Telecommunications Task Force; United States Department of Justice; Antitrust Division, 555 4th Street N.W., Room

8100; Washington, D.C. 20001 (telephone: (202) 514–5621).

Rebecca P. Dick,

Deputy Director of Operations, Antitrust Division.

United States District Court, Southern District of Texas, Corpus Christi Division

In the matter of: United States of America, Plaintiff, v. Texas Television, Inc., Gulf Coast Broadcasting Company, and K-Six Television, Inc., Defendants. Civil Action No. C–96–64.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties to this Stipulation consent that a Final Judgment in the form attached may be filed and entered by the Court, upon any party's or the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before entry of the proposed Final Judgment by serving notice on the Defendant and by filing that notice with the Court.

2. If Plaintiff withdraws its consent or the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and its making shall be without prejudice to any party in this or any other proceedings.

Dated:

For the Plaintiff:

Anne K. Bingaman,

Assistant Attorney General.

Rebecca P. Dick,

Deputy Director of Operations.

Donald J. Russell,

Chief, Telecommunications Task Force.

Frank G. LaMancusa,

Andrew S. Cowan,

Attorneys, U.S. Department of Justice, Antitrust Division, 555 4th Street N.W., Suite 8100, Washington, D.C. 20001, (202) 514–5621

For the Defendant:

Jorge C. Rangel,

Federal I.D. No. 5698, State Bar No. 16543500, P.O. Box 880, 719 S. Shoreline Blvd., Ste. 500, Corpus Christi, Texas 78403–0880, (515) 883–8555, (512) 883–9187 (Facsimile)

Attorney in Charge for K-Six Television, Inc.

United States District Court, Southern District of Texas, Corpus Christi Division

In the matter of: United States of America, Plaintiff, v. Texas Television, Inc., Gulf Coast Broadcasting Company, and K-Six Television, Inc., Defendants. Civil Action No. C–96–64.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties to this Stipulation consent that a Final Judgment in the form attached may be filed and entered by the Court, upon any party's or the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before entry of the proposed Final Judgment by serving notice on the Defendant and by filing that notice with the Court.

2. If Plaintiff withdraws its consent or the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and its making shall be without prejudice to any party in this or any other proceedings.

Dated:

For the Plaintiff:

Anne K. Bingaman,

Assistant Attorney General.

Rebecca P. Dick,

Deputy Director of Operations.

Donald J. Russell,

Chief, Telecommunications Task Force.

Frank G. LaMancusa,

Andrew S. Cowan,

Attorneys, U.S. Department of Justice, Antitrust Division, 555 4th Street N.W., Ste. 8100, Washington, D.C. 20001, (202) 514–5621

For the Defendant:

Bruce L. James,

State Bar No. 10538000, Federal ID No. 1378, Kleberg & Head, P.C., 112 E. Pecan, Ste. 220, San Antonio, TX 78205, (210) 225–3247, (210) 212–8952 (Facsimile)

Attorney in Charge for Texas Television

United States District Court Southern District of Texas Corpus Christi Division

In the matter of: United States of America, Plaintiff vs. Texas Television, Inc., Gulf Coast Broadcasting Company, and K-Six Television, Inc., Defendants. C.A. No. C–96–64.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties to this Stipulation consent that a Final Judgment in the form attached may be filed and entered by the Court, upon any party's or the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before entry of the proposed Final Judgment by serving notice on the Defendant and by filing that notice with the Court.

2. If Plaintiff withdraws its consent or the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and its making shall be without prejudice to any party in this or any other proceedings.

Dated:

For the Plaintiff:

Anne K. Bingaman,

Assistant Attorney General.

Rebecca P. Dick,

Deputy Director of Operations.

Donald J. Russell,

Chief, Telecommunications Task Force.

Frank G. Lamancusa,

Andrew S. Cowan,

Attorneys, U.S. Department of Justice, Antitrust Division, 555 4th Street N.W., Suite 8100, Washington, D.C. 2001, (202) 514–5621

For the Defendant:

Matthews & Branscomb,

A Professional Corporation, 802 N. Caranacahua, Suite 1900, Corpus Christi, Texas 78470–0700, (512) 888–9261, (512) 888–8504 (FAX)

Douglas Mann,

TSB #12921500, Federal I.D. No. 1154

Attorney in Charge for Gulf Coast Broadcasting Company.

United States District Court, Southern District of Texas, Corpus Christi Division

In the matter of United States of America, Plaintiff, v. Texas Television, Inc., Gulf Coast Broadcasting Company, and K-Six Television, Inc., Defendants. Civil Action No.: C–96–64; Judge Janis G. Jack.

Final Judgment

Whereas Plaintiff, United States of America, filed it complaint on February 6, 1996 and Plaintiff and Defendants, Texas Television, Inc., Gulf Coast Broadcasting Company, and K-Six Television, Inc., have consented to the entry of this Final Judgment without

trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue;

And whereas Defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

Now, therefore, before the taking of any testimony and without trail or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby,

Ordered, adjudged and decreed as follows:

I. Jurisdiction and Venue

The Court has jurisdiction of the subject matter of this action and of each of the parties consenting to this Final Judgment. The complaint states a claim upon which relief may be granted against Defendants under Section 1 of the Sherman Act, 15 U.S.C. § 1.

II. Definitions

As used in this Final Judgment:

A. ''Affiliated'' means under common ownership or control.

B. ''Multichannel video programming distributor'' means a cable operator, a multichannel multipoint distribution service or any other person that sells multiple channels of video programming to subscribers or customers.

C. ''Retransmission consent'' means any authorization given by a television broadcast station to a multichannel video programming distributor to distribute that station's signal.

D. ''Retransmission consent negotiation'' means any communication between a television broadcast station and a multichannel video programming distributor relating to the compensation or consideration to be given by the distributor in exchange for retransmission consent.

E. ''Television broadcaster'' means:

1. each Defendant and each of its officers, directors, agents, employees, subsidiaries, successors and assigns;

2. each person that operates any television broadcast station; and

3. each person that possess an equity interest of at least five percent (5%) in any television broadcast station.

F. ''Television broadcast station'' means any broadcast station, as defined in 47 U.S.C. § 153(dd), that broadcasts television signals.

III. Applicability

This Final Judgment applies to each Defendant and to each of their officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them which shall have received actual notice of this Final Judgment by personal service or otherwise.

IV Prohibited Conduct

A. Each Defendant is hereby enjoined and restrained from directly or indirectly entering into, adhering to, maintaining, soliciting or knowingly performing any act in furtherance of any contract, agreement, understanding or plan with any television broadcaster not affiliated with that Defendant relating to retransmission consent or retransmission consent negotiations.

B. Each Defendant is further enjoined and restrained from directly or indirectly communicating to any television broadcaster not affiliated with that Defendant:

1. Any information relating to retransmission consent or retransmission consent negotiations, including, but not limited to, the negotiating strategy of any television broadcaster, or the type or value of any consideration sought by any television broadcaster; or

2. Any information relating to the negotiating strategy of any television broadcaster, or to the type or value of any consideration sought by any television broadcaster relating to any actual or proposed transaction with any multichannel video programming distributor.

C. Nothing contained in Section IV.B of this Final Judgment shall prohibit any Defendant, in response to any question to it from any news organization related to retransmission consent or to any actual or proposed transaction with any multichannel video programming distributor, from providing to that news organization a response that does not disclose that Defendant's negotiating strategy, the content or progress of negotiations, any plan related to retransmission consent, or the type of value of any consideration being sought.

V. Notification Provisions

Each Defendant is ordered and directed:

A. To send a written notice, in the form attached as Appendix A to this Final Judgment, and a copy of this Final Judgment, within sixty (60) days of the entry of this Final Judgment, to each multichannel video programming distributor that distributes the television signal of any of Defendant's television broadcast stations transmitting in Corpus Christi;

B. To send a written notice, in the form attached as Appendix A to this Final Judgment, and a copy of this Final Judgment, to each multichannel video programming distributor, that contacts the Defendant within ten (10) years of entry of this Final Judgment to request retransmission consent for the television signal of any of Defendant's television broadcast stations transmitting in Corpus Christi, and which was not given such notice pursuant to Section V.A. Such notice shall be sent within seven (7) days after such multichannel video programming distributor first contacts the Defendant about carrying the Defendant's signal.

VI. Compliance Program

Each Defendant is ordered to establish and maintain an antitrust compliance program which shall include designating, within 30 days of entry of this Final Judgment, an Antitrust Compliance Officer with responsibility for implementing the antitrust compliance program and achieving full compliance with this Final Judgment. The Antitrust Compliance with this Final Judgment. The Antitrust Compliance Officer shall, on a continuing basis, be responsible for the following:

A. Furnishing a copy of this Final Judgment within thirty (30) days of entry of the Final Judgment to each of that Defendant's officers and directors and each of its employees, salespersons, sales representatives, or agents whose duties relate to retransmission consent for any of Defendant's television broadcast stations transmitting in Corpus Christi;

B. Distributing in a timely manner a copy of this Final Judgment to each person who succeeds to a position described in Section VI.A.; and

C. Obtaining from each person designated in Sections VI.A. or B. a signed certification that he or she has read, understands and agrees to abide by the terms of this Final Judgment and is not aware of any violation of the Final Judgment that has not already been reported to the Antitrust Compliance Officer and understands that failure to comply with this Final Judgment may result in conviction for criminal contempt of court.

VII. Certification

A. Within 75 days of the entry of this Final Judgment, Defendant shall certify to Plaintiff whether the Defendant has designated an Antitrust Compliance Officer and has distributed the Final Judgment in accordance with Section VI.A. above.

B. For ten years after the entry of this Final Judgment, on or before its anniversary date, the Defendant shall file with the Plaintiff an annual

statement as to the fact and manner of its compliance with the provisions of Sections V and VI.

C. If Defendant's Antitrust Compliance Officer learns of any possible violation of any of the terms and conditions contained in this Final Judgment, Defendant shall forthwith take appropriate action to terminate or modify the activity so as to comply with this Final Judgment. Any such action shall be reported by Defendant in the respective annual statement required by paragraph VII.B. above.

VIII. Plaintiff Access

A. For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of Plaintiff shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a Defendant, be permitted, subject to any legally recognized privilege:

1. Access during that Defendant's office hours to inspect and copy all records and documents in the possession or under the control of that Defendant, which may have counsel present, relating to any matters contained in this Final Judgment; and

2. To interview that Defendant's officers, employees and agents, who may have counsel present, regarding any such matters. The interviews shall be subject to the Defendant's reasonable convenience.

B. Upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division to any Defendant at its principal office, that Defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested, subject to legally recognized privilege.

C. No information or documents obtained by the means provided in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by a Defendant to Plaintiff, that Defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and that Defendant marks each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then ten (10) days' notice shall be given by Plaintiff to that Defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding), so that Defendant shall have an opportunity to apply to this Court for protection pursuant to Rule 26(c)(7) of the Federal Rules of Civil Procedure.

IX. Duration of Final Judgment

This final judgment will expire on the tenth anniversary of its date of entry.

X. Construction, Enforcement, Modification and Compliance

Jurisdiction is retained by the Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of its provisions, for its enforcement or compliance, and for the punishment of any violation of its provisions.

XI. Public Interest

Entry of this Final Judgment is in the public interest.

Dated: _____

_____

United States District Judge

Appendix A

Dear Distributor: In February 1996, the Antitrust Division of the United States Department of Justice filed a civil suit that alleged that KIII, KRIS and KZTV violated the antitrust laws of the United States by conspiring with the intent and effect of raising the price of retransmission consent rights in the Corpus Christi region. Our station denies these allegations. Without admitting any violation of the law and without being subject to any monetary penalties, our station has agreed to the entry of civil Final Judgment that prohibits us from engaging in certain practices for a period of ten (10) years.

I have enclosed a copy of the Final Judgment for your information. Retransmission consent was authorized by Congress in the Cable Television Consumer Protection and Competition Act of 1992. Under the terms of the enclosed Final Judgment, our station may not enter into any agreement or understanding with any other television broadcast station relating to retransmission consent or retransmission consent negotiations. The Final Judgment also forbids our station from communicating certain related information to any other station.

If you learn that our station or its agents have violated the terms of the Final Judgment at any time after the its effective date, you should provide this information to our station in writing.

Should you have any questions concerning this letter, please feel free to contact me.

Sincerely,

[General Manager of Station]

United States District Court, Southern District of Texas, Corpus Christi Division

In the matter of: United States of America, Plaintiff, v. Texas Television, Inc., Gulf Coast Broadcasting Company, and K-Six Television, Inc., Defendants. Civil Action No.: C–96–64, Judge Janis G. Jack.

Competitive Impact Statement

The United States of America, pursuant to section 2 of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. § 16(b), submits this Competitive Impact Statement in connection with the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On February 6, 1996, the United States filed a civil antitrust complaint under Section 4 of the Sherman Act, as amended, 15 U.S.C. § 4, alleging that the Defendants, Texas Television, Inc., Gulf Coast Broadcasting Company, and K-Six Television, Inc., engaged in a combination and conspiracy, in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1, to increase the price of retransmission rights to cable operators in Corpus Christi, Texas and surrounding areas. The complaint alleges that, in furtherance of this conspiracy, each Defendant from at least June of 1993 through December 1993:

a. agreed not to enter into a retransmission consent agreement with any cable company until that company had reached agreements with all three Defendants;

b. agreed not to accept a retransmission consent agreement with any cable company if that agreement gave that Defendant a competitive advantage over the other two Defendants; and

c. in order to carry out these agreements, exchanged information with each other on the progress being made and the terms being considered in each Defendant's retransmission consent negotiations.

The effect of this combination and conspiracy was to increase the price of retransmission consent and to restrain competition among the defendants in the sale of retransmission rights. The complaint alleges that the combination and conspiracy is illegal, and accordingly requests that this Court

prohibit Defendants from continuing or renewing such activity.

The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA, unless the United States withdraws its consent. The Court's entry of the proposed Final Judgment will terminate the action, except that the Court will retain jurisdiction over the matter for possible further proceedings to construe, modify or enforce the Judgment, or to punish violations of any of its provisions.

II. Description of Practices Giving Rise to the Alleged Violation of the Antitrust Laws

Defendants are three television broadcast stations conducting business in Corpus Christi, Texas and the surrounding areas. Texas Television, Inc. owns and operates KIII-TV (Channel 3), the ABC affiliate. Gulf Coast Broadcasting Company owns and operates KRIS-TV (Channel 6), the NBC affiliate. K-Six Television, Inc., a subsidiary of Corpus Christi Broadcasting Company, Inc., owns and operates KZTV-TV (Channel 10), the CBS affiliate. The complaint alleges that these three local broadcasters colluded in order to raise the price of retransmission rights being sold to local cable companies in the Corpus Christi broadcast television market.

Retransmission rights allow a cable operator to carry a local television station on its cable network. Before the enactment of the 1992 Cable Act, cable companies could carry a local broadcast station on its cable system, without obtaining authorization from the station. In contrast, under the Act, *see* 47 U.S.C. § 325(b)(1), cable companies are forbidden from carrying the signal of a local television station without that broadcaster's express permission. If a station elects to pursue ''retransmission consent'' under the Act, a cable operator may carry the station's signal only after mutually agreeable terms are negotiated. The Act established October 5, 1993, as the last day that cable operators could carry a station's signal without its retransmission consent, effectively setting that date as the deadline for concluding retransmission consent agreements. As the Act requires retransmission consent to be renegotiated every three years, such negotiations will recur in the fall of 1996.

In the months leading up to October 1993, the cable and broadcast companies in Corpus Christi announced their initial negotiating positions. Each of the cable companies stated that they would not pay cash for signals that their subscribers could receive for free over the air, a position that had been taken by other cable companies nationwide. Each of the three Corpus Christi broadcasters announced that they expected to be paid cash for use of their signals, much as cable operators pay for cable channels such as HBO or ESPN. Negotiations between the broadcasters and the individual cable companies were unproductive. At the time of the October 5 deadline, no retransmission consent deals had been concluded between any of the three Corpus Christi broadcast stations and any of the major local cable operators: Tele-Communications, Inc. (''TCI'') (in the city of Corpus Christi), Crown Media (in Kingsville, Texas), and Falcon Cable Media and Post-Newsweek Cable, Inc. (each serving various small outlying communities). As required by law, the cable companies dropped the broadcasters' signals on October 5 just before midnight. The signals were still available over the air from the broadcasters themselves.

Intermittent negotiations with TCI continued through October and November 1993, accompanied by an extensive public relations battle by both sides, in part a reaction to a barrage of cable subscriber complaints to the cable companies and the broadcasters. The stations swapped commercials that advocated their side of the dispute, spots that when aired on a given station featured the insignias of all three stations, a clear message of broadcaster solidarity. Negotiations with the other cable companies essentially ceased pending the resolution of the TCI dispute. Except for Falcon Cable, which obtained several extensions from the broadcasters, the stations' signals remained off the cable systems until final deals were signed, starting with TCI in mid-November.

In response to the position taken by each cable company, the three Corpus Christi broadcasters restrained competition among themselves by entering into an agreements that established a coordinated negotiating strategy. Through these agreements, the broadcasters intended to maximize the concessions they could each obtain from each cable company, and to ensure that any concession obtained through this strategy would not favor one broadcaster over the others. First, as the broadcasters stated repeatedly to cable negotiators and to the public, all three agreed not to return to a given cable system until all three broadcasters had concluded retransmission agreements with that cable operator. This allowed the broadcasters to eliminate any advantage a cable company could gain by being able to play one broadcaster off another. The broadcasters recognized that the first station to return to a cable system placed the other two at a competitive disadvantage, since these stations would lose advertising revenue through reaching fewer viewers until their signals were restored to cable. The last stations would therefore be forced to sign on less favorable terms with the cable company than the first. By agreeing not to sign with a cable company until the other broadcasters had reached agreements with the same cable company, the broadcasters eliminated such competition among themselves. The ''holdout agreement'' had no purpose other than to guarantee that the three stations collectively obtained better retransmission consent deals. As one of the broadcasters announced publicly during the standoff, ''until we are all convinced that we can get the best deal that we can get, then we're not going to be on cable.''

The broadcasters also told cable negotiators that they had agreed to reject any deal that would grant any Corpus Christi station a competitive advantage over the other two. This secondary agreement supported the holdout agreement by eliminating the possibility that the last station to sight might acquire especially favorable terms from the cable company, since it could effectively withhold the signals of all three stations until it had reached a deal.

Pursuant to their agreement, the broadcasters in fact refused to return their signals to each individual cable system until all three broadcasters had concluded deals with that cable operator. At the insistence of the broadcasters, all three signals were restored to each cable system at approximately the same time. In several instances, this meant that broadcasters which had already reached an understanding with a cable company waited days to sign the agreement, in order to give the other stations time to finish their negotiations. The broadcasters' desire to return to cable simultaneously required them to keep each other informed as to the progress and content of their negotiations. The broadcasters therefore made frequent telephone calls to each other. At times, a broadcaster told cable negotiators that he would have to check with the other stations before taking a certain action, for example, approving a deal point or an extension. On at least one occasion, representatives of two of the stations met in a Corpus Christi restaurant to talk and exchange written information.

The broadcasters' collusion succeeded in extracting more favorable terms from

the cable companies than they would have otherwise obtained, even though the broadcasters failed to achieve their goal of direct cash payments. Local cable operators also lost revenue from increased subscriber cancellations during this period and from purchasing tens of thousands of ''A/B'' switches so that their subscribers could more conveniently obtain the stations' over the air signals. The amount of commerce affected by the conduct is difficult to establish but appears to be substantial in light of the lengthy disruption that resulted from the concerted action of the broadcasters.

III. Explanation of the Proposed Final Judgment

The parties have stipulated that the Court may enter the proposed Final Judgment at any time after compliance with the APPA. The proposed Final Judgment states that it shall not constitute an admission by either party with respect to any issue of fact or law.

The proposed Final Judgment enjoins any continuation or renewal, directly or indirectly, of the type of combination or conspiracy alleged in the Complaint. Specifically, Section IV.A. enjoins each Defendant from entering into any agreement with any broadcaster not affiliated with that Defendant that relates to retransmission consent or retransmission consent negotiations. Section IV.B. prohibits each Defendant from communicating to any non-affiliated broadcaster any information relating to retransmission consent or retransmission consent negotiations, or communicating certain types of information that relate to any actual or proposed transaction with any cable operator or other multichannel video programming distributor. Together, these provisions guarantee that there will be no recurrence of illegal activity by these broadcasters, whether with respect to retransmission consent or to any other transactions with cable companies or other multichannel video programming distributors that may occur in the future. Section IV.C. preserves the right of each Defendant to respond to news inquiries about retransmission consent negotiations, so long as the response does not reveal information about that Defendant's negotiating strategy, the content or progress of negotiations, its plans related to retransmission consent, or the type or value of consideration being sought for retransmission consent.

The Supreme Court has long recognized that certain types of concerted refusals to deal or group boycotts are *per se* violations of the Sherman Act, even when they fall short of outright price-fixing. *Northwest Wholesale Stationers, Inc. v. Pacific Stationery & Printing Co.*, 472 U.S. 284, 290 (1985). The agreements between the broadcasters fell into this category because they had the purpose and effect of raising the price of retransmission rights in the Corpus Christi area. Moreover, the Supreme Court has held that an agreement between rival companies that restrains competition between them is illegal when it lacks, as did the agreements among these broadcasters, any pro-competitive justification. *See Federal Trade Commission* v. *Indiana Federation of Dentists*, 476 U.S. 447, 459 (1986). Although the 1992 Cable Act gave broadcasters the right to seek compensation for retransmission of their television signals, the antitrust laws require that such rights be exercised individually and independently by broadcasters. When competitors in a market coordinate their negotiations so as to strengthen their negotiating positions against third parties and so obtain better deals, as did these Defendants, their conduct violates the Sherman Act.

Section V. of the proposed final judgment is designed to ensure that persons affected by Defendants' illegal conduct receive notice of the restrictions placed on Defendant's future conduct by the Final Judgment. Thus, paragraph V.A. and V.B. require each Defendant to send a designated notice to each cable, wireless or satellite television operator that currently distributes that Defendant's signal, and to all other such operators that may in the future request retransmission consent from that Defendant.

Sections VI. and VII. require each Defendant to set up an antitrust compliance program and designate an antitrust compliance officer. Under the program, each Defendant is required to furnish a copy of the Final Judgment and a less formal written explanation of it to each of its officers and directors and to each of its employees, sales representatives, or agents whose duties relate to retransmission consent for that Defendant's Corpus Christi television station.

The proposed Final Judgment also provides methods for determining and securing each Defendant's compliance with its terms. Section VIII. provides that, upon request of the Department of Justice, each Defendant shall submit written reports, under oath, with respect to any of the matters contained in the Final Judgment. Additionally, the Department of Justice is permitted to inspect and copy all books and records, and to interview the officers, directors, employees and agents of each Defendant.

Section IX. makes the Final Judgment effective for ten years from the date of its entry.

Section XI. of the proposed Final Judgment states that entry of the Final Judgment is in the public interest. The APPA conditions entry of the proposed Final Judgment upon a determination by the Court that the proposed Final Judgment is in the public interest.

The Government believes that the proposed Final Judgment is fully adequate to prevent the continuation of recurrence of the violation of Section 1 of the Sherman Act alleged in the Complaint, and that disposition of this proceeding without further litigation is appropriate and in the public interest.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorney fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against the defendant.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and the Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent.

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Such comments should be made within 60 days of the date of publication of this Competitive Impact Statement in the Federal Register. The United States will evaluate the comments, determine whether it should withdraw its consent, and respond to the comments. The comments and the response of the United States will be filed with the Court and published in the Federal Register.

Written comments should be submitted to: Donald J. Russell, Chief,

Telecommunications Task Force, U.S. Department of Justice, Antitrust Division, 555 4th Street N.W., Room 8100, Washington, D.C. 20001.

Under Section X. of the Proposed Final Judgment, the Court will retain jurisdiction over this matter for the purpose of enabling any of the parties to apply to the Court for such further orders or directions as may be necessary or appropriate for the construction, implementation, modification, or enforcement of the Final Judgment, or for the punishment of any violations of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The only alternative to the proposed Final Judgment considered by the Government was a full trial on the merits and on relief. Such litigation would involve substantial cost to the United States and is not warranted, because the proposed Final Judgment provides appropriate relief against the violations alleged in the Complaint.

VII. Determinative Materials and Documents

No particular materials or documents were determinative in formulating the proposed Final Judgment. Consequently, the Government has not attached any such materials or documents to the proposed Final Judgment.

Dated:

Respectfully submitted,

Frank G. Lamancusa

Andrew S. Cowan

Attorneys, U.S. Department of Justice, Antitrust Division, 555 4th Street N.W., Room 8100, Washington, D.C. 20001, (202) 514–5621.

[FR Doc. 96–3398 Filed 2–14–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Medical Practice Knowledge Bank

Notice is hereby given that, on November 17, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Allegheny-Singer Research Institute has filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking 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: Allegheny-Singer Research Institute, Pittsburgh, PA; AT&T Corporation, Global Information Solutions, Human Interface Technology Center, Atlanta, GA; AT&T Corporation Global Information Solutions, Decision Enabling Systems Division, El Segundo, CA; AT&T Corporation, Business Communications Services, Holmdel, NJ; and InSoft, Inc., Mechnicsburg, PA. The name under which these parties will operate is the National Medical Practice Knowledge Bank. The general area of planned activity is to conduct cooperative research concerning multimedia information access, retrieval and associated software technologies.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3443 Filed 2–14–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Auto Body Consortium: Near Zero Stamping Joint Venture

Notice is hereby given that, on January 3, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Auto Body Consortium, Inc. (''the Consortium'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Auto Body Consortium, Inc. advised that A.J. Rose Manufacturing Company, Avon, OH; Classic Companies, Troy, MI; Data Instruments Inc., Acton, MA; and The HMS Company, Troy, MI have joined the Near Zero Stamping Joint Venture. The Consortium further advised that APX International, Madison Heights, MI; ASC Inc., Southgate, MI; Bethlehem Steel Corporation, Southfield, MI, The Budd Company, Auburn Hills, MI; Detroit Center Tool, Detroit, MI; ISI Automation Products Group, Mt. Clemens, MI; and ISI Robotics, Fraser, MI are no longer members.

No other changes have been made in either the membership or planned activity of the Consortium. Membership in the Consortium remains open, and the Consortium intends to file additional written notification disclosing all changes in membership.

On September 14, 1995, the Consortium 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 31, 1996 (61 FR 3463).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3444 Filed 2–14–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Bay Area Multimedia Technology Alliance

Notice is hereby given that, on September 18, 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''), Bay Area Multimedia Technology Alliance 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: CareSoft, Inc., San Jose, CA; Institute for Research on Learning, Palo Alto, CA; and UB Networks, Santa Clara, CA.

The nature and objectives of this joint venture are to promote the growth of the multimedia industry by accelerating the interaction among producers and customers and to stimulate the use of multimedia in business, in education, in the community, and at home. It is intended that the result will be the development of precompetitive technologies for networked multimedia applications

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3445 Filed 2–14–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Spray Drift Task Force

Notice is hereby given that, on July 17, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Spray Drift Task Force has filed written notifications

simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Industria Prodotti Chimici SpA, Novate Milanesi, ITALY has become a member.

No other changes have been made in either the membership, corporate name or planned activities of the venture.

On May 15, 1990, the Spray Drift Task Force filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to Section 6(b) of the Act of July 5, 1990 (55 FR 27701). The last notification was filed with the Department on January 25, 1995. A notice was published in the Federal Register on March 23, 1995 (60 FR 15305).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3448 Filed 2–14–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Mobile Information Infrastructure for Digital Video and Multimedia Applications Joint Venture

Notice is hereby given that, on September 28, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), the Mobile Information Infrastructure for Digital Video and Multimedia Applications Joint Venture (''MII JV''), 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: AT&T Corp., Basking Ridge, NJ; and Sun Microsystems Federal, Inc., Mountain View, CA.

The nature and objectives of this joint venture are to collaborate on the development and prototyping of a Mobile Information Infrastructure for Digital Video and Multimedia Applications.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3446 Filed 2–14–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Open Devicenet Vendor Association, Inc.

Notice is hereby given that, on June 21, 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 Open DeviceNet Vendor Association, Inc., Joint Venture has filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking 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: ABBA Drives, Inc., New Berlin, WI; ABB Robotics Products AB, Vasteras, SWEDEN; Act' 1 SA, Braine L'Alleud, BELGIUM; AEG Schneider Automation, Inc., North Andover, MA; Allen-Bradley Company, Inc., Milwaukee, WI; Rockwell International Corp., Seal Beach, CA; American Precision Industries, Inc., Amherst, NY; BMP Incorporated, Harrisburg, PA; Applied Materials, Inc., Santa Clara, CA; ASCO Pneumatic Controls, Charlotte, NC; Automatic Switch Co., Florham Park, NJ; AxNet, Ecully, FRANCE; Balluff, Inc., Florence, KY; Geohard Balluff BmbH & Co., Neuhausen/Filder, GERMANY; Banner Engineering Corporation, Minneapolis, MN; Belden Wire & Cable, Richmond, IN; Berk-Tek Inc., New Holland, PA; Alcatel NA Cable Systems, Inc., Hickory, NC; Brooks Instrument Company, Inc., Hatfield, PA; Clippard Instrument Laboratory, Incorporated, Cincinnati, OH; Codan Pty. Ltd., Newton, AUSTRALIA; Communications & ID Systems, Milwaukee, WI; Contemporary Control Systems, Inc., Downers Gove, IL; Control Technology, Inc., Knoxville, TN; Crouse-Hinds Division of Cooper Industries, Houston, TX; Crouzet Corporation, Carrollton, TX; Crouzet Automatismes, S.A., Valence, FRANCE; Cutler Hammer, Inc., Pittsburgh, PA; Eaton Corporation, Cleveland, OH; Daniel Woodhead Co., Northbrook, IL; Woodhead Industries, Inc., Buffalo Grove, IL; Datalogic, Inc., Scotts Valley, CA, Datalogic, SpA, Bologna, ITALY; Dearborn Group, Inc., Farmington Hills, MI; Digital Electronics Corporation, Osaka, JAPAN; D.I.P. Inc., Moreno Valley, CA; ECT International, Inc., Brookfield, WI; EMS Inc., Cincinnati, OH; Eurotherm PLC, Horsham, UK; Event Technologies, Inc., Hales Corners, WI; Festo Corporation, Hauppauge, NY; Festo KG, Esslingen, GERMANY; Furnas Electric Co., Batavia, IL; Grayhill Incorporated, LaGrange, IL; Hitachi, Ltd., Tokyo, JAPAN; Hohner Shaft Encorder Corp., Beamsville, CANADA; Huron Net Works, Inc., Ann Arbor, MI; Industrial Devices Corporation, Novato, CA; Institut Fuer Elektrische Messtech/ und Grundlagen Der Elektrotech Nik, Nindernechsen, GERMANY; Lumberg, Inc., Richmond, VA; Karl Lumberg GmbH & Co., Schalksmuehle, GERMANY; Lutze, Inc., Charlotte, NC; MAC Valves Europe, Inc., Wixom, MI; MagneTek, New Berlin, WI; Mannesmann Rexroth Pnuematics Division, Bethlehem, PA; Mannesmann AG, Dusseldorf, GERMANY; Micro Mo Electronics, Clearwater, FL; Mitsubishi Electronics America, Inc., Cypress, CA; Mitsubishi Electric Corp. Inc., Tokyo, JAPAN; MKS Instruments, Inc., Andover, MA; Moog Inc., East Aurora, NY; Namco Controls Corp; Highland Heights, OH; Acme Cleveland Corporation, Pepper Pike, OH; Nematron Corporation, Ann Arbor, MI; NSI, Cran-Gevrier, FRANCE; Numatics, Incorporated, Highland, MI; Omron Corporation, Kyoto, JAPAN, ONLINE Development, Inc., Knoxville, TN; Optimised Control Inc., Tampa, FL; Optimised Control, Ltd, Bristol, ENGLAND; ORMEC Systems Corporation, Rochester, NY; Pacific Scientific Company, Charlestown, MA; Parker Hannifin Corp., Cleveland, OH; Patriot Sensors & Controls Corp., Clawson, MI; Controls Holding Company, Clawson, MI; PDL Electronics Ltd., Napier, NEW ZEALAND; PDL Holdings, Ltd., Christchurch, NZ; Peperl & Fuchs, Twinsburg, OH; Pepperl + Fuchs GmbH, Mannheim, GERMANY; Phoenix Contact, Inc., Harrisburg, PA; Phoenix Contact GmbH & Co., Blomberg, GERMANY; Pro-Log Corp., Monterey, CA; RadiSys Corporation, Beaverton, OR; Reliance Electronic Industrial Company, Mayfield Hts., OH; Indramat Division of Rexroth Corporation, Bethlehem, PA; Ross Controls International, Inc., Troy, MI; S–S Technologies, Inc., Kitchener, CANADA; Schrader-Bellows, Inc., Cuyahoga Falls, OH; Sharp Manufacturing Systems Corporation, Yamato-Koriyama City, JAPAN; Showa Electric Wires & Cable Co., Ltd., Miyage-

Prf, JAPAN; SMC Corporation, Tokyo, JAPAN; Socapel, SA, Penthaz Vaud, SWITZERLAND; Softing GmbH, Munich, GERMANY; Square D Company, Palatine, IL; Groupe Schneider, Boulogne Billancourt, FRANCE; Toshiba International Corporation, Houston, TX; Toshiba Corporation, Tokyo, JAPAN; TURCK, Inc., Plymouth, MN; Uticor Technology, Inc., Cettendorf, IA; Vector Informatik GmbH, Ditzngen, GERMANY; Wago Corporation, Brown Deer, WI; Wago Knotakttechnik GmbH, Miden, GERMANY; Whedco, Inc., Ann Arbor, MI; Wonderwear Corporation, Irvine, CA; Yaskawa Electric Ameica, Inc., Northbrook, IL; and Yaskawa Electric Corporation, Kitakyushu, JAPAN.

The purpose of this venture is to promote the adoption of a viable industrial automation communication network standard based on the DeviceNet protocol to increase the range of options for builders of such industrial equipment systems and to produce products, processes or services consisting of or relating to the specification of the DeviceNet protocol and products or services designed to distinguish items that conform to such specification from those that do not.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3447 Filed 2–14–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum Project No. 94–06

Notice is hereby given that, on December 12, 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 Members of the Petroleum Environmental Research Forum participating in (''PERF'') Project No. 94–06 filed written notifications simultaneously with the Attorney General and with the Federal Trade Commission disclosing a change in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following party has become a member: Aluminum Company of America, Alcoa Center, PA.

No other changes have been made in either the membership or the planned activities of PERF Project No. 94–06.

On March 20, 1995, PERF Project No. 94–06 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 April 27, 1995, (60 FR 20750).

The last notification was filed with the Department on November 21, 1995. A notice was published in the Federal Register pursuant to Section 6(b) of the Act on December 20, 1995 (60 FR 65670).

Information regarding participation in Project No. 94–06 may be obtained from Mr. P.W. Becker, Exxon Research & Engineering Company, Florham Park, NJ.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3394 Filed 2–14–96; 8:45 am]

BILLING CODE 4410–01–M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 94–3 CARP–CD–90–92]

Distribution of 1990, 1991 and 1992 Cable Royalty Funds

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice with request for comments.

SUMMARY: The Copyright Office directs all claimants to royalty fees collected for secondary transmissions by cable systems in 1990, 1991, and 1992 to submit comments as to whether Phase II controversies exist as to the distribution of these funds. The Office is also directing those claimants reporting the existence of Phase II controversies to file a Notice of Intent to Participate.

DATES: Comments on controversies and Notices of Intent to Participate are due March 15, 1996.

ADDRESSES: If sent by mail, an original and five copies of the comments on controversies and the Notice of Intent to Participate should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. If hand delivered, an original and five copies of the comments on controversies and the Notice of Intent to participate should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, Room 407, First and Independence Avenue, SE., Washington, DC 20540.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel, or William Roberts, Senior Attorney, Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone (202) 707–8380. Telefax (202) 707–8366.

SUPPLEMENTARY INFORMATION:

I. Background

Each year, cable systems submit royalties to the U.S. Copyright Office for a statutory license to retransmit broadcast signals to their subscribers. 17 U.S.C. 111. These royalties are, in turn, distributed to the appropriate copyright owners by means of a cable royalty distribution proceeding. Distribution proceedings were formerly conducted by the Copyright Royalty Tribunal. However, on December 17, 1993, the Tribunal was abolished. Royalty distribution proceedings are now conducted by *ad hoc* copyright arbitration royalty panels (CARPs) convened and supported by the Library of Congress and the Copyright Office. Copyright Royalty Tribunal Reform Act of 1993, Public Law 103–198, 107 Stat. 2304 (1993).

Currently, the Copyright Office is conducting its first distribution of cable royalties under the new CARP regime. On March 21, 1995, the Office consolidated distribution of the 1990, 1991 and 1992 cable royalty funds into a single proceeding, and announced that it would conduct Phase I and Phase II controversies sequentially. 60 FR 14971 (March 21, 1995). The Office would first conduct a proceeding and convene a CARP to resolve all Phase I controversies for the 1990–92 funds, and, after the proceeding had been completed, would ''ascertain the existence of any Phase II controversies and conduct separate proceedings.'' [1] 60 FR at 14974. The Office also announced that it would resolve the issue of whether to allow a single CARP to resolve more than one Phase II controversy at the time it determined the existence of any Phase II controversies. *Id.*

The CARP proceeding to resolve Phase I controversies for the 1990–92 royalties commenced on December 4, 1995, and will close on June 1, 1996. 60 FR 58680 (November 28, 1995). CARP proceedings to resolve Phase II controversies, if any, may therefore be scheduled anytime after June 1, 1996, in accordance with the Office's decision to handle them sequentially. See 60 FR 14971, 14974. Conversely, the Office

[1] The Copyright Office faces the possibility of initiating multiple CARP proceedings in 1996. Therefore, in the interest of establishing workable schedules for the Copyright Office and for the interested parties to these future proceedings, the Office requests comments concerning the ascertainment of Phase II controversies in the current cable distribution proceeding at this time.

also seeks to be advised of Phase II categories that are completely settled.

II. Comments on Controversies

In order to schedule proceedings to resolve Phase II controversies as soon as possible after the conclusion of arbitration proceedings in Phase I, the Copyright Office directs all claimants to royalty fees collected in 1990, 1991 and 1992 for secondary transmissions by cable systems to submit comments as to whether controversies exist as to the distribution of these funds. If any controversies exist, the claimant should specifically name the claimants with whom he or she has a controversy. The Office also seeks comments as to whether each Phase II controversy should be handled by a separate CARP, or whether a single CARP should handle more than one or all controversies. Comments must be submitted no later than March 15, 1996.

III. Notice of Intent to Participate

In addition to comments on controversies, the Copyright Office requests those claimants who have identified the existence of a Phase II controversy and wish to participate in a Phase II distribution proceeding, to file a Notice of Intent to Participate in the proceeding by March 15, 1996. Failure of a claimant to file a timely Notice of Intent to Participate, or to be represented by another claimant filing a timely Notice, will subject the Phase II claim to dismissal. The filing of a timely Notice of Intent to Participate is thus critical to a claimant being able to present an effective claim in a Phase II proceeding.

Dated: February 12, 1996.

Marilyn J. Kretsinger,

Acting General Counsel.

[FR Doc. 96–3437 Filed 2–14–96; 8:45 am]

BILLING CODE 1410–33–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Kristin Larson or Robert S. Cunningham, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On 27 October, 1995, the National Science Foundation published a notice in the Federal Register of permit applications received. A permit was issued on 11 January 1996 for the following applicant: Dr. Rennie Holt, Permit Number: 96WM1–NOAA, National Marine Fisheries, Effective Date: 11 January 1996, Expiration Date: 15 March 2001.

Kristin Larson,

Permit Office.

[FR Doc. 96–3390 Filed 2–14–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Advanced Scientific Computing; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Advanced Scientific Computing (#1185).

Date and Time: March 4, 1996, 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Suite 1150, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. John Van Rosendale, Program Director, New Technologies Program, Suite 1122, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1962.

Purpose of Meeting: To provide recommendations and advice concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Faculty Early Career Development (Career) 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. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 12, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3452 Filed 2–14–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Astronomical Sciences (1186); Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Astronomical Sciences (#1186).

Date and Time: March 7 and 8, 1996, 8:00 a.m.–5:00 p.m.

Place: Room 1020, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: James P. Wright, Program Director, Division of Astronomical Sciences, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: 703/306–1819.

Purpose of Meeting: To provide advice and recommendations on proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate proposals submitted to the CAREER Program in the Division of Astronomical Sciences.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: February 12, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3453 Filed 2–14–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Bioengineering and Environmental Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Bioengineering and Environmental Systems (No. 1189).

Date and Time: March 4, 5, and 6, 1996; 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 565, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Edward H. Bryan, Program Director, Environmental Engineering, Division of Bioengineering and Environmental Systems, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1318.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate CAREER proposals 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. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 12, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3454 Filed 2–14–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting.

Name: Special Emphasis Panel in Biological Sciences (#1754).

Date and Time: March 4th & 5th, 1996; 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, Room 370, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Part-Open.

Contact Persons: Dr. James Coleman, Program Director, Ecological & Evolutionary Physiology, Dr. Randy Nelson, Program Director, Animal Behavior Division of Integrative Biology and Neuroscience, Suite 685, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1421.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: March 4th, 1996; 4:00 p.m. to 5:00 p.m.—for a discussion on research trends, opportunities and assessment procedures in Integrative Biology and Neuroscience with Dr. James Edwards, Executive Officer, Directorate for Biological Sciences. Closed Session: March 4th, 1996, 8:30 a.m.——4:00 p.m.; March 5th 1996; 8:30 a.m. to 5:00 p.m. To review and evaluate Ecological & Evolutionary Physiology & Animal Behavior proposals 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. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 12, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3455 Filed 2–14–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Elementary, Secondary and Informal Education; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name of Committee: Special Emphasis Panel in Elementary, Secondary and Informal Education (#59).

Date and Time: February 29, 1996, 8:00 a.m. to 6:00 p.m., March 1, 1996, 8:00 a.m. to 6:00 p.m., March 2; 8:00 a.m. to 6:00 p.m.

Place: Arlington Renaissance Hotel, 950 North Stafford Street, Arlington, VA 22203.

Type of Meeting: Closed.

Contact Person: Dr. Jim Ellis, Program Director, Division of Elementary, Secondary and Informal Education, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1614.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals 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. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: February 12, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3456 Filed 2–14–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Human Resource Development; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Human Resource Development (#1199).

Date and Time: March 4 & 5, 1996, 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Open.

Contact Person: Lawrence Scadden Y Mary Kohlerman, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1636.

Purpose of Meeting: To provide the opportunity for Project Directors who have awards from the Program for Persons with Disabilities to share their experiences with each other, and to allow NSF staff to learn of the progress and impact of the projects.

Agenda: To have Project Directors make brief presentations about the progress and impact of their activities as well as learn about all of the PPD awards.

Dated: February 12, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3457 Filed 2–14–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Microelectronic Information Processing Systems

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 Microelectronic Information Processing Systems (1206).

Date and Time: March 6, 1996, 9:00 a.m.–5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Conference Rooms: 310, 320, 360, 365, 370, 390.

Type of Meeting: Closed.

Contact Person: Dr. Michael Foster, Program Director, Experimental Systems Program, Microelectronic Information Processing Systems Division, National Science Foundation, Room 1155, Telephone No.: 703–306–1936.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate FY 96 Faculty Early Career Development (CAREER) proposals in the Microelectronic Information Processing Systems area of research.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature including technical information; financial data such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: February 12, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3458 Filed 2–14–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Networking and Communications Research and Infrastructure (NCRI); Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Networking and Communications (#1207).

Date and Time: March 7–8, 1996; 8:30 a.m. to 5:00 p.m.

Place: Room 1175, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Darleen Fisher, National Science Foundation, Room 1175, Arlington, VA 22230 (703–306–1950).

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review & evaluate proposals submitted for the Career Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552 b. (c)(4) and (6) of the Government in the Sunshine Act.

Dated: February 12, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3459 Filed 2–14–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Systemic Reform; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Systemic Reform (#1765).

Dates and Times: 12:00 noon–6:30 p.m.; March 7, 1996, 8:00 a.m.–12:00 noon; March 8, 1996.

Doubletree Hotel, 300 Army Navy Drive, Arlington, Virginia 22202. Phone: (703) 416–4100, FAX (703) 416–4126.

Type of Meeting: Closed.

Contact: Dr. Richard J. Anderson, Head, Office of Experimental Program to Stimulate Competitive Research, National Science Foundation, Suite 875, 4201 Wilson Blvd., Arlington, VA 22203, (703) 306–1683.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF EPSCoR program for financial support.

Agenda: To review and evaluate science and technology (S&T) proposals from states participating in the Experimental Program to Stimulate Competitive Research. Proposals request support in one of two categories: (1) 12- to 24-month non-renewable EPSCoR Grant or (2) 36-month EPSCoR Cooperative Agreement. Proposals in both categories are submitted in response to NSF EPSCoR solicitation 95–141.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552(b). (c)(4) and (6) of the Government in the Sunshine Act.

Dated: February 12, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3460 Filed 2–14–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Nuclear Regulatory Commission Seeks Qualified Candidates for Advisory Committee on Nuclear Waste

AGENCY: U.S. Nuclear Regulatory Commission

ACTION: Request for résumés

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is seeking qualified candidates for possible appointment to its Advisory Committee on Nuclear Waste (ACNW). One opening is expected on the committee in mid-1996.

ADDRESSES: Submit résumés to: Ms. Jude Himmelberg, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

FOR FURTHER INFORMATION, CALL: 1–800–952–9678. Please refer to Announcement Number 96–1000.

SUPPLEMENTARY INFORMATION: The ACNW is a part-time advisory group established by the NRC in 1988 to provide independent technical review and advice on the disposal of nuclear waste, including all aspects of nuclear waste disposal facilities, as directed by the Commission. This advice covers activities related to licensing, operation and closure of high- and low-level radioactive waste disposal facilities and associated rulemakings, regulatory guides and NRC staff technical positions. The ACNW also reviews performance assessment evaluations of waste disposal facilities.

The committee interacts with representatives of the NRC, the Advisory Committee on Reactor Safeguards, the Department of Energy, other Federal, State, and local agencies, Indian Nations and private organizations as appropriate.

A wide variety of engineering and scientific skills are needed to conduct the broadly based reviews required in the committee's work. Engineers and scientists are needed with work experience in the high- and low-level radioactive waste disposal programs coupled with broad experience in a pertinent technical field, such as nuclear engineering and technology, nuclear fuel cycle analysis, nuclear chemistry, earth sciences, and materials science.

Individuals should have a minimum of 20 years' work experience in related fields, or fields that can be applied directly to the work of the committee, and have achieved a level of distinction in their discipline. In addition, individuals must be able to devote approximately 50–100 days per year to committee business. Most meetings are held in Rockville, Maryland, although some additional travel is required to other sites.

Because conflict-of-interest regulations restrict the participation of members actively involved in areas related to nuclear waste disposal, the degree and nature of any such involvement will be weighed. Each qualified candidate's financial interests must be reconciled with applicable Federal and NRC rules and regulations before final appointment to the committee. This may result in the candidate being required to divest himself or herself of securities issued by nuclear industry entities, or discontinue or limit involvement in NRC or industry-funded research contracts or grants, based on a determination of possible conflicts of interest.

Copies of a résumé describing the educational and professional background of the candidate, including special accomplishments, professional references, current address, and telephone number should be provided. All qualified candidates will receive careful consideration. Appointment will be made without regard to race, color, religion, national origin, sex, age, or disabilities. Candidates must be citizens of the United States. Applications will be accepted until March 31, 1996.

Dated: February 9, 1996.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 96–3401 Filed 2–14–96; 8:45 am]

BILLING CODE 7590–01–P

Renewal of Charter for Nuclear Safety Research Review Committee

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Renewal of the Nuclear Safety Research Review Committee.

SUMMARY: The Nuclear Safety Research Review Committee was established by the Nuclear Regulatory Commission as a Federal Advisory Committee in February 1988 to provide advice to the Director, Office of Nuclear Regulatory Research, on matters relating to NRC's nuclear safety research programs. The committee is composed of experts capable of providing a wide variety of technical and managerial viewpoints drawn from industrial national

laboratory, university and not-for-profit research organizations.

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463), and after consultation with the General Services Administration, the Nuclear Regulatory Commission has determined that there is a continuing need for the Nuclear Safety Research Review Committee and that renewal of the committee for a two year period beginning February 9, 1996 is in the public interest.

FOR FURTHER INFORMATION CONTACT: Dr. Jose Cortez, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 415–6596.

Dated: February 9, 1996.

Andrew L. Bates,

Advisory Committee Management Officer.

Nuclear Regulatory Commission, Charter, Nuclear Safety Research Review Committee

1. Committee's Official Designation

NRC Nuclear Safety Research Review Committee (NSRRC).

2. Committee's Objectives, Scope of Activities, and Duties

On a continuing basis, NSRRC will provide advice to the Director of the Office of Nuclear Regulatory Research and through him the Commission, on matters of overall management importance in the direction of the NRC's program of nuclear safety research. Matters requiring NSRRC's attention will be posed by the Commission by the Director of the Research Office, or as an outcome of prior NSRRC deliberations. Nuclear safety research is understood to encompass technical investigations of the implications for public health and safety of the peaceful uses of atomic energy and the reduction of those investigations to regulatory practice.

NSRRC activities will include assessment of and recommendations concerning:

a. Conformance of the NRC nuclear safety research program to the NRC Philosophy of Nuclear Regulatory Research, as stated in the Committee's Strategic Plan, and to specific Commission directions.

b. Likelihood of the program meeting the needs of the users of research.

c. Appropriateness of the longer range research programs and the correctness of their direction.

d. Whether the best people are doing the work at the best places; whether there are other options, including cooperative programs, that would yield higher quality work, or otherwise improve program efficiency.

e. Whether the program is free of obvious bias, and whether the research products have been given adequate, unbiased peer review.

In addition, NSRRC will conduct specialized studies when requested by the Commission or the Director of the Office of Nuclear Regulatory Research. If appropriate, these studies will be published as reports.

3. Time Period Necessary for the Commission To Carry Out Its Purpose

In view of the goals and purposes of the Committee, it is expected to be continuing in nature.

4. Office of Whom This Committee Reports

The Director of the Office of Nuclear Regulatory Research and, as appropriate, through the Director of the Commission.

5. Agency Responsible for Providing Necessary Support for This Committee

Nuclear Regulatory Commission. Within the Commission, support will be furnished by the Office of Nuclear Regulatory Research.

6. Description of Duties for Which the Committee Is Responsible

The duties of the NSRRC are solely advisory and are stated in paragraph 2, above.

7. Estimated Annual Operating Costs in Dollars and Man-Years

$185,000; 0.8 person-year.

8. Estimated Number and Frequency of Committee Meetings

The Committee will meet at such times and places as it deems necessary, but not less than once a year. Subcommittees may meet as deemed necessary to achieve their assigned tasks.

9. Committee's Termination Date

Two years from the filing date, subject to renewal by the Commission. See also, paragraph 3 above.

10. Members

a. Committee members, including the Chairperson, shall be appointed by the Commission following nomination by the Director of the Office of Nuclear Regulatory Research.

b. Approximate number of Committee members: 9 to 12.

c. Members will be chosen to ensure an appropriately balanced representation of the research management community, taking into account: (1) demonstrated experience in high-level management of programs in applied research; (2) demonstrated expertise in one or more disciplines of applied science and engineering; (3) broad acquaintance with the public health and safety issues associated with the peaceful uses of atomic energy, and (4) a balance of experience in the academic, industrial, and national and not-for-profit laboratory environments.

11. Date of Filing: February 9, 1996.

Andrew L. Bates,

Advisory Committee Management Office.

[FR Doc. 96–3403 Filed 2–14–96; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–261]

Carolina Power & Light Company; H.B. Robinson Steam Electric Plant, Unit No. 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission is considering issuance of an exemption from the requirements of 10 CFR Part 50, Appendix R, to Carolina Power & Light Company (CP&L or the licensee), for H. B. Robinson Steam Electric Plant, Unit No. 2 (HBR), located in Darlington County, South Carolina.

Environmental Assessment

Identification of the Proposed Action

The proposed exemption would allow the use of the diesel-backed security lighting system for access and egress to, and operation of, auxiliary feedwater (AFW) valves AFW–1 and AFW–104 and instrument air (IA) valve IA–297.

The Need for the Proposed Action

The proposed exemption is needed because failure to isolate valves AFW–1 and AFW–104 due to poor lighting could result in overfilling the condensate storage tank (CST) with service water after switchover of the AFW cooling source from the CST to the service water system.

Environmental Impacts of the Proposed Action

The proposed exemption does not involve any measurable environmental impacts since the proposed lighting would provide adequate lighting to allow for operation of the safe shutdown equipment identified in the licensee's request. Plant configuration and operations are not changed. Thus, the proposed exemption would not affect the probability or consequences of a potential reactor accident and would not otherwise affect radiological plant effluents. Consequently, the Commission concludes that there are no significant radiological impacts

associated with the proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption does not affect nonradiological plant effluents and there are no other nonradiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

The principal alternative to the exemption would be to require strict compliance with 10 CFR Part 50, Appendix R, Section III, for the licensee at HBR to provide emergency lighting units with at least an 8-hour battery power supply in all areas needed for operation of post-fire safe shutdown equipment and in access and egress routes thereto.

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action are of a very low likelihood and therefore insignificant.

Alternative Use of Resources

This exemption does not reduce the use of resources that were not already considered in the Final Environmental Statement of HBR. Thus, the requested exemption would provide only relief from the requirement to install 8-hour emergency lighting where existing security lighting is adequate to meet the underlying purpose of the rule.

Agencies and Persons Consulted

In accordance with its stated policy, on February 8, 1996, the NRC staff consulted with the South Carolina State official, Mr. James Peterson of the South Carolina Department of Health and Environmental Control, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action would not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the application dated February 2, 1995, as supplemented May 15, 1995, and September 29, 1995, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC, and at the local public document room located at the Hartsville Memorial Library, 147 West College Avenue, Hartsville, SC 29550.

Dated at Rockville, Maryland, this 9th day of February 1996.

For the Nuclear Regulatory Commission.

David B. Matthews,

Director, Project Directorate II–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 96–3400 Filed 2–14–96; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission will convene its next regular meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on February 21–22, 1996. The meeting was noticed in the Federal Register on January 26, 1996. In addition to the discussion of the National Academy of Science's, Institute of Medicine report, the staff will discuss two additional issues. The first issue is a proposed rule requiring licensees to notify the NRC Operations Center within 24 hours of discovering an intentional or allegedly intentional diversion of licensed radioactive material from its intended or authorized use. The proposed rule would also require licensees to notify NRC when they are unable, within 48 hours of discovery of the event, to rule out that the use was intentional. The proposed rule would require reporting of events that cause, or have the potential to cause, an exposure of individuals whether or not the exposure exceeds the regulatory limits. The comment period for this rule closes March 1, 1996. The second issue is the lessons learned and action items resulting from the Augmented Inspection Team and Incident Investigation Team reviews of internal contamination events at the National Institutes of Health and Massachusetts Institute of Technology, respectively. These issues were added as agenda items at the request of the ACMUI Chairman. Because of the 30 day comment period, the February meeting is the only opportunity for ACMUI to discuss the proposed rule in a public meeting within the specified comment period.

The meeting will take place at the address provided below. All sessions of the meeting will be open to the public.

DATES: The meeting will begin at 8:30 a.m., on February 21 and 22, 1996.

ADDRESSES: U.S. Nuclear Regulatory Commission, Two White Flint North, 11545 Rockville Pike, Room T2B3, Rockville, MD 20852–2738.

FOR FURTHER INFORMATION, CONTACT: Josephine M. Piccone, Ph.D., U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, MS T8F5, Washington, DC 20555, telephone (301) 415–7270. For administrative information, contact Torre Taylor, telephone (301) 415–7900.

Conduct of the Meeting

Barry Siegel, M.D., will chair and conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit a reproducible copy to Josephine M. Piccone (address listed previously), by February 16, 1996. The transcript of the meeting will be kept open until February 26, 1996, for inclusion of written comments submitted after February 16, 1996. Statements must pertain to the topics on the agenda for the meeting.

2. At the meeting, questions from members of the public will be permitted at the discretion of the Chairman.

3. The transcript and written comments will be available for inspection, and copying, for a fee, at the NRC Public Document Room, 2120 L Street, NW., Lower Level, Washington, DC 20555, telephone (202) 634–3273, on or about March 8, 1996. Minutes of the meeting will be available on or about April 5, 1996.

4. Seating for the public will be on a first-come, first-served basis.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App.); and the Commission's regulations in Title 10, U.S. Code of Federal Regulations, Part 7.

Dated: February 9, 1996.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 96–3402 Filed 2–14–96; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26470]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

February 9, 1996.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by March 4, 1996, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Allegheny Power System, Inc., et al. (70–8411)

Allegheny Power System, Inc. (''APS''), 12 East 49th Street, New York, New York, 10017, a registered holding company; AYP Capital, Inc. (''AYP''), 12 East 49th Street, New York, New York, 10017, a non-utility subsidiary company of APS; and Allegheny Power Service Corporation (''APSC''), 800 Cabin Hill Drive, Greensburg, Pennsylvania, 15601, a non-utility subsidiary company of APS, have filed a post-effective amendment to an application-declaration previously filed under sections 6(a), 7, 9(a), 10, 12(b), 13(b), 32 and 33 of the Act and rules 45, 50, 53, 87, 90 and 91 thereunder.

By order dated July 14, 1994 (HCAR No. 26085), APS was authorized to organize and finance AYP to: (i) explore investment opportunities in companies engaged in new technologies related to the core utility business of APS and (ii) invest in companies for the acquisition and ownership of exempt wholesale generators (''EWGs'').

By order dated February 3, 1995 (HCAR No. 26229), AYP was authorized to engage in the development, acquisition, construction, ownership and operation of EWGs and in development activities with respect to (i) qualifying cogeneration facilities and small power production facilities (''SPPs''); (ii) nonqualifying cogeneration facilities, nonqualifying SPPs and independent power production facilities (''IPPs'') located within the service territories of APS public utility subsidiary companies; (iii) EWGs; (iv) companies involved in new technologies related to the core business of APS; and (v) foreign utility companies (''FUCOs''). AYP Capital was also authorized to consult for nonaffiliate companies. APS was authorized to increase its investment in AYP Capital from $500,000 to $3 million.

By order dated October 27, 1995 (HCAR No. 26401), APS and AYP were authorized to form and finance special-purpose subsidiary companies (''NEWCOs'') to acquire interests in EWGs and FUCOs, to provide energy management services and demand side management services, to factor accounts receivable, and to manage the real estate portfolio of the APS system. APS also was authorized to invest in AYP, and AYP was authorized to invest in NEWCOs, up to $100 million through December 31, 1999. AYP and the NEWCOs were authorized to obtain loans or to issue recourse obligations guaranteed by AYP or APS subject to the $100 million limit. Finally, the NEWCOs were authorized to issue partnership interests or trust certificates through December 31, 1999 to third parties to finance EWGs and FUCOs in an amount not to exceed $200 million.

This post effective amendment seeks Commission authorization for APS and AYP to increase the limit on loans and guarantees from $100 million to $300 million. This increase is requested in part because AYP has agreed to purchase the 50% interest of Duquesne Light Company in Fort Martin Generating Station Unit No. 1 (''Fort Martin'') for $181 million.

Fort Martin is operated by Monongahela Power Company (''Monongahela''), an associate company of AYP and a wholly-owned public utility subsidiary of APS, pursuant to an Operating Agreement dated April 30, 1965. Monongahela was chosen to operate Fort Martin by an operating committee that consists of the three owners of Unit No. 1—Duquesne Light Company, Monongahela, and Potomac Edison Company. Certain common facilities are operated under a Common Facilities Operating Agreement dated November 14, 1968. The Operating Agreement has been approved by the FERC and by all state commissions with jurisdiction over the parties. The Operating Agreement, which details the allocation of costs for the operation and maintenance of Fort Martin, will remain in effect after the sale of the 50% interest.

Consolidated Natural Gas Company (70–8759)

Consolidated Natural Gas Company (''CNG''), CNG Tower, 625 Liberty Avenue, Pittsburgh, Pennsylvania 15222–3199, a registered holding company has filed an application-declaration under sections 3(b), 6(a), 7, 9(a), 10, 12(b), 13(b), 32 and 33 of the Act and rules 45, 53, 54, 83, 87, 90 and 91 thereunder.

CNG proposes to form CNG International Corporation (''CNGI'') as a subsidiary which would exclusively invest either directly or, through intermediate subsidiaries (''Intermediate Subsidiaries''), indirectly in energy-related businesses outside the United States. CNG requests authority through March 31, 2001 to invest up to $300 million in any combination of debt and equity funds through CNGI in such businesses (''Investment Cap'').

CNG additionally requests authority for CNGI to directly or, through one or more Intermediate Subsidiaries, indirectly acquire securities or interests in the business of one or more ''exempt wholesale generators'' (''EWGs'') located outside of the United States and ''foreign utility companies'' (''FUCOs''). Any direct or indirect investment by CNGI in an EWG or a FUCO would not be subject to the Investment Cap, but would not be undertaken if, as a consequence, the aggregate direct and indirect investment by CNG in all EWG's and FUCO's exceeded 50% of CNG's consolidated retained earnings.

The types of energy-related businesses interests, other than EWGs and FUCOs, in which CNG requests authority for CNGI to acquire include: (a) The sale and servicing of energy equipment; (b) gas transmission and storage; (c) gas exploration, production, brokering and marketing; (d) brokering and marketing of electricity, gas and other energy commodities and (e) services related to the foregoing.

CNG also requests authority for CNGI and its affiliates to provide (a) energy consulting in foreign energy markets and (b) administrative, technical,

operating, maintenance, and other management services to non-associates with respect to their foreign operations. All such services, together with the energy-related businesses described above are referred to as ''Foreign Energy Activities.'' All such services would be provided to nonassociates at market-based rates.

CNGI and its affiliates may also provide similar goods and services to wholly-owned subsidiaries and to entities jointly owned by CNGI and its subsidiaries. Services provided to CNGI affiliates would be at market rates if such affiliate either (a) derives no material part of its income, directly or indirectly, from sources within the United States and is not a public-utility company operating within the United States or (b) does not provide services or sell goods directly or indirectly to CNG domestic utility affiliates.

CNGI and its affiliates may contract with CNG associates in order to provide the above services. Services obtained from utility associates would be performed at cost. Services from nonutility associates may be performed at market; provided, however, that services from nonutility associates substantially involved in the provision of services to CNG utility associates would be performed at cost.

CNGI may invest in Foreign Energy Activities through the acquisition of up to 100% of the voting or non-voting stock of corporations engaged exclusively in such activities. Alternatively, CNGI may invest and participate through wholly-owned limited purposes subsidiary corporations with nonassociates in partnerships or joint ventures exclusively engaged in Foreign Energy Activities.

CNG would provide funds to CNGI for the proposed activities by purchasing from CNGI up to 30,000 shares of its common stock, $10,000 par value. Although CNGI would issue no more than 30,000 shares, it proposes to authorize 50,000 shares of common stock, $10,000 par value. CNG would additionally fund CNGI's activities through open account advances and/or long-term loans. In addition, CNG proposes that CNG, CNGI and Intermediate Subsidiaries be authorized to enter guarantee arrangements, obtain letters of credit and otherwise provide credit support with respect to the obligations of their respective subsidiaries. The maximum aggregate limit on all such credit support would be $300 million.

CNG anticipates that most securities issued among CNGI and its affiliates, and most securities issued by CNGI and its affiliates to third parties, will be exempt from the requirements of section 6(a) and 7 of the Act. However, CNG requests authority for CNGI and its associates to issue securities in a transaction which would not qualify for exemption under rules of the Act at the time such securities would be issued.

Such securities would encompass interests in partnerships, joint ventures or other entities, and all other types of equity interests, regardless of preference with respect to, or condition on, distributions from the issuer of such securities, upon liquidation or otherwise.

CNG states that it would obtain the funds for any investment in CNGI from internally generated funds or as the Commission may otherwise authorize by separate order.

The Columbia Gas System, Inc. (70–8775)

The Columbia Gas System, Inc. (''Columbia''), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, has filed an application-declaration under section 6(a), 7, 9(a), 10, 12(b) and 13(b) of the Act and rules 43, 45, 87, 90, and 91 thereunder.

Columbia proposes to form one or more direct or indirect subsidiaries (''Consumer Service Company'') to engage in the business of providing energy-related consumer services (''Consumer Services''). To the extent these services are provided by a new subsidiary, Columbia seeks authorization, through December 31, 1997, to fund the new venture through the purchase of up to $5 million dollars of shares of common stock of Consumer Services Company, $25 par value per share, at a purchase price at or above par value. The acquisition may be made by either Columbia (in the case of a direct subsidiary) or by one of Columbia's subsidiary companies (in the case of an indirect subsidiary). To the extent that the services are provided by an indirect subsidiary, the funding by the direct subsidiary will come either from previously authorized funding or from cash on hand.

Columbia expects that its Consumer Services subsidiaries will conduct their businesses both within and outside of the states of Kentucky, Maryland, Ohio, Pennsylvania, and Virginia. Columbia states that the Consumer Services will primarily benefit Columbia's customers and Columbia's local distributing companies (''LDCs'') (Columbia Gas of Kentucky, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of Ohio, Inc., Columbia Gas of Pennsylvania, Inc. and Commonwealth Gas Services, Inc.). The Consumer Services offered would include the following: (1) Safety inspections (energy assessments and energy-related safety inspections such as carbon monoxide and radon testing, appliance efficiency ratings and wiring safety checks); (2) appliance financing (loans supporting the purchase of energy-related appliances); (3) billing insurance (to ensure payment of consumer utility bills in the event of death, disability or involuntary unemployment); (4) appliance repair warranty (repair service for heating and air conditioning and major appliances); (5) gas line repair warranty (warranty against the cost of repair of faulty gas service lines); (6) merchandising of energy-related goods (direct sales of energy-related devices); (7) commercial equipment service (warranty service for operators of commercial equipment); (8) bill risk management products (price protection services for gas consumers); (9) consulting and fuel management services (advisory and/or management services regarding energy consumption and measurement for commercial and industrial customers); (10) electronic measurement services (enhanced measurement and billing services for commercial and industrial customers to enable them to better monitor their energy consumption and expenditures); (11) incidental services (needed as a result of the services set forth above).

Columbia also proposes that its LDCs provide Consumer Services Company with billing, accounting, and other energy-related services. Columbia states that all services required to conduct the Consumer Services Company's business that are provided by the LDCs or any other Columbia company will be billed in accordance with section 13(b) of the Act and rules 87, 90 and 91 thereunder.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3417 Filed 2–14–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21739; 812–9840]

UAM Funds, Inc., et al.; Notice of Application

February 9, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: UAM Funds, Inc. (''Fund I''), UAM Funds Trust (''Fund II''), and

any future investment company for which any investment adviser named below or any investment adviser controlling, controlled by, or under common control with United Asset Management Corporation (''UAM''), serves as investment adviser and which are in the same ''group of investment companies'' as the UAM Funds as defined in rule 11a–3 under the Act (''Future Funds''); and Acadian Asset Management, Inc., Aldrich, Eastman & Waltch, L.P., Barrow, Hanley, Mewhinney & Strauss, Inc., C.S. McKee & Company, Inc., Cambiar Investors, Inc., Chicago Asset Management Company, Cooke & Bieler, Inc., Dewey Square Investors Corp., Dwight Asset Management Company, Fiduciary Management Associates, Inc., Hanson Investment Management Company, Investment Counselors of Maryland, Inc., Investment Research Company, Murray Johnstone International Ltd., Newbold's Asset Management, Inc., NWQ Investment Management Company, Rice, Hall, James & Associates, Sirach Capital Management, Inc., Spectrum Asset Management, Inc., Sterling Capital Management Company, Thompson, Siegel & Walmsley, Inc., Tom Johnson Investment Management, Inc. and any investment adviser which is controlling, controlled by, or under common control with UAM that, in the future, serves as an investment adviser to the UAM Funds or a Future Fund (the ''Investment Advisers'').

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) of the Act that would grant an exemption from section 12(d)(1)(A)(ii), under sections 6(c) and 17(b) that would grant an exemption from section 17(a) and under rule 17d–1 to permit certain transactions in accordance with section 17(d) of the Act and rule 17d–1.

SUMMARY OF APPLICATION: Applicants seek an order that would permit certain money market funds to sell their shares to affiliated investment companies.

FILING DATES: The application was filed on November 13, 1995, and amended on January 18, 1996.

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 March 5, 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 may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, One International Place, 44th Floor, Boston, MA 02110.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, 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. Fund I and Fund II are open-end management investment companies. Fund I currently offer 39 series, one of which is a money market fund subject to the requirements of the rule 2a–7 under the Act, and Fund II offers 10 series, none of which are money market funds.[1] Existing and future series of Fund I and Fund II and the Future Funds are collectively referred to as the ''Portfolios.'' Portfolios that hold themselves out as money market funds are collectively referred to as the ''Money Market Portfolios.''

2. Acadian Asset Management, Inc., Aldrich, Eastman & Waltch, L.P., Barrow, Hanley, Mewhinney & Strauss, Inc., C.S. McKee & Company, Inc., Cambiar Investors, Inc., Chicago Asset Management Company, Cooke & Bieler, Inc., Dewey Square Investors Corp., Dwight Asset Management Company, Fiduciary Management Associates, Inc., Hanson Investment Management Company, Investment Counselors of Maryland, Inc., Investment Research Company, Murray Johnstone International LTD., Newbold's Asset Management, Inc., NWQ Investment Management Company, Rice, Hall, James & Associates, Sirach Capital Management, Inc., Spectrum Asset Management, Inc., Sterling Capital Management Company, Thompson, Siegel & Walmsley, Inc., Tom Johnson Investment Management, Inc. are the investment advisers for the Portfolios. The current Investment Advisers, except Aldrich, Eastman & Waltch, L.P., are wholly-owned subsidiaries of UAM, which is a holding company incorporated in Delaware for the purpose of acquiring and owning firms engaged primarily in institutional investment management. UAM is the sole limited partner of Aldrich, Eastman & Waltch, L.P. UAM Distributors, Inc. (the ''Distributor'') serves as the distributor for the Portfolios, and is a wholly-owned subsidiary of UAM.[2] Chase Global Fund Services Company (''Chase Global'') is the administrator for the Portfolios[3] and Morgan Guaranty Trust Company of New York serves as custodian to the Portfolios.

3. The Money Market Portfolios seek current income, liquidity, and capital preservation by investing in short-term money market instruments issued or guaranteed by financial institutions, nonfinancial corporation, and the U.S. government, as well as repurchase agreements secured by government securities. These short-term debt securities are valued at their amortized cost pursuant to the requirements of rule 2a–7. The non-money market Portfolios invest in a variety of debt and/or equity securities in accordance with their respective investment objectives and policies. Each of the Portfolios has, or may be expected to have, uninvested cash in an account with the custodian. This cash either may be invested directly in individual short-term money market instruments or may not be otherwise invested in any portfolio securities.

4. Applicants seek an order that would permit (a) the Portfolios to utilize their cash reserves that have not been invested in portfolio securities to purchase shares of the Money Market Portfolios (each Portfolio, including Money Market Portfolios, purchasing shares of the Money Market Portfolios is an ''Investing Portfolio'') and (b) the Money Market Portfolios to sell or redeem their shares to or from each Investing Portfolio. By investing cash balances in the Money Market Portfolios as proposed, applicants believe that the Investing Portfolios will be able to combine their cash balances and thereby reduce their transaction costs, create more liquidity, enjoy greater returns, and further diversify their holdings.

5. The shareholders of the Investing Portfolios would not be subject to the imposition of double management fees. Applicants would cause each Investment Adviser and its respective affiliates to remit to the respective Investing Portfolios or waive investment advisory fees these service providers earn as a result of the Investing Portfolios' investments in the Money

[1] Fund II formerly was known as Regis Fund II.

[2] The Distributor was formerly known as Regis Retirement Plan Services, Inc.

[3] Chase Global was formerly known as Mutual Funds Service Company.

Market Portfolios to the extent the fees are based upon the Investing Portfolios' assets invested in shares of the Money Market Portfolios. Further, no sales charge, contingent deferred sales charge, rule 12b–1 fee, or other underwriting or distribution fee would be charged by the Money Market Portfolios, or by any underwriter, with respect to the purchase or redemption of their shares. If a Money Market Portfolio offers more than one class of shares, each Investing Portfolio will invest only in the class with the lowest expense ratio at the time of the investment.

6. Some of the Portfolios may have voluntary expense cap arrangements with the Investment Advisers for the purpose of keeping each Portfolio's total expenses below a certain predetermined percentage amount (''Expense Waiver''). To the extent actual expenses of the Portfolios exceed these caps, the Investment Advisers will reimburse a Portfolio in the amount of the excess. Any applicable Expense Waiver will not limit the advisory and administrative fee waiver or remittance discussed above.

7. Applicants also request relief that would permit the Portfolios to invest uninvested cash in a Money Market Portfolio in excess of the percentage limitations set out in section 12(d)(A)(ii) of the Act.[4] Applicants propose that each Portfolio be permitted to invest in shares of a single Money Market Portfolio so long as each Portfolio's aggregate investment in such Money Market Portfolio does not exceed the greater of 5% of such Portfolio's total net assets or $2.5 million. Applicants will comply with all other provisions of section 12(d)(1).

Applicants' Legal Analysis

1. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. Section 12(d)(1), as noted above, sets certain limits on an investment company's ability to invest in the shares of another investment company. 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.

3. Sections 17(a) (1) and (2) of the Act make it unlawful for any affiliated person of a registered investment company, or any affiliated person of such affiliated person, acting as principal, to sell or purchase any security to or from such investment company. Because each Portfolio may be deemed to be under common control with the other Portfolios, it may be an ''affiliated person,'' as defined in section 2(a)(3) of the Act, of the other Portfolios. Accordingly, the sale of shares of the Money Market Portfolios to the Investing Portfolios, and the redemption of such shares from the Investing Portfolios, would be prohibited under section 17(a).

4. Section 17(b) of the Act authorizes the Commission 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 registered investment company concerned, and the proposed transaction is consistent with the general policy of the Act. Section 17(b) could be interpreted to exempt only a single transaction. However, the Commission, under section 6(c) of the Act, may exempt a series of transactions that otherwise would prohibited by section 17(a).

5. The Investing Portfolios will retain their ability to invest their cash balances directly into money market instruments if they believe they can obtain a higher return. Each of the Money Market Portfolios has the right to discontinue selling shares to any of the Investing Portfolios if its board of trustees determines that such sales would adversely affect the portfolio management and operations of such Money Market Portfolio. In addition, the investment policies of each Portfolio permit the Portfolios to purchase money market instruments, and the registration statements to not prohibit the Portfolios from purchasing shares of other investment companies. The investment policies and registration statements of the Portfolios will be revised, as required, to state that the Portfolios may purchase shares of other investment companies. Therefore, applicants believe that the proposal satisfies the standards for relief as set forth in sections 6(c) and 17(b).

6. Section 17(d) of the Act and rule 17d–1 thereunder 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 Portfolio, by purchasing shares of the Money Market Portfolios; each Investment Adviser of an Investing Portfolio, by managing the assets of the Investing Portfolios invested in the Money Market Portfolios; and each of the Money Market Portfolios, by selling shares to the Investing Portfolios, could be participants in a joint enterprise or other joint arrangement within the meaning of section 17(d)(1) and rule 17d–1.

7. Rule 17d–1 permits the Commission to approve a proposed joint transaction covered by the terms of section 17(d). In determining whether to approve a transaction, the Commission is to consider whether the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation of the investment companies is on a basis different from or less advantageous than that of the other participants. Applicants believe that the proposal satisfies these standards.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. Shares of the Money Market Portfolios sold to and redeemed from the Investing Portfolios 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 and their affiliated persons to remit to the respective Investing Portfolio or waive the investment advisory and other fees such service provider earns as a result of the Investing Portfolio's investments in the Market Portfolios to the extent such fees are based upon the Investing Portfolio's assets invested in shares of the Money Market Portfolios. Any of these fees remitted or waived will not be subject to recoupment by the Investment Advisers or their affiliated persons from any Portfolio 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 Portfolio (gross fees minus Expense Waiver) will be calculated

[4] Section 12(d)(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.

without reference to the amounts waived or remitted pursuant to condition 2. Adjusted fees then will be reduced by the amount waived pursuant to condition 2. If the amount waived pursuant to condition 2 exceeds adjusted fees, the Investment Advisers also will reimburse the Investing Portfolio in an amount equal to such excess.

4. Each of the Investing Portfolios will invest uninvested cash in, and hold shares of, a Money Market Portfolio only to the extent that the Investing Portfolio's aggregate investment in such Money Market Portfolio does not exceed the greater of 5% of the Investing Portfolio's total net assets or $2.5 million.

5. Each Investing Portfolio will vote its shares of each Money Market Portfolio in the same proportion as the votes of all other shareholders in such Money Market Portfolios entitled to vote on the matter.

6. As shareholders of a Money Market Portfolio, the Investing Portfolios will receive dividends and bear their proportionate shares of expenses on the same basis as other shareholders of such Money Market Portfolios. A separate account will be established in the shareholder records of each of the Money Market Portfolios for each of the Investing Portfolios.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3358 Filed 2–14–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36821; File No. SR-Amex–96–06]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc., Relating to a Pilot Program for Execution of Odd-Lot Orders

February 8, 1996

Pursuant to Section 19(b)(1) of the Securities and Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 5, 1996, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend for six months its existing pilot program under Amex Rule 205 requiring execution of odd-lot market orders at the prevailing Amex quote with no differential charged.[2]

The text of the proposed rule change is available at the Office of the Secretary, the Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission has approved, on a pilot basis extending to February 8, 1996, amendments to Amex Rule 205 to require execution of odd-lot market orders at the Amex quote with no odd-lot differential charged.[3] The Commission initially approved these odd-lot pricing procedures as a pilot program in January 1989[4] and subsequently extended it eleven times.[5]

Under the pilot procedures, odd-lot market orders with no qualifying notations are executed at the Amex quotation at the time the order is represented in the market, either by being received at the trading post or through the Exchange's Post Execution Reporting (''PER'') system.[6] Enhancements to the PER system have been implemented to provide for the automatic execution of odd-lot market orders entered through PER. For the purposes of the pilot program, limit orders that are immediately executable based on the Amex quote at the time the order is received, at the trading post or through PER, are executed in the same manner as odd-lot market orders.

In approving prior extensions to the Exchange's odd-lot pilot program, the Commission has expressed interest in the feasibility of the Exchange utilizing the Intermarket Trading System (''ITS'') best bid or offer, rather than the Amex bid or offer, for purposes of the Exchange's odd-lot pricing system. In its most recent request for an extension of the pilot program, the Exchange stated that it had determined to proceed with a systems modification to provide for execution of odd-lot market orders at the ITS best bid or offer.[7]

In September 1995, the Commission approved amendments to Amex Rule 205 to accommodate the prospective modifications to the Exchange's odd-lot pricing system.[8] As amended, Amex Rule 205 would provide that odd-lot market orders to buy (sell) are filled at the ''adjusted ITS offer'' (''adjusted ITS bid''), which would be defined in Amex Rule 205, Commentary .04, as the lowest offer (highest bid) disseminated by the Amex or by another ITS participant market.[9] Where quotation information is

---

[1] 15 U.S.C. 78s(b)(1).

[2] The Exchange seeks accelerated approval of the proposed rule change in order to allow the pilot program, which expires on February 8, 1996, to continue without interruption.

[3] Securities Exchange Act Release No. 35344 (Feb. 8, 1995), 60 FR 8430 (approving File No. SR–Amex–95–03).

[4] Securities Exchange Act Release No. 26445 (Jan. 10, 1989), 54 FR 2248 (approving File No. SR–Amex–88–23).

[5] See Securities Exchange Act Release Nos. 35344 (Feb. 8, 1995), 60 FR 8430 (approving File No. SR–Amex–95–03); 34949 (Nov. 8, 1994), 59 FR 58863 (approving File No. SR–Amex–94–47); 34496 (Aug. 8, 1994), 59 FR 41807 (approving File No. SR–Amex–94–28); 33584 (Feb. 7, 1994), 59 FR 6983 (approving File No. SR–Amex–93–45); 32726 (Aug. 9, 1993), 58 FR 43394 (approving File No. SR–Amex–93–24); 31828 (Feb. 5, 1993), 58 FR 8434 (approving File No. SR–Amex–93–06); 30305 (Jan. 20, 1992), 57 FR 4653 (approving File No. SR–Amex–92–04); 29922 (Nov. 8, 1991), 56 FR 58409 (approving File No. SR–Amex–91–30); 29186 (May 19, 1991), 56 FR 22488 (approving File No. SR–Amex–91–09); 28758 (Jan. 10, 1991), 56 FR 1656 (approving File No. SR–Amex–90–39); 27590 (Jan. 5, 1990), 55 FR 1123 (approving File No. SR–Amex–89–31).

[6] The PER system provides member firms with the means to electronically transmit equity orders, up to volume limits specified by the Exchange, directly to the specialist's post on the trading floor of the Exchange. Securities Exchange Act Release No. 34869 (Oct. 20, 1994), 59 FR 54016.

[7] See Securities Exchange Act Release No. 35344 (Feb. 8, 1995), 60 FR 8430 (approving File No. SR–Amex–95–03).

[8] See Securities Exchange Act Release No. 36181 (Sept. 1, 1995), 60 FR 47194 (approving File No. SR–Amex–95–24).

[9] In order to protect against the inclusion of incorrect or stale quotations when determining the highest bid and lowest offer, Amex Rule 205, Commentary .04, contains seven criteria that must be met before a quotation in a stock from another ITS market center will be considered. If the ITS quotation fails to meet one of the specified criteria, the best bid or offer disseminated by the Exchange will be used. See Securities Exchange Act Release

not available (*e.g.*, when quotation collection or dissemination facilities are inoperable) odd-lot market orders would be executed at the prevailing Amex bid or offer, or at a price deemed appropriate under prevailing market conditions. These procedures also will apply to odd-lot limit orders that are immediately executable based on the Amex quote at the time the order is received at the trading post or through PER.

As the exchange noted in SR–Amex–95–24, it will implement these amendments upon completion of the necessary systems enhancements by the Exchange and the Securities Information Automation Corporation (''SIAC''). Upon implementation of the amended rule, the Exchange will notify the Commission, as well as Exchange members and member organizations. In order to provide the additional time necessary to implement the systems enhancements, the Exchange proposes to extend the existing pilot program procedures under Amex Rule 205 for an additional six-month period.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) [10] of the Act in general and furthers the objectives of Section 6(b)(5) [11] and Section 11A(a)(1) [12] in particular in that it is designed to facilitate the economically efficient execution of odd-lot transactions and to improve the execution of customer's orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. 20549. Also, copies of such filing will be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–96–06 and should be submitted by March 7, 1996.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Commission finds that the Exchange's proposal to extend its pilot program concerning the execution of odd-lot orders to August 8, 1996, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission believes the proposal is consistent with Section 6(b)(5) and Section 11A(a)(1) of the Act [13] because the Exchange's proposed pricing procedures are designed to facilitate transactions in odd-lot orders, to help ensure the economically efficient execution of these transactions, and, in general, to protect investors and the public interest. The Commission further believes the revised procedures should provide investors with more timely executions of their odd-lot orders and should produce execution prices that more accurately reflect market conditions than would otherwise be the case under the pre-pilot pricing procedures.[14]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the Federal Register. This will permit the pilot program to continue on an uninterrupted basis. In addition, the procedures the Exchange proposed to continue using are identical to the procedures that were published previously in the Federal Register for the full comment period and were approved by the Commission.[15]

Because some odd-lot orders may not be receiving the best available price under the current pilot pricing procedures, the Commission is concerned that the Exchange was unable to implement the new odd-lot pricing procedures that provide for odd-lot market orders to be filled at the ITS best bid or offer as planned.[16] The Commission encourages the Exchange to complete the systems modifications upon which implementation of the new odd-lot pricing procedures depend as soon as possible. To ensure that the Commission is adequately informed of the Exchange's progress towards such completion, the Commission requests that the Exchange, beginning May 1, 1996, and every month thereafter until the systems modifications are completed, report to the Commission on the progress of this project. Finally upon completion of the systems modifications, the Exchange should give advance notice to the Commission of the date when the new odd-lot pricing procedures are to be implemented.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (SR–Amex–96–06) is approved on a pilot basis for a six-month period ending on August 8, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3420 Filed 2–14–95; 8:45 am]

BILLING CODE 8010–01–M

No. 36181 (Sept. 1, 1995), 60 FR 47194 (approving File No. SR–Amex–95–24).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78k–1(a)(1).

[13] 15 U.S.C. 78f(b)(5) and 78K–1(a)(1).

[14] Prior to the 1989 pilot program, odd-lot market orders were routed to a specialist and held in accumulation in the PER system or by the specialist until a round-lot execution in that security took place on the Exchange. Subsequent to the round-lot execution, the off-lot order received the same price as the last Exchange round-lot transaction, plus or minus and odd-lot dealer differential. See Securities Exchange Act Release No. 26445 (Jan. 10, 1989), 54 FR 2248 (approving File No. SR–Amex–88–23).

[15] See Securities Exchange Act Release No. 35344 (Feb. 8, 1995) 60 FR 8430.

[16] See Securities Exchange Act Release No. 35344 (Feb. 8, 1995), 60 FR 8430 (noting that the Exchange's current pricing formula does not include quotations from other markets).

[17] 15 U.S.C. 78s(b)(2).

[18] 17 C.F.R. 200.30–3(a)(12).

[Release No. 34–36825; International Series Release No. 930; File No. SR–NASD–96–04]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Use of New York Stock Exchange Modified General Securities Representative Examinations (Series 37 and 38) To Qualify as a General Securities Representative

February 9, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 31, 1996, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD has filed a proposed change to Schedule C of the By-Laws that would allow persons in good standing with the Canadian securities regulators to qualify as general securities representatives (Series 7) by successfully completing one of two modified general securities representative examinations (Series 37 and 38) which have been developed by the New York Stock Exchange. The following is the full text of the proposed rule change to Schedule C. New language is italicized.

Schedule C of the NASD By-Laws

(2) Categories of Representative Registration

(a) General Securities Representative

(ii)

(g) A person presently registered and in good standing as a representative with any Canadian stock exchange, or with a securities regulator of any Canadian Province or Territory, or with the Investment Dealers Association of Canada, and who has completed the training course of the Canadian Securities Institute, and who has passed the Canada Module of the General Securities Registered Representative Examination, shall be qualified to be registered as a General Securities Representative except that such person's activities may not involve the solicitation, purchase and/or sale of municipal securities as defined in Section 3(a)(29) of the Act.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item V below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

It is the NASD's responsibility under Section 15A(g)(3) of the Act to prescribe standards of training, experience and competence for persons associated with NASD members. Pursuant to this statutory obligation, the NASD develops examinations, as well as administers examinations developed by other self-regulatory organizations. These examinations are designed to establish that persons associated with NASD members have attained specified levels of competence and knowledge.

Section 15(b)(8) of the Act requires most members of the New York Stock Exchange (''NYSE'') to also be members of the NASD, resulting in a dual registration requirement with both the NYSE and the NASD for those individuals who perform certain functions with a NYSE member. The proposed amendment to Schedule C is intended to coordinate with the recent SEC approval of a NYSE rule which permits a qualified registered representative in good standing with the Canadian securities regulators to then become qualified as a general securities representative (Series 7) by passing one of the two modified versions (Series 37 or Series 38) of the general securities representative examination developed by the NYSE. At the present time the NASD has no rule which allows for NASD registration of a person who has passed the Series 37 or Series 38 version of the modified general securities representative examination.

The Series 37 version is for Canadian registrants who have successfully completed the basic core module of the Canadian Securities Institute program. The Series 38 version is for Canadian registrants who, in addition to having successfully completed the basic core module of the Canadian Securities Institute program, have also successfully completed the Canadian options and futures program. Both the Series 37 and Series 38 share topics and test questions with the parent Series 7 program but cover only subject matter that is not covered, or covered in sufficient detail, on the Canadian qualification examinations. The Series 37 has 90 questions and is 150 minutes in duration, while the Series 38, an abbreviated version of the Series 37, has only 45 questions and is 75 minutes in duration. Forty-five questions pertaining to options from the Series 37 were omitted from the Series 38.

The NASD believes that the proposed rule change is consistent with the provisions of Sections 15A(b)(6) and 15A(g)(3) of the Act in that the NASD is required to prescribe standards of training, experience and competence for persons associated with NASD members. Pursuant to this statutory obligation, the NASD develops and administers examinations to establish that persons associated with NASD members have attained specified levels of competence and knowledge.

(B) Self-Regulation Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The NASD requests that the Commission find good cause for accelerated effectiveness pursuant to Section 19(b)(2) of the Act. Approval of the proposed rule change prior to the thirtieth day after publication in the Federal Register, will permit both dually registered NYSE/NASD members and NASD-only members to benefit from the recently approved NYSE modified general securities representatives examination.

IV. Commission Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD, in particular, the requirements of Section 15A(g)(3).

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of the filing thereof in that accelerated approval will allow dual NYSE/NASD and NASD-only members who were registered in good-standing with the Canadian securities regulators to utilize the recently approved versions of the modified general securities representative examination. The NASD's proposal is comparable to the NYSE's proposal (SR–NYSE–95–29) that was published in the Federal Register on October 23, 1995, and drew no comment. The Commission approved the NYSE's proposal on December 21, 1995. Accordingly, the Commission finds good cause for approving the NASD's analogous proposal prior to the thirtieth day after publication of notice of filing thereof.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by March 7, 1996.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[1] that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3419 Filed 2–14–96; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(2).

[2] 17 CFR 200.30–3(a)(12).

[Release No. 34–36823; File No. SR–OCC–95–13]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving a Proposed Rule Change Relating to Adjustments of Options for Ordinary Stock Dividends

February 8, 1996.

On September 19, 1995, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–OCC–95–13) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] On October 16, 1995, OCC filed an amendment to the proposed rule change.[2] Notice of the proposal was published in the Federal Register on December 13, 1995.[3] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description of the Proposal

Article VI, Section 11 of OCC's by-laws sets forth general rules regarding adjustments that may be made by the standardized terms of options when certain events occur.[4] Each specific adjustment is determined by the vote of an OCC adjustment panel comprised of two designated representatives of each exchange that lists such option and the designee of OCC's chairman who votes only in the case of a tie.[5]

OCC is amending Article VI, Section 11 of its by-laws to provide for a general rule that no adjustments to options will be made as a result of ordinary distributions made on the underlying security. Article VI, Section 11(d) previously contained a general rule that required the adjustment of equity options whenever there was a stock dividend, stock distribution, or stock split.[6] Under the amendment, no adjustments will be made as a result of an ordinary stock dividend. Under the Interpretations and Policies to Article VI, Section 11 of OCC's by-laws, stock dividends and distributions that are paid on a quarterly basis by the issuer of the underlying security that do not exceed ten percent of the market value of the underlying security will be deemed to be ordinary stock dividends or distributions. The rule change will not affect the current adjustment practice with regard to ordinary cash dividends.[7] Because the rule change only applies to recurrent stock dividends, OCC anticipates that only in a small number of cases will adjustments be made for stock dividends or distributions. OCC believes that formalizing a policy of not adjusting for recurrent stock dividends will eliminate potential problems associated with the creation of an undesirable proliferation of options series and will eliminate the need to convene adjustment panels to make discretionary determinations for such dividends on a case-by-case basis.

Finally, pursuant to a request from Commission staff, OCC is deleting language from Article VI, Section 11 that provides for Commission review of the determinations made by any OCC adjustment panel.

II. Discussion

Section 17A(b)(3)(F) of the Act[8] requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and generally, to protect investors and the public interest. The Commission believes the proposed rule change is consistent with OCC's obligations under

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Letter from Jacqueline R. Luthringshausen, OCC, to Jerry W. Carpenter, Esq., Division of Market Regulation, Commission (October 11, 1995).

[3] Securities Exchange Act Release No. 36558 (December 6, 1995), 60 FR 64087).

[4] The adjustment is made by proportionately changing the strike price, the unit of trading, or both.

[5] Article VI, Section 11(j) grants authority to the adjustment panel to make such exceptions to any of the general adjustment rules as it deems to be appropriate. Recently, two adjustment panels exercised their exception authority and determined not to adjust outstanding option contracts to reflect a stock dividend. In both instances, the issuer evidenced a pattern of declaring a small stock dividend in conjunction with a quarterly cash dividend. In determining not to adjust the options, each adjustment panel considered the provision in the Options Disclosure Document that states a stock dividend may be treated as an ordinary cash dividend by an adjustment panel if the issuer of the underlying security announces or exhibits a policy of declaring regular stock dividends that do not individually exceed 10% of the market value of the underlying security. The adjustment panels involved in making these adjustments requested that OCC amend its by-laws to provide explicitly for a general rule that no adjustment will be made to reflect ordinary stock dividends.

[6] In contrast, Section 11(c) states that it shall be the general rule that there will be no adjustment for ordinary cash dividends. This is because ordinary cash dividends generally are paid on a quarterly basis and adjusting outstanding options each time a dividend is paid could create a massive proliferation of option series that would dilute market liquidity and would overtax price reporting and other systems. Section 11(e) is being amended to include ordinary stock dividends or distributions in the coverage of the general rule.

[7] Interpretations and Policies .01 to Article VI, Section 11 of OCC's by-laws provides that cash dividends that do not exceed 10 percent of the market value of the market value of the underlying security generally will be deemed ordinary cash dividends. Ordinary cash dividends are not subject to adjustment.

[8] 15 U.S.C. 78q–1(b)(3)(F) (1988).

the Act because it should add certainty as to when and how adjustments will be made to option contracts due to an issuer's distribution of stock dividends. Removal of the requirement in OCC's rules providing for Commission review of OCC adjustment panel decisions also should add certainty and predictability to the options market. Furthermore, administrative inefficiencies should be reduced because adjustment panels will be convened only when there is an extraordinary stock dividend rather than each time issuers distribute an ordinary stock dividend.

As a self-regulatory organization, OCC has been granted significant authority under the Act. The use of an adjustment panel to administer the adjustment of standardized options is an example of the broad authority Congress granted to self-regulatory organizations. However, it is expected that OCC will notify the Commission of any adjustment panel's decision (i) to adjust standardized option contracts for stock or cash dividends that otherwise would be deemed ordinary under OCC's rules, interpretations, or policies or (ii) not to adjust standardized option contracts for stock or cash dividends that otherwise would not be deemed ordinary under OCC's rules, interpretations, or policies.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–95–13) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3418 Filed 2–14–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36822; Filed No. SR–Phlx–95–88]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment Nos. 1 and 2 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Trading Rotations, Halts or Reopenings

February 8, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 12b–4 thereunder,[2] notice is hereby given that on December 26, 1995, the (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange submitted Amendment No. 1 to the Commission on January 29, 1996.[3] The Exchange submitted Amendment No. 2 to the Commission on February 8, 1996.[4] The Commission is approving this proposal, as amended, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the terms of Substance of the Proposed Rule Change

The Exchange proposed to amend Floor Procedure Advice (''Advice'') G–2, Trading Rotations, Halts or Reopenings, to add reference to Super Cap Index (''Index'') options to correspond to recent amendments to Rule 1047A. Specifically, paragraph (a)(i) is proposed to be amended to add Super Cap Index options, providing that the opening rotation for Super Cap Index options may be held after underlying securities representing 75% of the current index value of all securities underlying the Index have opened for trading on the primary market, and at least 3 stocks underlying the Index are open for trading on the primary market.[5] The second paragraph will continue to require that an opening rotation be held as soon as practicable, respecting both industry index and Super Cap Index options, once underlying securities representing 90% of the current index value of all the securities underlying the index have opened for trading on the primary market.

The Exchange also proposes to amend provisions regarding reopenings in both Rule 1047A and Floor Procedure Advice G–2 by incorporating the requirements for a Super Cap Index opening rotation. Thus, the underlying securities representing 75% of the current Index value and three stocks must be open for trading on the primary market before Super Cap Index options may reopen after a trading halt.[6]

The Exchange also proposes to correct the recently approved text to Rule 1047A respecting Super Cap Index options opening rotations to state that 90% of the ''current index value'' of all the securities underlying the index must have opened for trading on the primary market in order for an opening to be required. Currently, the text incorrectly refers to 90% of the securities. The entire sentence referring to Super Cap Index options is proposed to be deleted, thus deleting the incorrect text, and replacing it with new language pertaining to the new ''75% of the current Index value, and 3 underlying stocks'' requirements. The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In this filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange proposes to further amend Phlx Rule 1047A and Floor Procedure Advice G–2 to state that in addition to the requirement that 75% of the current index value must be open for trading on the primary market before an opening rotation in Super Cap Index options can commence, at least 3 stocks underlying the Super Cap Index must also be open for trading on the primary market. See Letter from Edith Hallahan, Special Counsel, Phlx, to Michael Walinskas, Branch Chief, Office of Market Supervision (''OMS''), Division of Market Regulation (''Market Regulation''), Commission, dated January 29, 1996 (''amendment No. 1'').

[4] The Exchange proposes to further amend both Rule 1047A and Floor Procedure Advice G–2 by incorporating the opening rotation requirements for Super Cap Index options into Exchange Requirements regarding re-openings. See Letter from Gerald O'Connell, First Vice President, Market Regulation and Trading Operations, Phlx, to Michael Walinskas, Branch Chief, OMS, Market Regulation, Commission, dated February 8, 1996 (''amendment No. 2'').

[5] See Amendment no. 1, *supra* note 3.

[6] See Amendment No. 2, *supra* note 4.

(A) Self-Regulatory Organization's Statement of the Propose of, and Statutory Basis for, the Proposed Rule Change

The Commission recently approved the listing and trading of Phlx Super Cap Index options, noting that the Index is not classified as either an ''industry'' or a ''market'' index.[7] Thus, the Exchange amended various rules, including Rule 1047A, respecting trading rotations, halts and reopenings. Currently, Rule 1047A, and the corresponding Advice G–2, provide that the opening rotation for industry index options may be held after underlying securities representing 50% of the current index value of all the securities underlying the index have opened for trading on the primary market. Further, once underlying securities representing 90% of the current index value of all the securities underlying the index have opened for trading on the primary market, the opening rotation shall be held as soon as practicable. With respect to a market index, the opening rotation shall be held at or as soon as practicable after the opening of business on the Exchange.

Rule 1047A was amended to state that the opening rotation for Super Cap Index options may be held only after underlying securities representing 74% of the current index value of all securities underlying the index have opened for trading on the primary market.[8] Moreover, an opening rotation is required to be held as soon as practicable, respecting both industry index and Super Cap Index options, once underlying securities representing 90% of the current index value of all the securities underlying the index have opened for trading on the primary market.

The Exchange is proposing at this time to incorporate these changes into Advice G–2. At the time Rule 1047A was being amended, the corresponding change to Advice G–2 was inadvertently omitted.[9] The Exchange is also proposing to correct a portion of Rule 1047A, which states that once 90% of the securities of the Super Cap Index are open for trading, the opening rotation for the options must be held. The corrected text would require that 90% of the current index value of the Index must be open.

The Exchange also proposes to amend provisions regarding reopenings in both Rule 1047A and Floor Procedure Advice G–2 by incorporating the requirements for a Super Cap Index opening rotation. Thus, the underlying securities representing 75% of the current Index value and three stocks must be open for trading on the primary market before Super Cap Index options may reopen after a trading halt.[10]

The Exchange notes that the remainder of Rule 1047A continues to apply to Super Cap Index options. For instance, modified rotations/SORT procedures are governed by paragraph (b), halts by paragraph (c), and closing rotations are not required for expiring options, pursuant to paragraph (e).

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act in order to promptly correct both Rule 1047A and Advice G–2 respecting Super Cap Index options. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular the requirements of section 6(b) (5) thereunder. Specifically, the Commission believes that the proposed rule change is appropriate because it makes Floor Procedure Advice G–2 consistent with recent amendments to Phlx Rule 1047A. The Commission notes further that the proposed rule change ensures that in addition to requiring that at least 75% of the current Super Cap Index value is open for trading on the primary market, the Exchange will require that at least 3 of the 5 components will be open for trading. Given the small number of Index components, the Commission believes that this requirement is important to ensure that trading in the Index options only commences, or reopens following a trading halt, if at least a majority of the Index components are also open for trading.

The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of the notice thereof in the Federal Register. For reasons discussed above, the Commission notes that the proposed rule change does not raise any new or unique regulatory issues and is consistent with changes recently approved by the Commission for the Super Cap Index in Phlx Rule 1047A. The addition of the minimum 3 stock requirement also will strengthen the ''75% of current index value'' requirement by ensuring that trading in the Super Cap Index only commences, or reopens following a trading halt, when a sufficient number of component stocks have opened, or reopened for trading. Accordingly, the Commission believes that it is consistent with Sections 6(b) (5) and 19(b)(2) of the Act to approve this proposed rule change on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for

[7] See Securities Exchange Act Release No. 36369 (October 13, 1995), 60 FR 54274 (October 20, 1995) (SR–Phlx–95–22) (''Super Cap Index Options Approval Order'').

[8] In addition to the 75% requirement for Super Cap Index options, the Exchange will also require that at least 3 stocks underlying the Super Cap Index must also be open for trading on the primary market before the opening rotation may commence. See Amendment No. 1, *supra* note 3.

[9] See Super Cap Index Options Approval Order, *supra* note 7.

[10] See Amendment No. 2, *supra* note 4.

inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–95–88 and should be submitted by March 7, 1996.

It is therefore ordered, pursuant to Section 19(b) (2) of Act,[11] that the proposed rule change (File No. SR–Phlx–95–88), as amended, is hereby approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3360 Filed 2–14–96; 8:45 am]

BILLING CODE 8010–01–M

[11] 15 U.S.C. 78s(b) (2).

[12] 17 CFR 200.30–3(a) (12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Office of International Aviation; Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and Request for Comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended) the notice announces the Department of Transportation's (DOT) intentions to request an extension for and revision to a currently approved information collection.

DATES: Comments on this notice must be received by no later than April 15, 1996.

ADDRESSES: Four (4) copies of any comments should be sent to the Pricing and Multilateral Affairs Division (X–43), Office of International Aviation, Office of the Secretary, U.S. Department of Transportation, 400 7th Street SW., Washington, DC 20590–0002.

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

SUPPLEMENTARY INFORMATION:

Title: Tariffs.

OMB Control Number: 2106–0009.

Expiration Date: April 30, 1996.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Chapter 415 of Title 49 of the United States Code requires that every air carrier and foreign air carrier file with the Department of Transportation (DOT), publish and keep open (*i.e.* post) for public inspection, tariffs showing all ''foreign'' or international fares, rates, and related charges for air transportation between points served by it, and points served by it and any other air carrier or foreign air carrier when through fares, rates and related charges have been established; and showing, to the extent required by DOT regulations, all classifications, rules, regulations, practices, and services in connection with such air transportation. Once tariffs are filed and approved by DOT, they become a legally binding contract of carriage between carriers and users of foreign air transportation.

Part 221 of the Department's Economic Regulations (14 CFR Part 221) sets forth specific technical and substantive requirements governing the filing of tariff material with the DOT Office of International Aviation's Pricing and Multilateral Affairs Division. A carrier initiates a tariff filing whenever it wants to amend an existing tariff for commercial or competitive reasons or when it desires to file a new one. Tariffs filed pursuant to Part 221 are used by carriers, computer reservations systems, travel agents, DOT, other government agencies and the general public to determine the prices, rules and related charges for international passenger air transportation. In addition, DOT needs U.S. and foreign air carrier passenger tariff information to monitor international air commerce, carry out carrier route selections and conduct international negotiations.

Respondents: The vast majority of the air carriers filing international tariffs are large operators with revenues in excess of several million dollars each year. Small air carriers operating aircraft with 60 seats or less and 18,000 pounds payload or less that offer on-demand air-taxi service are not required to file such tariffs.

Estimated Number of Respondents: 230.

Average Annual Burden Per Respondent: 5,700 hours.

Estimated Total Annual Burden on Respondents: 1,300,000 hours.

This information collection is available for inspection at the Pricing and Multilateral Affairs Division (X–43), Office of International Aviation, DOT. Copies of 14 CFR Part 221 can be obtained from Mr. Keith A. Shangraw at the address and telephone number shown above.

Comments Are Invited On: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Issued in Washington, D.C. on February 12, 1996.

Jeffrey B. Gaynes,

Assistant Director, Regulatory Affairs, Office of International Aviation.

[FR Doc. 96–3485 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–62–P

Notice of Meeting on Cargo Liability

The Department of Transportation (DOT) is required by the Interstate Commerce Commission Termination Act of 1995, Public Law 104–88, Sec. 103, to conduct a study to determine whether any modifications or reforms should be made to the loss and damage provisions relating to motor carriage, including those relating to limitations of liability. The statute requires the Secretary, at a minimum, to consider the following factors:

a. Efficient delivery of transportation services
b. International harmony
c. Intermodal harmony
d. The public interest; and
e. The interests of carriers and shippers

The study is to be completed in 12 months and be submitted to Congress, together with any recommendations of the Secretary, including legislative recommendations for implementing modifications or reforms identified by the Secretary as being appropriate.

The public is invited to a public meeting at DOT headquarters in order to comment on and contribute to the study. To do an adequate study the Department will need information about the volume and value of cargo being transported and about shippers' and carriers' loss and damage costs. Those who cannot attend are invited to send written comments to the contact person listed below.

Time and Date: Friday, February 23, 1996 at 9:30 a.m.

Place: 400 7th Street S.W., Washington, DC 20590, Room 8236.

Contact person for more information: Paul B. Larsen, Office of the General Counsel, DOT, Room 10102, 400 7th St., SW, Washington, DC 20590, (202) 366–9161.

Dated: February 8, 1996.

Joseph F. Canny,

Deputy Assistant Secretary of Transportation for Transportation Policy.

[FR Doc. 96–3386 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–62–M

Office of the Secretary

Maritime Administration

[Docket No. OST–96–1066]

Request for Public Comment on Competition in the Noncontiguous Domestic Maritime Trades

AGENCY: Office of the Secretary, Maritime Administration, United States Department of Transportation.

ACTION: Notification of Open Docket for Public Comment.

SUMMARY: Section 407 of the ''ICC Termination Act of 1995'' calls for the Department of Transportation to conduct a study of competition in the noncontiguous domestic maritime trades to Hawaii, Alaska, Puerto Rico, and Guam. The Department seeks information on market conditions in each of these trades, including the composition of traffic, the extent of entry and exit, rates charged, the importance of liner service to the economic well-being of local economies, and any other institutional or economic factor that could influence competition in these markets.

Information is requested on the following specific issues: (1) carrier competition in both the regulated and unregulated portions of each of the trades, (2) the rate structure that exists in each trade, (3) the impact of tariff filing on marine carrier pricing, (4) the extent of parallel pricing, and (5) the impact on domestic cargo prices on foreign cargo services. The Department is also soliciting comments as to whether additional protections are needed to protect shippers from the abuse of market power and the extent to which there needs to be continued reliance on tariff filing and rate regulation to further the transportation policy of meeting the Nation's commercial and defense waterborne needs.

DATES: Comments should be received by Monday, April 15, 1996. Comments that are received after that date will be considered to the extent possible.

ADDRESSES: To facilitate our review, we would appreciate having four copies of comments sent to: Docket Clerk, Docket No. OST–96–1066, Room PL–401, United States Department of Transportation, 400 7th Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Laurence T. Phillips or Thomas E. Marchessault, P–37, Office of the Secretary, U.S. Department of Transportation, Washington DC 20590. Phone: (202) 366–5412; fax: (202) 366–3393; John Pisani, MAR 830, Office of Ports and Domestic Shipping, Maritime Administration, U.S. Department of Transportation, Washington DC. Phone: (202) 366–5123.

Joseph F. Canny,

Deputy Assistant Secretary for Transportation Policy.

[FR Doc. 96–3387 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Westover Metropolitan Airport/Air Reserve Base, Chicopee Falls, Massachusetts; FAA Approval of Noise Compatibility Program

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Westover Metropolitan Development Corporation under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) and 14 CFR Part 150. These findings are made in recognition of the description of Federal and non-federal responsibilities in Senate Report No. 96–52 (1980). On August 11, 1995, the FAA determined that the noise exposure maps submitted by the Westover Metropolitan Airport Corporation under Part 150 were in compliance with applicable requirements. On January 26, 1996, the Associate Administrator approved the Westover Metropolitan Airport/Air Reserve Base noise compatibility program. Out of the 13 proposed program elements, 12 were approved and one was partially approved and partially disapproved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Westover Metropolitan Airport/Air Reserve Base noise compatibility program is January 26, 1996.

FOR FURTHER INFORMATION CONTACT: John C. Silva, Federal Aviation Administration, New England Region, Airports Division, 12 New England Executive Park, Burlington, Massachusetts 01803, Telephone (617) 238–7602.

Documents reflecting this FAA action may be obtained from the same individual.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Westover Metropolitan Airport/Air Reserve Base noise compatibility program, effective January 26, 1996.

Under Section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter the Act), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible land uses within the area covered by the noise exposure maps.

The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulation (FAR), Part 150 is a local program, not a federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act, and is limited to the following determinations:

(a) the noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

(b) program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;

(c) program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the federal government; and

(d) program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable

airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator as prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, Section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action.

Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA under the Airport and Airway Improvement Act of 1982. Where Federal funding is sought, requests for project grants must be submitted to the FAA Regional Office in Burlington, Massachusetts.

The Westover Metropolitan Development Corporation submitted to the FAA, on January 26, 1994, noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from October 1990 to June 1995. The Westover Metropolitan Airport/Air Reserve Base noise exposure maps were determined by FAA to be in compliance with applicable requirements on July 31, 1995. Notice of this determination was published in the **FEDERAL REGISTER** on August 11, 1995.

The Westover study contains a proposed noise compatibility program comprised of actions designed for implementation by airport management and adjacent jurisdictions from the date of study completion to beyond the year 1998. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in Section 104(b) of the Act. The FAA began its review of the program on July 31, 1995, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such a program within the 180-day period shall be deemed to be an approval of such a program.

The submitted program contained 13 proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the Assistant Administrator effective January 26, 1996.

Approval was granted for 12 specific program elements: preferential runway use, flight track changes, land acquisition, sound insulation, compatible land use zoning, land use airport overlay district, subdivision regulations, a pilot awareness program, a public awareness program, and a computer spread sheet program to monitor noise abatement performance.

One program element was partially approved and partially disapproved: monitoring nightime operations and runway use.

FAA's determinations are set forth in detail in a Record of Approval endorsed by the Associate Administrator on January 26, 1996. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the office of the Westover Metropolitan Development Corporation, 3911 Pendleton Avenue, Chicopee, Massachusetts.

Issued in Burlington, Massachusetts, on February 5, 1996.

Bradley A. Davis,

Acting Manager, Airports Division, New England Region.

[FR Doc. 96–3495 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–13–M

Intent to Prepare an Environmental Impact Statement and To Hold Environmental Safety Area and Other Airport Master Plan Improvements at Bridgeport-Sikorsky Memorial Airport, Stratford, CT

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of public environmental scoping meetings.

SUMMARY: The Federal Aviation Administration (FAA) is issuing notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposal by the City of Bridgeport and the Federal Aviation Administration to construct runway safety area improvements to Runway 06–24, relocate a portion of a public highway, install an approach light system to Runway 06, extend Runway 06–24, and undertake related Airport Master Plan development at Bridgeport-Sikorsky Memorial Airport, Stratford, Connecticut. To ensure that all significant issues related to the proposed action are identified, public scoping meetings will be held.

FOR FURTHER INFORMATION CONTACT: John Silva, Manager, Environmental Programs, Airports Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. Telephone number: 617–238–7602.

SUPPLEMENTARY INFORMATION: Because of the potential for significant adverse environmental effect, primarily to wetlands, floodplain areas, and highway traffic, comments and suggestions are invited from federal, state, and local agencies, and other interested parties, in order to ensure that a full range of issues related to the proposed projects are identified and addressed in the scope of work for the EIS. Comments and suggestions may be mailed to FAA at the above address.

PUBLIC SCOPING MEETINGS: In order to provide public input, a scoping meeting for federal, state, and local agencies will be held on Thursday, March 14, 1996, at 2 pm at the Avon Room, Ramada Inn, 225 Lordship Blvd., Stratford, Connecticut. An additional meeting to receive public input will be held on Thursday, March 14, 1996, at 5 pm, in the Grand Ballroom at the same Ramada Inn. These meetings will be preceded by a field tour of the project area at 11 am on the same day. The tour will commence from the entrance to the main terminal building at Sikorsky Memorial Airport, Great Meadow Road, Stratford, Connecticut. Representatives of federal, state, and local agencies are encouraged to attend all three events. Additional information may be obtained by contacting FAA at the above address or telephone number.

Issued in Burlington, Massachusetts, on February 6, 1996.

John C. Silva,

Acting Manager, Airports Division FAA, New England Region.

[FR Doc. 96–3496 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc.; Special Committee 159; Minimum Operational Performance Standards for Airborne Navigation Equipment Using Global Positioning System (GPS)

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 159 meeting to be held March 4–8, 1996, starting at 9:00 a.m. The meeting will be held at RTCA, 1140 Connecticut

Avenue, N.W., Suite 1020, Washington, DC, 20036.

The agenda for March 4, March 5, March 6, and March 7 will address specific working group (WG) issues as follows: March 4–5, WG–6 Interference Issues; March 5, WG–1 GPS/GLONASS, WG–3A GPS/Inertial, WG–4 (Afternoon) Ad Hoc (DO–217 Change); March 6, WG–2 WAAS Precision; March 6–7, WG–4 Precision Landing Guidance and Airport Surface Surveillance.

The agenda for the March 8 Plenary Session will be as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Previous Meeting; (3) Review WG Progress and Identify Issues for Resolution: a. GPS/GLONASS (WG–1); b. GPS/WAAS Precision (WG–2); c. GPS/Other Navigation Systems (WG–3A/B); d. GPS/Precision Landing Guidance and Airport Surface Surveillance (WG–4A/B) and Ad Hoc; e. Fault Detection and Isolation (WG–5); f. Interference Issues (WG–6); (4) Review of EUROCAE Activities; (5) Assignment/Review of Future Work; (6) Other Business; (7) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, D.C. 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on February 12, 1996.

Janice L. Peters,

Designated Official.

[FR Doc. 96–3487 Filed 2–14–96; 8:45 am]

BILLING CODE 4810–13–M

Surface Transportation Board [1]

[STB Finance Docket No. 32845]

Consolidated Rail Corporation and CSX Transportation, Inc.—Acquisition and Operation—Nicholas, Fayette and Greenbrier Railroad Company

AGENCY: Surface Transportation Board.

ACTION: Notice of acceptance of application.

SUMMARY: The Board accepts for consideration the application filed January 16, 1996, by Consolidated Rail Corporation (Conrail) and CSX Transportation, Inc. (CSXT) to acquire from the Nicholas, Fayette and Greenbrier Railroad Company (NF&G) and operate approximately 143 miles of rail line located in West Virginia. The Board finds that this is a transaction subject to 49 U.S.C. 11325(d).

DATES: This decision is effective on February 15, 1996. Written comments, including comments from the Secretary of Transportation and the Attorney General of the United States, must be filed with the Board no later than March 15, 1996. The Board will issue a service list shortly thereafter. Comments must be served on all parties of record within 10 days after the Board issues the service list. Applicants' reply is due April 5, 1996.

ADDRESSES: Send an original and 10 copies of pleadings referring to STB Finance Docket No. 32845 to: (1) Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423; (2) Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Room 5101, 400 Seventh Street, S.W., Washington, DC 20530; (3) Attorney General of the United States, Washington, DC 20530; (4) Charles M. Rosenberger, 500 Water Street, J150, Jacksonville, FL 32202; (5) Paul R. Hitchcock, 500 Water Street, J150, Jacksonville, FL 32202; and (6) Anne Treadway, 2001 Market Street, Two Commerce Square, Philadelphia, PA 19101.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: By application filed January 16, 1996, Conrail, CSXT, and NF&G (collectively, Applicants) seek approval under 49 U.S.C. 11323–25, for Conrail and CSXT to acquire and operate NF&G's rail lines in West Virginia.

The applicants recite that this is a minor transaction as defined in 49 CFR Part 1180, the regulations that implemented former 49 U.S.C. 11343–45. The Act has revised those statutory provisions and reenacted them as 49 U.S.C. 11323–25. The transaction here specifically is subject to the standards of 49 U.S.C. 11324(d), because the transaction does not involve the merger or control of two Class I railroads and the transaction is subject to the procedures set out at 49 U.S.C. 11325(d) of the Act. Section 204(a) provides that all ICC rules in effect on the date of the enactment of the Act ''shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Board . . . or operation of law.'' While the standards and procedures of former sections 11343–45 and current sections 11323–25 are substantially similar insofar as minor transactions are concerned, the procedures of current section 11325(d) differ slightly from those at 49 CFR 1180.4 and shall govern. Otherwise, the use of the regulations at 49 CFR Part 1180 for this proceeding appears proper.

Conrail and CSXT are Class I railroads. NF&G, which has approximately 143 miles of trackage, is jointly owned by Conrail and CSXT. Conrail and CSXT operate NF&G's lines as successors in interest under a lease dated June 25, 1929. Conrail and CSXT propose to terminate the lease and to dissolve NF&G and distribute its rail assets between them. Conrail will acquire NF&G's 8-mile line west of Peters Junction to Swiss Junction (Swiss segment). CSXT will acquire the remainder of NF&G's line east of Peters Junction to Meadow Creek, and branch lines between Rainelle Junction and Raders Run, Rupert Junction and Clearco, and G&E Junction and Brush Junction.

Applicants state that the joint management of the NF&G lines does not benefit them or the public. They state that the current lease arrangement establishes a burdensome management structure that requires joint approval by Conrail and CSXT of important decisions, such as whether to invest capital funds in track maintenance projects. CSXT has allegedly deferred substantial maintenance on the NF&G lines it operates because Conrail is reluctant to invest in those lines. Terminating the lease would assertedly allow Conrail and CSXT to decide these matters independently. They further maintain that Conrail and CSXT would also eliminate expenses incurred to administer the joint ownership arrangement. They state that they expect to experience substantial operating and administrative efficiencies as a result of the transaction.

Applicants maintain that the transaction will serve the public interest by preserving the quality of service that each carrier currently provides to its shippers and receivers. Each carrier represents that it will continue to operate its lines essentially the same as it does today, with only slight changes in traffic levels. According to the

---

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions to the Surface Transportation Board (Board). This notice relates to railroad acquisitions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323–25.

application, Conrail might lose some coal traffic and revenues for shipments that originate on NF&G lines acquired by CSXT, while CSXT would gain this traffic and revenue. Conrail and CSXT have made arrangements for Conrail to be able to honor its sole remaining transportation contract to haul coal originating on the old NF&G. Until the contract expires, CSXT will haul the coal to a Conrail interchange in Columbus, OH, and the coal will be delivered from there.

Applicants maintain that the proposal would have little effect on competition in any affected market or region. They assert that Conrail and CSXT do not compete in the same market, and that there is no market demand for CSXT to haul coal over the Swiss segment, or for Conrail to haul coal over the remaining NF&G lines CSXT will acquire. Moreover, CSXT indicates that there is no market demand for it to haul coal from mines on Conrail's Peters Creek Branch, connecting to that portion of the NF&G lines that Conrail will acquire.

Applicants anticipate that the transaction will have only a slight effect on employees. They indicate that CSXT employees currently perform all operations on NF&G trackage, including maintenance and train dispatching. After Conrail acquires the Swiss segment, it will assume maintenance functions on that line and thus CSXT maintenance of way employees would lose that work to Conrail employees. The transaction will also preclude Conrail from operating over NF&G trackage acquired by CSXT, but Conrail does not currently operate over that trackage. They anticipate that the Board will impose the conditions in *New York Dock Ry.—Control—Brooklyn Eastern Dist.,* 360 I.C.C. 60 (1979), to protect employees affected by this transaction.

Under 49 CFR 1180, we must determine whether a proposed transaction is major, significant, or minor. The proposed transaction, which involves two Class I carriers seeking to acquire the assets of their jointly-owned short line railroad, has no regional or national significance and will clearly not have any anticompetitive effects. Accordingly, we find the proposal to be a minor transaction under 49 CFR 1180.2(c), as now defined under 49 U.S.C. 11325(a). Because the application substantially complies with the applicable regulations governing minor transactions, we are accepting it for consideration.

The application and exhibits are available for inspection in the Public Docket Room at the Offices of the Surface Transportation Board in Washington, DC. In addition, they may be obtained upon request from applicants' representatives named above.

Interested persons, including government entities, may participate in this proceeding by submitting written comments. Any person who files timely comments will be considered a party of record if the person so requests. No petition for leave to intervene need be filed.

Consistent with 49 CFR 1180.4(d)(1)(iii), written comments must contain:

(a) The docket number and title of the proceeding;

(b) The name, address, and telephone number of the commenting party and its representative upon whom service shall be made;

(c) The commenting party's position, i.e., whether it supports or opposes the proposed transaction;

(d) A statement whether the commenting party intends to participate formally in the proceeding, or merely comment on the proposal;

(e) If desired, a request for an oral hearing with reasons supporting this request; the request must indicate the disputed material facts that can be resolved only at a hearing; and

(f) A list of all information sought to be discovered from applicant carriers.

Because we have determined that this proposal is a minor transaction, no responsive applications will be permitted. The time limits for processing this transaction are set forth at 49 U.S.C. 11325(d).

Discovery may begin immediately. We admonish the parties to resolve all discovery matters expeditiously and amicably.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This application is accepted for consideration under 49 U.S.C. 11323–25 as a minor transaction under 49 CFR 1180.2(c).

2. The parties shall comply with all provisions stated above.

3. The decision is effective on February 15, 1996.

Decided: February 8, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–3411 Filed 2–14–96; 8:45 am]

BILLING CODE 4915–00–P–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning the following existing regulations: INTL–292–90 (Regulation section 301.6114–1); INTL–361–89 (Regulation sections 301.6114–1 and 301.6712–1); INTL–103–89 (Regulation sections 301.6114–1T and 301.6712–1T); and INTL–121–90 (Regulation section 301.6114–1(b)(8) and 301.7701(b)-7(a)(4)(iv)(C), Treaty-Based Return Positions.

DATES: Written comments should be received on or before April 15, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Treaty-Based Return Positions.

OMB Number: 1545–1126.

Regulation Project Number: INTL–292–90 Final; INTL–361–89 Final; INTL–103–89 Temporary; and INTL–121–90 Notice of proposed rulemaking.

Abstract: Regulation section 301.6114–1 sets forth reporting requirements under Code section 6114 relating to treaty-based return positions. Persons or entities subject to these reporting requirements must make the required disclosure on a statement attached to their return or be subject to a penalty. Section 301.7701(b)-7(a)(4)(iv)(C) sets forth the reporting requirement for dual resident S corporation shareholders who claim treaty benefits as nonresidents of the U.S. Persons subject to this reporting requirement must enter into an agreement with the S corporation to

withhold tax pursuant to procedures prescribed by the Commissioner.

Current Actions: There is no change to the collection of information in these existing regulations.

Type of Review: Extension of OMB approval.

Affected Public: Individuals and businesses or other for-profit organizations.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 5,000 hours.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Approved: February 9, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–3501 Filed 2–14–96; 8:45 am]

BILLING CODE 4830–01–U–M

Agency Information Collection Activities; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking, EE–84–89, Changes with Respect to Prizes and Awards and Employee Achievement Awards. (Regulation section 1.74–1(c)).

DATES: Written comments should be received on or before April 15, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Changes with Respect to Prizes and Awards and Employee Achievement Awards.

OMB Number: 1545–1100.

Rulemaking Project Number: EE–84–89 Notice of Proposed Rulemaking.

Abstract: This regulation requires recipients of prizes and awards to maintain records to determine whether a qualifying designation has been made. The affected public are prize and award recipients who seek to exclude the cost of a qualifying prize or award.

Current Actions: There is no change to this existing notice of proposed rulemaking.

Type of Review: Extension of OMB approval.

Affected Public: Individuals or households.

Estimated Number of Respondents: 5,100.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 1,275 hours.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection requests.

Approved: February 9, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–3500 Filed 2–14–96; 8:45 am]

BILLING CODE 4830–01–U–M

Agency Information Collection Activities; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning an existing final regulation, LR–218–78, Product Liability Losses and Accumulations for Product Liability Losses. (Regulation section 1.172–13(c)).

DATES: Written comments should be received on or before April 15, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Product Liability Losses and Accumulations for Product Liability Losses.

OMB Number: 1545–0863.

Regulation Project Number: LR–218–78, Final.

Abstract: Generally, a taxpayer who sustains a product liability loss must carry the loss back 10 years. However, a taxpayer may elect to have such loss treated as a regular net operating loss under section 172. The election is made by attaching a statement to the tax return. This statement will enable the IRS to monitor compliance with the statutory requirements.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 2,500 hours.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Approved: February 9, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–3499 Filed 2–14–96; 8:45 am]

BILLING CODE 4830–01–U–M

Agency Information Collection Activities; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning an existing final regulation, GL–238–88, Preparer Penalties—Manual Signature Requirement. (Regulation section (1.6695–1(b)).

DATES: Written comments should be received on or before April 15, 1996, to be assured to consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5571, Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Preparer Penalties—Manual Signature Requirement.

OMB Number: 1545–1385

Regulation Project Number: GL–238–88 Final.

Abstract: The reporting requirements affect returns preparers of fiduciary returns. They will be required to submit a list of the names and identifying numbers of all fiduciary returns which are being filed with a facsimile signature of the returns preparer.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 20,000.

Estimated Time Per Respondent: 1 hour and 17 minutes.

Estimated Total Annual Burden Hours: 25,825 hours.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Approved: February 9, 1996

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–3498 Filed 2–14–96; 8:45 am]

BILLING CODE 4830–01–U–M

Agency Information Collection Activities; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking and a temporary regulation, EE–45–93, Electronic Filing of Form W–4. (Regulation section 31.3402(f)(5)–2T).

DATES: Written comments should be received on or before April 15, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Electronic Filing of Form W–4.

OMB Number: 1545–1435.

Regulation Project Number: EE–45–93 Notice of proposed rulemaking and temporary regulations.

Abstract: Information is required by the Internal Revenue Service to verify compliance with section 31.3402(f)(2)–1(g)(1), which requires submission to the Service of certain withholding exemption certificates. The affected respondents are employers that choose to make electronic filing of Forms W–4 available to their employees.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: State and local governments, business or other for-profit institutions, federal agencies, and nonprofit institutions.

Estimated Number of Respondents: 2,000

Estimated Time Per Respondent: 20 hours

Estimated Total Annual Burden Hours: 40,000 hours

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques of the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Approved: February 7, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–3497 Filed 2–14–96; 8:45 am]

BILLING CODE 4830–01–P–M

Sunshine Act Meetings

Federal Register
Vol. 61, No. 32
Thursday, February 15, 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).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, February 27, 1996, 2:00 p.m.

PLACE: Conference Room on the Ninth Floor of the EEOC Office Building, 1801 ''L'' Street, N.W., Washington, D.C. 20507.

STATUS: The Meeting will be open to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes.
2. Panel Discussion by Invited Experts on Employment Discrimination Issues Affecting African Americans.

Note: Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.) Please telephone (202) 663–7100 (voice) and (202) 663–4074 (TTD) at any time for information on these meetings.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–4070.

This Notice Issued February 12, 1996.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 96–3524 Filed 2–12–96; 4:02 pm]

BILLING CODE 6750–06–M

Corrections

Federal Register

Vol. 61, No. 32

Thursday, February 15, 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 COMMERCE

Bureau of Export Administration

15 CFR Part 799

[Docket No. 960111006-6006-01]

RIN 0694-AB29

Revision to the Commerce Control List: Items Controlled for Nuclear Nonproliferation Reasons, Addition of Argentina, New Zealand, Poland, South Africa, and South Korea to GNSG Eligible Countries

Correction

In Rule document 96–1575 beginning on page 3555 in the issue of Thursday, February 1, 1996 make the following correction:

Supplement No. 1 to §799.1 **[Corrected]**

On page 3560, in Supplement No. 1 to §799.1, in the second column, under the first Requirement heading, in *Reason for Control* ''MP'' should read ''NP''.

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 217 and 227

[Docket No. 960116009-6009-01; I.D. 110695D]

RIN 0648-AE12

Sea Turtle Conservation; Restrictions Applicable to Fishery Activities; Summer Flounder Fishery-Sea Turtle Protection Area

Correction

In rule document 96–961 beginning on page 1846, in the issue of Wednesday, January 24, 1996, make the following corrections:

1.On page 1847, in the second column, under **SUPPLEMENTARY INFORMATION:**, in the heading entitled ''Changes from the Interim Final Rule'', in the second paragraph, in the eighth line, after the word ''round'' insert ''except''.

2.On the same page, in the same column, in the same paragraph, in the ninth line, ''35°46.1'' should read ''35°46.1′ N. lat.''.

BILLING CODE 1505–01–D

federal register

Thursday
February 15, 1996

Part II

Environmental Protection Agency

40 CFR Parts 30 and 33

Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations; Interim Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 30 and 33

[FRL–5409–7]

RIN 2030–AA32

Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations

AGENCY: Environmental Protection Agency.

ACTION: Interim final rule; Request for comments.

SUMMARY: This interim final rule revises 40 CFR Part 30 and deletes Part 33 to incorporate the changes established by revised Office of Management and Budget (OMB) Circular A–110, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Institutions,'' published by OMB on November 29, 1993 (58 FR 62992).

DATES: This interim final rule is effective March 18, 1996. Written comments must be submitted on or before April 15, 1996.

ADDRESSES: Written comments should be sent to: Maureen M. Ross, Grants Policy and Procedures Branch (3903F) United States, Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460 (202) 260–9297. Inquiries may also be submitted via electronic mail (e-mail) to: ross.maureen@epamail.epa.gov.

Electronic inquiries must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Inquiries will also be accepted on discs in WordPerfect in 5.1 file format or ASCII file format. No Confidential Business Information should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: Maureen M. Ross, Grants Policy and Procedures Branch (3903F), United States Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460, (202) 260–9297.

SUPPLEMENTARY INFORMATION: On November 29, 1993, OMB issued a revised Circular A–110, entitled ''Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations.'' The Circular provides standards for obtaining consistency and uniformity among Federal agencies in the administration of grants and agreements with institutions of higher education, hospitals, and other non-profit organizations.

OMB initially issued Circular A–110 in 1976 and, except for a minor revision in February 1987, the Circular contained its original provisions until the revised Circular was published in 1993. To update the Circular, OMB established an interagency review task force. The task force solicited suggestions for changes to the Circular from university groups, non-profit organizations and other interested parties and compared, for consistency, the provisions of similar provisions applied to State and local governments. The revised Circular reflects the results of these efforts.

In addition, OMB published a notice in the Federal Register (57 FR 39018) on August 27, 1992, requesting comments on proposed revisions to Circular A–110. Interested parties were invited to submit comments. OMB received over 200 comments from Federal agencies, non-profit organizations, professional organizations and others. All comments were considered in developing the final revision.

OMB directed Federal agencies responsible for awarding and administering grants and other agreements with institutions of higher learning, hospitals, and other non-profit organizations to adopt the language as it appears in the Circular unless different provisions are required by Federal statute or are approved by OMB.

This rule does not apply to grants, contracts, or other agreements between the Federal Government and units of State or local governments covered by OMB Circular A–102, ''Grants and Cooperative Agreements with State and Local Governments,'' and EPA's regulation at 40 CFR Part 31. In addition, subawards and contracts to State or local governments are not covered by this rule. However, the rule applies to subawards made by State and local governments to organizations covered by this rule. The provisions of the rule may be applied to commercial organizations, foreign governments, organizations under the jurisdiction of foreign governments, and international organizations.

The Circular inadvertently misstates the applicability of the statute commonly known as the Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352. The disclosure requirements apply to organizations which apply or bid for an award exceeding $100,000, not $100,000 or more. We have made this correction in Appendix A.

The provisions related to lobbying activities in the former regulation at 40 CFR 30.601 are not being carried forward in this revision of Part 30. However, the restrictions in Office of Management and Budget Circulars A–21 and A–122 on the use of grant funds for lobbying remain in effect. The general restriction in EPA's Appropriation Acts prohibiting Federal funding of non-federal parties to intervene in regulatory or adjudicatory proceedings may also remain in effect.

Two other changes have been made to Appendix A because of recent changes brought about by the Federal Acquisition Streamlining Act of 1994. The threshold for the requirement to include a provision for compliance with the Copeland ''Anti-Kickback Act'' (18 U.S.C. 874) was raised from $2,000 to $100,000.

The threshold for the requirement to include the provision for compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333) was raised to $100,000.

The Environmental Protection Agency (EPA) is promulgating the Circular (with the changes discussed below) as an EPA regulation at 40 CFR Part 30. This regulation will supersede the existing regulations at both 40 CFR Part 30 and 40 CFR Part 33.

This rule adopts all of the OMB Circular provisions except for the following EPA-specific changes to the text:

1. 30.18 Hotel and motel fire safety. The Hotel and Motel Fire Safety Act of 1990 (P. L. 101–391) requires the General Services Administration (GSA) to limit its lodging directories and lodging expense per diem surveys to hotels and motels that meet the law's fire protection and control guidelines. The Act establishes a number of fire safety standards which must be met for hotels and motels to be so listed by GSA. Further, beginning October 1, 1994, Federal funds may not be used to sponsor a conference, meeting, or training seminar held in a hotel or motel which does not meet these standards. If necessary, the head of the Federal agency may waive this prohibition in the public interest.

2. 30.54 Quality assurance. A new section on quality assurance will be added to ensure that environmentally related measurements or data generation by recipients are performed in a manner designed to meet EPA's standards. This section will require recipients to develop procedures and standards to produce information of high quality and to minimize the potential for loss of data.

3. Except in the definitions, certain generic terms in the Circular are being changed, if appropriate, to reflect EPA's terminology and usage, e.g., the term

''Federal awarding agency'' and ''Federal Government'' and similar terms will be changed to ''EPA.'' In appropriate cases the term ''Federal awarding agency'' has been changed to ''EPA award official.'' Other minor editing has been done as well. None of the editing of this type alters the provisions of the Circular.

4. In certain cases the Circular includes indefinite language such as ''The Federal government may require.'' EPA is changing such wording to ''shall or will'' to reflect EPA's policies or procedures, where appropriate.

5. At § 30.23 EPA is adding language stipulating that EPA will not require cost sharing or matching unless required by statute, regulation, Executive Order, or official Agency policy.

6. At § 30.25(c) the wording is being changed to specify the office/official (i.e., the responsible technical program office or the award official) from whom written approvals are to be obtained.

7. At § 30.25(f)(1)(ii) EPA is changing the language to provide that recipients may incur pre-award costs 90 days before award and more than 90 days before award with approval of the award official.

8. At § 30.27(b) EPA is adding language limiting the salary rate of consultants to the maximum daily rate for level 4 of the Executive Schedule. This is a requirement of EPA's Appropriations Act.

9. 30.44 Procurement procedures. EPA is adding language to ensure that if the prime contractor awards sub-contracts, the recipient must ensure that the prime contractor takes the same five steps as the recipient is required to take to utilize small businesses, minority-owned firms and women's business enterprises, whenever possible. This additional language is needed to meet the requirements of EPA's 1993 Appropriations Act, P.L. 102–389 (42 U.S.C. 4370d). That statute requires EPA for that fiscal year and for each one thereafter, to the fullest extent possible, to ensure at least eight percent of Federal funding for prime and subcontracts awarded in support of authorized programs be made available to business concerns owned or controlled by socially and economically disadvantaged individuals within the meaning of sections 8(a)(5) and (6) of the Small Business Act (15 U.S.C. §§ 637 (a)(5) and (6)), and includes women and historically black colleges and universities.

Public Participation

The policy of the Agency is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the interim final rule to the location identified in this preamble.

Regulatory Impact Analysis

EPA did not develop a Regulatory Flexibility Analysis for this interim final rule. This is because the rule is exempt from notice and comment rulemaking under section 553(a)(2) of the Administrative Procedure Act, 5 U.S.C. 553(a)(2), and therefore not subject to the analytical requirements of sections 603 and 604 of the Regulatory Flexibility Act, 5 U.S.C. 603 and 604.

EPA considers this rulemaking to be a significant action under section 3(f)(2) of Executive Order 12866. Therefore the text was submitted to and reviewed by the Office of Management and Budget prior to promulgation.

Paperwork Reduction Act

In keeping with the requirements of the Paperwork Reduction Act (PRA), as amended, 44 U.S.C. 3501 et seq, the information collection requirements contained in this rule have been approved by OMB as Standard Forms. This rule does not contain a collection of information beyond the already approved Standard Forms subject to the PRA.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the UMRA), P.L. 104–4, establishes requirements for federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments in the aggregate, or to the private sector, of $100 million in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of alternatives, and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

Today's interim final rule contains no Federal mandates (within the meaning of the UMRA) for State, local, or tribal governments or the private sector. The UMRA excludes from the definitions of ''Federal intergovernmental mandate'' and ''Federal private sector mandate'' duties that arise from conditions of Federal assistance. This interim final rule prescribes as conditions of Federal assistance administrative requirements governing EPA grants to institutions of higher education, hospitals, and other non-profit organizations. Thus, it is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that this interim final rule contains no regulatory requirements that might significantly or uniquely affect small governments. Accordingly, it is not subject to the requirements of section 203 of the UMRA.

List of Subjects in 40 CFR Parts 30 and 33

Environmental protection, Accounting, Administrative practice and procedures, grant programs, Grants programs-environmental protection, Reporting and recordkeeping requirements.

Dated: January 11, 1996.

Carol Browner,

Administrator.

For the reasons set forth in the preamble, under the authority of 42 U.S.C. 7 U.S.C. 135 et seq.; 15 U.S.C. 2601 et seq.; 33 U.S.C. 1251 et seq.; 42 U.S.C. 241, 242b, 243, 246, 300j-1, 300j-2, 300j-3, 1857 et seq., 6091 et seq.; and 42 U.S.C. 9601 et seq. 40 CFR part 33 is removed and part 30 is revised as set forth below:

PART 30—GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NON-PRPFIT ORGANIZATIONS

Subpart A—General

Sec.

30.1 Purpose.

30.2 Definitions.

30.3 Effect on other issuances.
30.4 Deviations.
30.5 Subawards.
30.6 Availability of OMB circulars

Subpart B—Pre-Award Requirements

30.10 Purpose.
30.11 Pre-award policies.
30.12 Forms for applying for Federal assistance.
30.13 Debarment and suspension.
30.14 Special award conditions.
30.15 Metric system of measurement.
30.16 Resource Conservation and Recovery Act (RCRA).
30.17 Certifications and representations.
30.18 Hotel and motel fire safety.

Subpart C—Post-Award Requirements

Financial and Program Management

30.20 Purpose of financial and program management.
30.21 Standards for financial management systems.
30.22 Payment.
30.23 Cost sharing or matching.
30.24 Program income.
30.25 Revision of budget and program plans.
30.26 Non-Federal audits.
30.27 Allowable costs.
30.28 Period of availability of funds.

Property Standards

30.30 Purpose of property standards.
30.31 Insurance coverage.
30.32 Real property.
30.33 Federally-owned and exempt property.
30.34 Equipment.
30.35 Supplies and other expendable property.
30.36 Intangible property.
30.37 Property trust relationship.

Procurement Standards

30.40 Purpose of procurement standards.
30.41 Recipient responsibilities.
30.42 Codes of conduct.
30.43 Competition.
30.44 Procurement procedures.
30.45 Cost and price analysis.
30.46 Procurement records.
30.47 Contract administration.
30.48 Contract provisions.

Reports and Records

30.50 Purpose of reports and records.
30.51 Monitoring and reporting program performance.
30.52 Financial reporting.
30.53 Retention and access requirements for records.
30.54 Quality assurance

Termination and Enforcement

30.60 Purpose of termination and enforcement.
30.61 Termination.
30.62 Enforcement.
30.63 Disputes.

Subpart D—After-the-Award Requirements

30.70 Purpose.
30.71 Closeout procedures.
30.72 Subsequent adjustments and continuing responsibilities.
30.73 Collection of amounts due.

Appendix to part 30—Contract Provisions

Authority: 7 U.S.C. 135 et seq.; 15 U.S.C. 2601 et seq.; 33 U.S.C. 1251 et seq.; 42 U.S.C. 241, 242b, 243, 246, 300f, 300j–1, 300j–2, 300j–3; 42 U.S.C. 1857 et seq.; 42 U.S.C. 7401 et seq.; 42 U.S.C. 6901 et seq.; 42 U.S.C. 9601 et seq.

Subpart A—General

§ 30.1 Purpose.

This subpart establishes uniform administrative requirements for Federal grants and agreements awarded to institutions of higher education, hospitals, and other non-profit organizations. The Environmental Protection Agency (EPA) may not impose additional or inconsistent requirements, except as provided in §§ 30.4, and 30.14 or unless specifically required by Federal statute or Executive Order. Non-profit organizations that implement Federal programs for the States are also subject to State requirements.

§ 30.2 Definitions.

(a) Accrued expenditures means the charges incurred by the recipient during a given period requiring the provision of funds for:

(1) Goods and other tangible property received;

(2) Services performed by employees, contractors, subrecipients, and other payees; and

(3) Other amounts becoming owed under programs for which no current services or performance is required.

(b) Accrued income means the sum of:

(1) Earnings during a given period from;

(i) Services performed by the recipient; and

(ii) Goods and other tangible property delivered to purchasers; and

(2) Amounts becoming owed to the recipient for which no current services or performance is required by the recipient.

(c) Acquisition cost of equipment means the net invoice price of the equipment, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges, such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the recipient's regular accounting practices.

(d) Advance means a payment made by Treasury check or other appropriate payment mechanism to a recipient upon its request either before outlays are made by the recipient or through the use of predetermined payment schedules.

(e) Award means financial assistance that provides support or stimulation to accomplish a public purpose. Awards include grants and other agreements in the form of money or property in lieu of money, by the Federal Government to an eligible recipient. The term does not include: technical assistance, which provides services instead of money; other assistance in the form of loans, loan guarantees, interest subsidies, or insurance; direct payments of any kind to individuals; and, contracts which are required to be entered into and administered under procurement laws and regulations.

(f) Cash contributions means the recipient's cash outlay, including the outlay of money contributed to the recipient by third parties.

(g) Closeout means the process by which a Federal awarding agency determines that all applicable administrative actions and all required work of the award have been completed by the recipient and Federal awarding agency.

(h) Contract means a procurement contract under an award or subaward, and a procurement subcontract under a recipient's or subrecipient's contract.

(i) Cost sharing or matching means that portion of project or program costs not borne by the Federal Government.

(j) Date of completion means the date on which all work under an award is completed or the date on the award document, or any supplement or amendment thereto, on which Federal sponsorship ends.

(k) Disallowed costs means those charges to an award that the Federal awarding agency determines to be unallowable, in accordance with the applicable Federal cost principles or other terms and conditions contained in the award.

(l) Equipment means tangible nonexpendable personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of $5000 or more per unit. However, consistent with recipient policy, lower limits may be established.

(m) Excess property means property under the control of any Federal awarding agency that, as determined by the head thereof, is no longer required for its needs or the discharge of its responsibilities.

(n) Exempt property means tangible personal property acquired in whole or in part with Federal funds, where the Federal awarding agency has statutory authority to vest title in the recipient without further obligation to the Federal

Government. An example of exempt property authority is contained in the Federal Grant and Cooperative Agreement Act (31 U.S.C. 6306), for property acquired under an award to conduct basic or applied research by a non-profit institution of higher education or non-profit organization whose principal purpose is conducting scientific research.

(o) Federal awarding agency means the Federal agency that provides an award to the recipient.

(p) Federal funds authorized means the total amount of Federal funds obligated by the Federal Government for use by the recipient. This amount may include any authorized carryover of unobligated funds from prior funding periods when permitted by agency regulations or agency implementing instructions.

(q) Federal share of real property, equipment, or supplies means that percentage of the property's acquisition costs and any improvement expenditures paid with Federal funds.

(r) Funding period means the period of time when Federal funding is available for obligation by the recipient.

(s) Intangible property and debt instruments means, but is not limited to, trademarks, copyrights, patents and patent applications and such property as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership, whether considered tangible or intangible.

(t) Obligations means the amounts of orders placed, contracts and grants awarded, services received and similar transactions during a given period that require payment by the recipient during the same or a future period.

(u) Outlays or expenditures means charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense charged, the value of third party in-kind contributions applied and the amount of cash advances and payments made to subrecipients. For reports prepared on an accrual basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received, for services performed by employees, contractors, subrecipients and other payees and other amounts becoming owed under programs for which no current services or performance are required.

(v) Personal property means property of any kind except real property. It may be tangible, having physical existence, or intangible, having no physical existence, such as copyrights, patents, or securities.

(w) Prior approval means written approval by an authorized official evidencing prior consent.

(x) Program income means gross income earned by the recipient that is directly generated by a supported activity or earned as a result of the award (see exclusions in § 30.24 (e) and (h)). Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under federally-funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights, and interest on loans made with award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal awarding agency regulations or the terms and conditions of the award, program income does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them.

(y) Project costs means all allowable costs, as set forth in the applicable Federal cost principles, incurred by a recipient and the value of the contributions made by third parties in accomplishing the objectives of the award during the project period.

(z) Project period means the period established in the award document during which Federal sponsorship begins and ends.

(aa) Property means, unless otherwise stated, real property, equipment, intangible property and debt instruments.

(bb) Real property means land, including land improvements, structures and appurtenances thereto, but excludes movable machinery and equipment.

(cc) Recipient means an organization receiving financial assistance directly from Federal awarding agencies to carry out a project or program. The term includes public and private institutions of higher education, public and private hospitals, and other quasi-public and private non-profit organizations such as, but not limited to, community action agencies, research institutes, educational associations, and health centers. The term may include commercial organizations, foreign or international organizations (such as agencies of the United Nations) which are recipients, subrecipients, or contractors or subcontractors of recipients or subrecipients at the discretion of the Federal awarding agency. The term does not include government-owned contractor-operated facilities or research centers providing continued support for mission-oriented, large-scale programs that are government-owned or controlled, or are designated as federally-funded research and development centers.

(dd) Research and development means all research activities, both basic and applied, and all development activities that are supported at universities, colleges, and other non-profit institutions. ''Research'' is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. ''Development'' is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function.

(ee) Small award means a grant or cooperative agreement not exceeding the small purchase threshold fixed at 41 U.S.C. 403(11) (currently $100,000).

(ff) Subaward means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a recipient to an eligible subrecipient or by a subrecipient to a lower tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include procurement of goods and services nor does it include any form of assistance which is excluded from the definition of ''award'' in paragraph (e) of this section.

(gg) Subrecipient means the legal entity to which a subaward is made and which is accountable to the recipient for the use of the funds provided. The term may include foreign or international organizations (such as agencies of the United Nations) at the discretion of the Federal awarding agency.

(hh) Supplies means all personal property excluding equipment, intangible property, and debt instruments as defined in this section, and inventions of a contractor conceived or first actually reduced to practice in the performance of work under a funding agreement (''subject

inventions''), as defined in 37 CFR part 401, ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements.''

(ii) Suspension means an action by a Federal awarding agency that temporarily withdraws Federal sponsorship under an award, pending corrective action by the recipient or pending a decision to terminate the award by the Federal awarding agency. Suspension of an award is a separate action from suspension under Federal agency regulations implementing Executive Orders 12549 and 12689, ''Debarment and Suspension.''

(jj) Termination means the cancellation of Federal sponsorship, in whole or in part, under an agreement at any time prior to the date of completion.

(kk) Third party in-kind contributions means the value of non-cash contributions provided by non-Federal third parties. Third party in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.

(ll) Unliquidated obligations, for financial reports prepared on a cash basis, means the amount of obligations incurred by the recipient that have not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the recipient for which an outlay has not been recorded.

(mm) Unobligated balance means the portion of the funds authorized by the Federal awarding agency that has not been obligated by the recipient and is determined by deducting the cumulative obligations from the cumulative funds authorized.

(nn) Unrecovered indirect cost means the difference between the amount awarded and the amount which could have been awarded under the recipient's approved negotiated indirect cost rate.

(oo) Working capital advance means a procedure where by funds are advanced to the recipient to cover its estimated disbursement needs for a given initial period.

§ 30.3 Effect on other issuances.

For awards subject to Circular A–110, all administrative requirements of codified program regulations, program manuals, handbooks and other nonregulatory materials which are inconsistent with the requirements of Circular A–110 shall be superseded, except to the extent they are required by statute, or authorized in accordance with the deviations provision in § 30.4.

§ 30.4 Deviations.

The Office of Management and Budget (OMB) may grant exceptions for classes of grants or recipients subject to the requirements of Circular A–110 when exceptions are not prohibited by statute. However, in the interest of maximum uniformity, exceptions from the requirements of Circular A–110 shall be permitted only in unusual circumstances. EPA may apply more restrictive requirements to a class of recipients when approved by OMB. EPA may apply less restrictive requirements when awarding small awards, except for those requirements which are statutory. Exceptions on a case-by-case basis may also be made by EPA.

§ 30.5 Subawards.

Unless sections of Circular A–110 specifically exclude subrecipients from coverage, the provisions of Circular A–110 shall be applied to subrecipients performing work under awards if such subrecipients are institutions of higher education, hospitals or other non-profit organizations. State and local government subrecipients are subject to the provisions of regulations in 40 CFR part 31 implementing the grants management common rule, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,''.

§ 30.6 Availability of OMB circulars.

OMB circulars cited in this part are available from the Office of Management and Budget (OMB) by writing to the Executive Office of the President, Publications Service, 725 17th Street, NW., Suite 200, Washington, DC 20503.

Subpart B—Pre-Award Requirements

§ 30.10 Purpose.

Sections 30.11 through 30.18 prescribe forms and instructions and other pre-award matters to be used in applying for Federal awards.

§ 30.11 Pre-award policies.

(a) Use of Grants and Cooperative Agreements, and Contracts. In each instance, EPA shall decide on the appropriate award instrument (i.e., grant, cooperative agreement, or contract). The Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301–08) governs the use of grants, cooperative agreements and contracts. A grant or cooperative agreement shall be used only when the principal purpose of a transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute. The statutory criterion for choosing between grants and cooperative agreements is that for the latter, ''substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement.'' Contracts shall be used when the principal purpose is acquisition of property or services for the direct benefit or use of the Federal Government.

(b) *Public notice and priority setting.* EPA shall notify the public of its intended funding priorities for discretionary grant programs, unless funding priorities are established by Federal statute.

(c) By submitting an application to EPA, the applicant grants EPA permission to share the application with technical reviewers both within and outside the Agency.

§ 30.12 Forms for applying for Federal assistance.

(a) EPA shall comply with the applicable report clearance requirements of 5 CFR part 1320, ''Controlling Paperwork Burdens on the Public,'' with regard to all forms used by EPA in place of or as a supplement to the Standard Form 424 (SF–424) series.

(b) Applicants shall use the SF–424 series or those forms and instructions prescribed by EPA.

(c) For Federal programs covered by Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' the applicant shall complete the appropriate sections of the SF–424 (Application for Federal Assistance) indicating whether the application was subject to review by the State Single Point of Contact (SPOC). The name and address of the SPOC for a particular State can be obtained from EPA or the Catalog of Federal Domestic Assistance. The SPOC shall advise the applicant whether the program for which application is made has been selected by that State for review.

(d) If the SF–424 form is not used EPA should indicate whether the application is subject to review by the State under Executive Order 12372.

§ 30.13 Debarment and suspension.

EPA and recipients shall comply with the nonprocurement debarment and suspension regulations in 40 CFR part 32 implementing Executive Orders 12549 and 12689, ''Debarment and Suspension.'' 40 CFR part 32 restricts subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

§ 30.14 Special award conditions.

If an applicant or recipient: has a history of poor performance, is not financially stable; has a management system that does not meet the standards prescribed in Circular A–110; has not conformed to the terms and conditions of a previous award; or is not otherwise responsible, EPA may impose additional requirements as needed, provided that such applicant or recipient is notified in writing as to: the nature of the additional requirements, the reason why the additional requirements are being imposed, the nature of the corrective action needed, the time allowed for completing the corrective actions, and the method for requesting reconsideration of the additional requirements imposed. Any special conditions shall be promptly removed once the conditions that prompted them have been corrected.

§ 30.15 Metric system of measurement.

The Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act (15 U.S.C. 205), declares that the metric system is the preferred measurement system for U.S. trade and commerce. The Act requires each Federal agency to establish a date or dates in consultation with the Secretary of Commerce, when the metric system of measurement will be used in the agency's procurements, grants, and other business-related activities. Metric implementation may take longer where the use of the system is initially impractical or likely to cause significant inefficiencies in the accomplishment of federally-funded activities. EPA shall follow the provisions of Executive Order 12770, ''Metric Usage in Federal Government Programs.''

§ 30.16 Resource Conservation and Recovery Act (RCRA).

Resource Conservation and Recovery Act (RCRA) (Public Law 94–580 codified at 42 U.S.C. 6962). Under the Act, any State agency or agency of a political subdivision of a State which is using appropriated Federal funds must comply with Section 6002. Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA (40 CFR parts 247 through 254). Accordingly, State and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal awards or other Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to EPA's guidelines. Further, pursuant to Executive Order 12873 (dated October 20, 1993) recipients are to print documents/reports prepared under an EPA award of assistance double sided on recycled paper. This requirement does not apply to Standard Forms. These forms are printed on recycled paper as available through the General Services Administration.

§ 30.17 Certifications and representations.

Unless prohibited by statute or codified regulation, EPA will allow recipients to submit certifications and representations required by statute, Executive Order, or regulation on an annual basis, if the recipients have ongoing and continuing relationships with the agency. Annual certifications and representations shall be signed by responsible officials with the authority to ensure recipients' compliance with the pertinent requirements.

§ 30.18 Hotel and motel fire safety.

The Hotel and Motel Fire Safety Act of 1990 (Public Law 101–391) establishes a number of fire safety standards which must be met for hotels and motels. The law provides further that Federal funds may not be used to sponsor a conference, meeting, or training seminar held in a hotel or motel which does not meet the law's fire protection and control guidelines. If necessary, the head of the Federal agency may waive this prohibition in the public interest.

Subpart C—Post-Award Requirements

Financial and Program Management

§ 30.20 Purpose of financial and program management.

Sections 30.21 through 30.28 prescribe standards for financial management systems, methods for making payments and rules for: satisfying cost sharing and matching requirements, accounting for program income, budget revision approvals, making audits, determining allowability of cost, and establishing fund availability.

§ 30.21 Standards for financial management systems.

(a) EPA shall require recipients to relate financial data to performance data and develop unit cost information whenever practical.

(b) Recipients' financial management systems shall provide for the following.

(1) Accurate, current and complete disclosure of the financial results of each federally-sponsored project or program in accordance with the reporting requirements set forth in § 30.52. If EPA requires reporting on an accrual basis from a recipient that maintains its records on other than an accrual basis, the recipient shall not be required to establish an accrual accounting system. These recipients may develop such accrual data for its reports on the basis of an analysis of the documentation on hand.

(2) Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.

(3) Effective control over and accountability for all funds, property and other assets. Recipients shall adequately safeguard all such assets and assure they are used solely for authorized purposes.

(4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.

(5) Written procedures to minimize the time elapsing between the transfer of funds to the recipient from the U.S. Treasury and the issuance or redemption of checks, warrants or payments by other means for program purposes by the recipient. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101–453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR part 205, ''Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs.''

(6) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.

(7) Accounting records including cost accounting records that are supported by source documentation.

(c) Where the EPA guarantees or insures the repayment of money borrowed by the recipient, the recipient shall provide adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the Federal Government.

(d) Recipients shall obtain adequate fidelity bond coverage where coverage to protect the Federal Government's interest is insufficient.

(e) Where bonds are required in the situations described above, the bonds shall be obtained from companies

holding certificates of authority as acceptable sureties, as prescribed in 31 CFR part 223, ''Surety Companies Doing Business with the United States.''

§ 30.22 Payment.

(a) Payment methods shall minimize the time elapsing between the transfer of funds from the United States Treasury and the issuance or redemption of checks, warrants, or payment by other means by the recipients. Payment methods of State agencies or instrumentalities shall be consistent with Treasury-State CMIA agreements or default procedures codified at 31 CFR part 205.

(b) Recipients are to be paid in advance, provided they maintain or demonstrate the willingness to maintain: written procedures that minimize the time elapsing between the transfer of funds and disbursement by the recipient; and financial management systems that meet the standards for fund control and accountability as established in § 30.21. Cash advances to a recipient organization shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program or project costs and the proportionate share of any allowable indirect costs.

(c) Whenever possible, advances shall be consolidated to cover anticipated cash needs for all awards made by the EPA to the recipient.

(1) Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer.

(2) Advance payment mechanisms are subject to 31 CFR part 205.

(3) Recipients shall be authorized to submit requests for advances and reimbursements at least monthly when electronic fund transfers are not used.

(d) Requests for Treasury check advance payment shall be submitted on SF–270, ''Request for Advance or Reimbursement,'' or other forms as may be authorized by OMB. This form is not to be used when Treasury check advance payments are made to the recipient automatically through the use of a predetermined payment schedule or if precluded by special instructions for electronic funds transfer.

(e) Reimbursement is the preferred method when the requirements in paragraph (b) of this section cannot be met. EPA may also use this method on any construction agreement, or if the major portion of the construction project is accomplished through private market financing or Federal loans, and the Federal assistance constitutes a minor portion of the project.

(1) When the reimbursement method is used, EPA shall make payment within 30 days after receipt of the billing, unless the billing is improper.

(2) Recipients shall be authorized to submit request for reimbursement at least monthly when electronic funds transfers are not used.

(f) If a recipient cannot meet the criteria for advance payments and EPA has determined that reimbursement is not feasible because the recipient lacks sufficient working capital, EPA may provide cash on a working capital advance basis. Under this procedure, EPA shall advance cash to the recipient to cover its estimated disbursement needs for an initial period generally geared to the awardee's disbursing cycle. Thereafter, EPA shall reimburse the recipient for its actual cash disbursements. The working capital advance method of payment shall not be used for recipients unwilling or unable to provide timely advances to their subrecipient to meet the subrecipient's actual cash disbursements.

(g) To the extent available, recipients shall disburse funds available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.

(h) Unless otherwise required by statute, EPA shall not withhold payments for proper charges made by recipients at any time during the project period unless paragraph (h)(1) or (2) of this section applies.

(1) A recipient has failed to comply with the project objectives, the terms and conditions of the award, or Federal reporting requirements.

(2) The recipient or subrecipient is delinquent in a debt to the United States as defined in OMB Circular A–129, ''Managing Federal Credit Programs.'' Under such conditions, EPA may, upon reasonable notice, inform the recipient that payments shall not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal Government is liquidated.

(i) Standards governing the use of banks and other institutions as depositories of funds advanced under awards are as follows.

(1) Except for situations described in paragraph (i)(2) of this section, EPA shall not require separate depository accounts for funds provided to a recipient or establish any eligibility requirements for depositories for funds provided to a recipient. However, recipients must be able to account for the receipt, obligation and expenditure of funds.

(2) Advances of Federal funds shall be deposited and maintained in insured accounts whenever possible.

(j) Consistent with the national goal of expanding the opportunities for women-owned and minority-owned business enterprises, recipients shall be encouraged to use women-owned and minority-owned banks (a bank which is owned at least 50 percent by women or minority group members).

(k) Recipients shall maintain advances of Federal funds in interest bearing accounts, unless paragraph (k)(1), (2) or (3) of this section applies.

(1) The recipient receives less than $120,000 in Federal awards per year.

(2) The best reasonably available interest bearing account would not be expected to earn interest in excess of $250 per year on Federal cash balances.

(3) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.

(l) For those entities where CMIA and its implementing regulations do not apply, interest earned on Federal advances deposited in interest bearing accounts shall be remitted annually to Department of Health and Human Services, Payment Management System, P.O. Box 6021, Rockville, MD 20852. Interest amounts up to $250 per year may be retained by the recipient for administrative expense. State universities and hospitals shall comply with CMIA, as it pertains to interest. If an entity subject to CMIA uses its own funds to pay pre-award costs for discretionary awards without prior written approval from EPA, it waives its right to recover the interest under CMIA. In keeping with Electronic Funds Transfer rules, (31 CFR Part 206), interest should be remitted to the HHS Payment Management System through an electronic medium such as the FEDWIRE Deposit system. Recipients which do not have this capability should use a check.

(m) Except as noted elsewhere in Circular A–110, only the following forms shall be authorized for the recipients in requesting advances and reimbursements. EPA shall not require more than an original and two copies of these forms.

(1) SF–270, Request for Advance or Reimbursement. EPA shall adopt the SF–270 as a standard form for all

nonconstruction programs when electronic funds transfer or predetermined advance methods are not used. However, EPA has the option of using this form for construction programs in lieu of the SF–271, ''Outlay Report and Request for Reimbursement for Construction Programs.''

(2) SF–271, Outlay Report and Request for Reimbursement for Construction Programs. EPA shall adopt the SF–271 as the standard form to be used for requesting reimbursement for construction programs. However, the SF–270 may be substituted when EPA determines that it provides adequate information to meet its needs.

§ 30.23 Cost sharing or matching.

EPA shall not require cost sharing or matching unless required by statute, regulation, Executive Order, or official Agency policy.

(a) All contributions, including cash and third party in-kind, shall be accepted as part of the recipient's cost sharing or matching when such contributions meet all of the following criteria.

(1) Are verifiable from the recipient's records.

(2) Are not included as contributions for any other federally-assisted project or program.

(3) Are necessary and reasonable for proper and efficient accomplishment of project or program objectives.

(4) Are allowable under the applicable cost principles.

(5) Are not paid by the Federal Government under another award, except where authorized by Federal statute to be used for cost sharing or matching.

(6) Are identified in the approved budget.

(7) Conform to other provisions of Circular A–110, as applicable.

(b) Unrecovered indirect costs may be included as part of cost sharing or matching only with the prior approval of the EPA Award Official.

(c) Values for recipient contributions of services and property shall be established in accordance with the applicable cost principles. If, after consultation with Agency property management personnel, the EPA Award Official authorizes recipients to donate buildings or land for construction or facilities acquisition projects or long-term use, the value of the donated property for cost sharing or matching shall be the lesser of paragraph (c) (1) or (2) of this section.

(1) The certified value of the remaining life of the property recorded in the recipient's accounting records at the time of donation.

(2) The current fair market value. However, when there is sufficient justification, the EPA Award Official may approve the use of the current fair market value of the donated property, even if it exceeds the certified value at the time of donation to the project.

(d) Volunteer services furnished by professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as cost sharing or matching if the service is an integral and necessary part of an approved project or program. Rates for volunteer services shall be consistent with those paid for similar work in the recipient's organization. In those instances in which the required skills are not found in the recipient organization, rates shall be consistent with those paid for similar work in the labor market in which the recipient competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, allowable, and allocable may be included in the valuation.

(e) When an employer other than the recipient furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay (plus an amount of fringe benefits that are reasonable, allowable, and allocable, but exclusive of overhead costs), provided these services are in the same skill for which the employee is normally paid.

(f) Donated supplies may include such items as expendable equipment, office supplies, laboratory supplies or workshop and classroom supplies. Value assessed to donated supplies included in the cost sharing or matching share shall be reasonable and shall not exceed the fair market value of the property at the time of the donation.

(g) The method used for determining cost sharing or matching for donated equipment, buildings and land for which title passes to the recipient may differ according to the purpose of the award, if paragraph (g) (1) or (2) of this section applies.

(1) If the purpose of the award is to assist the recipient in the acquisition of equipment, buildings or land, the total value of the donated property may be claimed as cost sharing or matching.

(2) If the purpose of the award is to support activities that require the use of equipment, buildings or land, normally only depreciation or use charges for equipment and buildings may be made. However, the full value of equipment or other capital assets and fair rental charges for land may be allowed, provided that the EPA technical program office, after consultation with EPA property management personnel, has approved the charges.

(h) The value of donated property shall be determined in accordance with the usual accounting policies of the recipient, with the following qualifications.

(1) The value of donated land and buildings shall not exceed its fair market value at the time of donation to the recipient as established by an independent appraiser (e.g., certified real property appraiser or General Services Administration representative) and certified by a responsible official of the recipient.

(2) The value of donated equipment shall not exceed the fair market value of equipment of the same age and condition at the time of donation.

(3) The value of donated space shall not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.

(4) The value of loaned equipment shall not exceed its fair rental value.

(5) The following requirements pertain to the recipient's supporting records for in-kind contributions from third parties.

(i) Volunteer services shall be documented and, to the extent feasible, supported by the same methods used by the recipient for its own employees.

(ii) The basis for determining the valuation for personal service, material, equipment, buildings and land shall be documented.

§ 30.24 Program income.

(a) EPA shall apply the standards set forth in this section in requiring recipient organizations to account for program income related to projects financed in whole or in part with Federal funds.

(b) Except as provided in paragraph (h) of this section, program income earned during the project period shall be retained by the recipient and, in accordance with EPA regulations or the terms and conditions of the award, shall be used in one or more of the ways listed in the following.

(1) Added to funds committed to the project by EPA and recipient and used to further eligible project or program objectives.

(2) Used to finance the non-Federal share of the project or program.

(3) Deducted from the total project or program allowable cost in determining the net allowable costs on which the Federal share of costs is based.

(c) When EPA authorizes the disposition of program income as described in paragraphs (b)(1) or (2) of

this section, program income in excess of any limits stipulated shall be used in accordance with paragraph (b)(3) of this section.

(d) In the event that the EPA does not specify in its regulations or the terms and conditions of the award how program income is to be used, paragraph (b)(3) of this section shall apply automatically to all projects or programs except research. For awards that support research, paragraph (b)(1) of this section shall apply automatically unless EPA indicates in the terms and conditions another alternative on the award or the recipient is subject to special award conditions, as indicated in § 30.14.

(e) Unless EPA regulations or the terms and conditions of the award provide otherwise, recipients shall have no obligation to the Federal Government regarding program income earned after the end of the project period.

(f) If authorized by EPA regulations or the terms and conditions of the award, costs incident to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the award.

(g) Proceeds from the sale of property shall be handled in accordance with the requirements of the Property Standards (See §§ 30.30 through 30.37).

(h) Unless EPA regulations or the terms and condition of the award provide otherwise, recipients shall have no obligation to the Federal Government with respect to program income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions produced under an award. However, Patent and Trademark Amendments (35 U.S.C. 18) apply to inventions made under an experimental, developmental, or research award.

§ 30.25 Revision of budget and program plans.

(a) The budget plan is the financial expression of the project or program as approved during the award process. The budget shall include both the Federal and non-Federal share. It shall be related to performance for program evaluation purposes whenever appropriate.

(b) Recipients are required to report deviations from budget and program plans, and request prior approvals for budget and program plan revisions, in accordance with this section.

(c) For nonconstruction awards, unless EPA regulations provide otherwise, recipients shall request prior written approvals from:

(1) The EPA Award Official for the following:

(i) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

(ii) The need for additional Federal funding.

(iii) The inclusion of costs that require prior approval in accordance with OMB Circular A–21, ''Cost Principles for Institutions of Higher Education,'' OMB Circular A–122, ''Cost Principles for Non-Profit Organizations,'' or 45 CFR part 74 Appendix E, ''Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals,'' or 48 CFR part 31, ''Contract Cost Principles and Procedures,'' as applicable.

(2) The technical program office for the following:

(i) Change in a key person specified in the application or award document.

(ii) The absence for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.

(iii) The transfer of amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa.

(iv) The transfer of funds allotted for training allowances (direct payment to trainees) to other categories of expense.

(v) Unless described in the application and funded in the approved award, the subaward, transfer or contracting out of any work under an award. This provision does not apply to the purchase of supplies, material, equipment or general support services.

(d) No other prior approval requirements for specific items may be imposed unless a deviation has been approved by OMB.

(e) Except for requirements listed in paragraphs (c)(1)(i) and (ii) of this section, the EPA Award Official may waive cost-related and administrative prior written approvals required by this part and OMB cost principles. For awards that support research, these prior approval requirements are automatically waived unless:

(1) EPA provides otherwise in the award or agency regulation or

(2) One of the conditions in paragraph (f)(2)(i) of this section applies.

(f) Recipients are authorized without prior approval or a waiver to:

(1) Incur pre-award costs 90 calendar days prior to award.

(i) Pre-award costs incurred more than 90 calendar days prior to award require the prior approval of the EPA Award Official.

(ii) The applicant must include all pre-award costs in its application.

(iii) The applicant incurs such costs at its own risk (i.e., EPA is under no obligation to reimburse such costs if for any reason the recipient does not receive an award or if the award is less than anticipated and inadequate to cover such costs).

(iv) EPA will only allow pre-award costs without approval if there are sufficient programmatic reasons for incurring the expenditures prior to the award (e.g., time constraints, weather factors, etc.), they are in conformance with the appropriate cost principles, and any procurement complies with the requirements of this rule.

(2) Extend the expiration date of the award one time for up to 12 months.

(i) A one-time extension may not be initiated if:

(A) The terms and conditions of the award prohibit the extension;

(B) The extension requires additional Federal funds; or

(C) The extension involves any change in the approved objectives or scope of the project.

(ii) For one-time extensions, the recipient must notify the EPA Award Official in writing with the supporting reasons and revised expiration date at least 10 days before the expiration date specified in the award.

(iii) This one-time extension may not be exercised merely for the purpose of using unobligated balances.

(3) Carry forward unobligated balances to subsequent funding periods providing the recipient notifies the EPA Award Official by means of the Financial Status Report.

(g) The EPA technical program office may, at its option, restrict the transfer of funds among direct cost categories or programs, functions and activities for awards in which the Federal share of the project exceeds $100,000 and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget as last approved by EPA. Except as provided for at paragraph (c) of this section, for awards in which the Federal share is less than $100,000 there are no restrictions on transfers of funds among direct cost categories. EPA shall not permit a transfer that would cause any Federal appropriation or part thereof to be used for purposes other than those consistent with the original intent of the appropriation.

(h) All other changes to nonconstruction budgets, except for the changes described in paragraph (j) of this section, do not require prior approval.

(i) For construction awards, recipients shall request prior written approval promptly from EPA for budget revisions whenever paragraph (h)(1), (2) or (3) of this section applies.

(1) The revision results from changes in the scope or the objective of the project or program.

(2) The need arises for additional Federal funds to complete the project.

(3) A revision is desired which involves specific costs for which prior written approval requirements may be imposed consistent with applicable OMB cost principles listed in § 30.27.

(j) No other prior approval requirements for specific items may be imposed unless a deviation has been approved by OMB.

(k) When EPA makes an award that provides support for both construction and nonconstruction work, EPA may require the recipient to request prior approval before making any fund or budget transfers between the two types of work supported.

(l) For both construction and nonconstruction awards, EPA shall require recipients to notify the agency in writing promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the recipient for the project period by more than $5000 or five percent of the Federal award, whichever is greater. This notification shall not be required if an application for additional funding is submitted for a continuation award.

(m) When requesting approval for budget revisions, recipients shall use the budget forms that were used in the application unless the EPA indicates that a letter clearly describing the details of the request will suffice.

(n) Within 30 calendar days from the date of receipt of the request for budget revisions, EPA shall review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of 30 calendar days, EPA shall inform the recipient in writing of the date when the recipient may expect the decision.

§ 30.26 Non-Federal audits.

(a) Recipients and subrecipients that are institutions of higher education or other non-profit organizations shall be subject to the audit requirements contained in OMB Circular A–133, ''Audits of Institutions of Higher Education and Other Non-Profit Institutions.''

(b) State and local governments shall be subject to the audit requirements contained in the Single Audit Act (31 U.S.C. 7501–7) and 40 CFR part 31 implementing OMB Circular A–128, ''Audits of State and Local Governments.''

(c) Hospitals not covered by the audit provisions of OMB Circular A–133 shall be subject to the audit requirements of EPA.

(d) Commercial organizations shall be subject to the audit requirements of EPA or the prime recipient as incorporated into the award document.

§ 30.27 Allowable costs.

(a) For each kind of recipient, there is a set of Federal principles for determining allowable costs. Allowability of costs shall be determined in accordance with the cost principles applicable to the entity incurring the costs. Thus, allowability of costs incurred by State, local or federally-recognized Indian tribal governments is determined in accordance with the provisions of OMB Circular A–87, ''Cost Principles for State and Local Governments.'' The allowability of costs incurred by non-profit organizations is determined in accordance with the provisions of OMB Circular A–122, ''Cost Principles for Non-Profit Organizations.'' The allowability of costs incurred by institutions of higher education is determined in accordance with the provisions of OMB Circular A–21, ''Cost Principles for Educational Institutions.'' The allowability of costs incurred by hospitals is determined in accordance with the provisions of Appendix E of 45 CFR part 74, ''Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals.'' The allowability of costs incurred by commercial organizations and those non-profit organizations listed in Attachment C to Circular A–122 is determined in accordance with the provisions of the Federal Acquisition Regulation (FAR) at 48 CFR part 31. In addition, EPA's annual Appropriations Acts may contain restrictions on the use of assistance funds. For example, the Acts may prohibit the use of funds to support intervention in Federal regulatory or adjudicatory proceedings.

(b) EPA will limit its participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors to the maximum daily rate for level 4 of the Executive Schedule unless a greater amount is authorized by law. (Recipient's may, however, pay consultants more than this amount.) This limitation applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed; recipients will pay these in accordance with their normal travel reimbursement practices. Contracts with firms for services which are awarded using the procurement requirements in this part are not affected by this limitation.

§ 30.28 Period of availability of funds.

Where a funding period is specified, a recipient may charge to the grant only allowable costs resulting from obligations incurred during the funding period and any pre-award costs authorized by EPA.

Property Standards

§ 30.30 Purpose of property standards.

Sections 30.31 through 30.37 set forth uniform standards governing management and disposition of property furnished by the Federal Government whose cost was charged to a project supported by a Federal award. EPA shall require recipients to observe these standards under awards and shall not impose additional requirements, unless specifically required by Federal statute. The recipient may use its own property management standards and procedures provided it observes the provisions of §§ 30.31 through 30.37.

§ 30.31 Insurance coverage.

Recipients shall, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired with Federal funds as provided to property owned by the recipient. Federally-owned property need not be insured unless required by the terms and conditions of the award.

§ 30.32 Real property.

EPA shall prescribe requirements for recipients concerning the use and disposition of real property acquired in whole or in part under awards. Unless otherwise provided by statute, such requirements, at a minimum, shall contain the following.

(a) Title to real property shall vest in the recipient subject to the condition that the recipient shall use the real property for the authorized purpose of the project as long as it is needed and shall not encumber the property without approval of EPA.

(b) The recipient shall obtain written approval by EPA for the use of real property in other federally-sponsored projects when the recipient determines that the property is no longer needed for the purpose of the original project. Use in other projects shall be limited to those under federally-sponsored projects (i.e., awards) or programs that have purposes consistent with those authorized for support by EPA.

(c) When the real property is no longer needed as provided in paragraphs (a) and (b) of this section,

the recipient shall request disposition instructions from EPA or its successor Federal awarding agency. EPA shall observe one or more of the following disposition instructions.

(1) The recipient may be permitted to retain title without further obligation to the Federal Government after it compensates the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project.

(2) The recipient may be directed to sell the property under guidelines provided by EPA and pay the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the recipient is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(3) The recipient may be directed to transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the recipient shall be entitled to compensation for its attributable percentage of the current fair market value of the property.

§ 30.33 Federally-owned and exempt property.

(a) *Federally-owned property.* (1) Title to federally-owned property remains vested in the Federal Government. Recipients shall submit annually an inventory listing of federally-owned property in their custody to EPA's property management staff. Upon completion of the award or when the property is no longer needed, the recipient shall report the property to EPA's property management staff for further utilization.

(2) If EPA has no further need for the property, it shall be declared excess and reported to the General Services Administration, unless EPA has statutory authority to dispose of the property by alternative methods (e.g., the authority provided by the Federal Technology Transfer Act (15 U.S.C. 3710 (I)) to donate research equipment to educational and non-profit organizations in accordance with Executive Order 12821, ''Improving Mathematics and Science Education in Support of the National Education Goals.'') Appropriate instructions shall be issued to the recipient by EPA's property management staff.

(b) *Exempt property.* When statutory authority exists, EPA has the option to vest title to property acquired with Federal funds in the recipient without further obligation to the Federal Government and under conditions EPA considers appropriate. Such property is ''exempt property.'' Should EPA not establish conditions, title to exempt property upon acquisition shall vest in the recipient without further obligation to the Federal Government.

§ 30.34 Equipment.

(a) Title to equipment acquired by a recipient with Federal funds shall vest in the recipient, subject to conditions of this section.

(b) The recipient shall not use equipment acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute, for as long as the Federal Government retains an interest in the equipment.

(c) The recipient shall use the equipment in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds and shall not encumber the property without approval of EPA. When no longer needed for the original project or program, the recipient shall use the equipment in connection with its other federally-sponsored activities, in the following order of priority: Activities sponsored by EPA, then activities sponsored by other Federal awarding agencies.

(d) During the time that equipment is used on the project or program for which it was acquired, the recipient shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the equipment was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by EPA; second preference shall be given to projects or programs sponsored by other Federal awarding agencies. If the equipment is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by EPA. User charges shall be treated as program income.

(e) When acquiring replacement equipment, the recipient may use the equipment to be replaced as trade-in or sell the equipment and use the proceeds to offset the costs of the replacement equipment subject to the approval of EPA.

(f) The recipient's property management standards for equipment acquired with Federal funds and federally-owned equipment shall include all of the following.

(1) Equipment records shall be maintained accurately and shall include the following information.

(i) A description of the equipment.

(ii) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(iii) Source of the equipment, including the award number.

(iv) Whether title vests in the recipient or the Federal Government.

(v) Acquisition date (or date received, if the equipment was furnished by the Federal Government) and cost.

(vi) Information from which one can calculate the percentage of Federal participation in the cost of the equipment (not applicable to equipment furnished by the Federal Government).

(vii) Location and condition of the equipment and the date the information was reported.

(viii) Unit acquisition cost.

(ix) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates EPA for its share.

(2) Equipment owned by the Federal Government shall be identified to indicate Federal ownership.

(3) A physical inventory of equipment shall be taken and the results reconciled with the equipment records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment.

(4) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented; if the equipment was owned by the Federal Government, the recipient shall promptly notify EPA.

(5) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.

(6) Where the recipient is authorized or required to sell the equipment, proper sales procedures shall be established which provide for competition to the extent practicable and result in the highest possible return.

(g) When the recipient no longer needs the equipment, the equipment may be used for other activities in

accordance with the following standards. For equipment with a current per unit fair market value of $5000 or more, the recipient may retain the equipment for other uses provided that compensation is made to the original Federal awarding agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the equipment. If the recipient has no need for the equipment, the recipient shall request disposition instructions from EPA. EPA shall determine whether the equipment can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the equipment shall be reported to the General Services Administration by EPA to determine whether a requirement for the equipment exists in other Federal agencies. EPA shall issue instructions to the recipient no later than 120 calendar days after the recipient's request and the following procedures shall govern.

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the recipient's request, the recipient shall sell the equipment and reimburse EPA an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the recipient shall be permitted to deduct and retain from the Federal share $500 or ten percent of the proceeds, whichever is less, for the recipient's selling and handling expenses.

(2) If the recipient is instructed to ship the equipment elsewhere, the recipient shall be reimbursed by the Federal Government by an amount which is computed by applying the percentage of the recipient's participation in the cost of the original project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.

(3) If the recipient is instructed to otherwise dispose of the equipment, the recipient shall be reimbursed by EPA for such costs incurred in its disposition.

(4) EPA may reserve the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such transfer shall be subject to the following standards.

(i) The equipment shall be appropriately identified in the award or otherwise made known to the recipient in writing.

(ii) EPA shall issue disposition instructions within 120 calendar days after receipt of a final inventory. The final inventory shall list all equipment acquired with grant funds and federally-owned equipment. If EPA fails to issue disposition instructions within the 120 calendar day period, the recipient shall apply the standards of this section, as appropriate.

(iii) When EPA exercises its right to take title, the equipment shall be subject to the provisions for federally-owned equipment.

§ 30.35 Supplies and other expendable property.

(a) Title to supplies and other expendable property shall vest in the recipient upon acquisition. If there is a residual inventory of unused supplies exceeding $5000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other federally-sponsored project or program, the recipient shall retain the supplies for use on non-Federal sponsored activities or sell them, but shall, in either case, compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as for equipment.

(b) The recipient shall not use supplies acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute as long as the Federal Government retains an interest in the supplies.

§ 30.36 Intangible property.

(a) The recipient may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under an award. EPA reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

(b) Recipients are subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR part 401, ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.''

(c) Unless waived by EPA, the Federal Government has the right to paragraphs (c) (1) and (2) of this section.

(1) Obtain, reproduce, publish or otherwise use the data first produced under an award.

(2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

(d) Title to intangible property and debt instruments acquired under an award or subaward vests upon acquisition in the recipient. The recipient shall use that property for the originally-authorized purpose, and the recipient shall not encumber the property without approval of EPA. When no longer needed for the originally authorized purpose, disposition of the intangible property shall occur in accordance with the provisions of § 30.34(g).

§ 30.37 Property trust relationship.

Real property, equipment, intangible property and debt instruments that are acquired or improved with Federal funds shall be held in trust by the recipient as trustee for the beneficiaries of the project or program under which the property was acquired or improved. Agencies may require recipients to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with Federal funds and that use and disposition conditions apply to the property.

Procurement Standards

§ 30.40 Purpose of procurement standards.

Sections 30.41 through 30.48 set forth standards for use by recipients in establishing procedures for the procurement of supplies and other expendable property, equipment, real property and other services with Federal funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and Executive Orders. No additional procurement standards or requirements shall be imposed by EPA upon recipients, unless specifically required by Federal statute or Executive Order or approved by OMB.

§ 30.41 Recipient responsibilities.

The standards contained in this part do not relieve the recipient of the contractual responsibilities arising under its contract(s). The recipient is the responsible authority, without recourse to EPA, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of an award or other agreement. This includes disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning

violation of statute are to be referred to such Federal, State or local authority as may have proper jurisdiction.

§ 30.42 Codes of conduct.

The recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements. However, recipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.

§ 30.43 Competition.

All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the recipient, price, quality and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the recipient. Any and all bids or offers may be rejected when it is in the recipient's interest to do so.

§ 30.44 Procurement procedures.

(a) All recipients shall establish written procurement procedures. These procedures shall provide for, at a minimum, that paragraphs (a) (1), (2) and (3) of this section apply.

(1) Recipients avoid purchasing unnecessary items.

(2) Where appropriate, an analysis is made of lease and purchase alternatives to determine which would be the most economical and practical procurement for the Federal Government.

(3) Solicitations for goods and services provide for all of the following.

(i) A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.

(ii) Requirements which the bidder/offeror must fulfill and all other factors to be used in evaluating bids or proposals.

(iii) A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.

(iv) The specific features of ''brand name or equal'' descriptions that bidders are required to meet when such items are included in the solicitation.

(v) The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.

(vi) Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

(b) Positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible. Recipients of Federal awards shall take all of the following steps to further this goal.

(1) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.

(2) Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.

(3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.

(4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.

(5) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

(6) If the prime contractor awards subcontracts, requiring the contractor to take steps in paragraphs (b)(1) through (5) of this section.

(c) The type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) shall be determined by the recipient but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. The ''cost-plus-a-percentage-of-cost'' or ''percentage of construction cost'' methods of contracting shall not be used.

(d) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by agencies' implementation of Executive Orders 12549 and 12689, ''Debarment and Suspension.''

(e) Recipients shall, on request, make available for EPA, pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc., when any of the following conditions apply.

(1) A recipient's procurement procedures or operation fails to comply with the procurement standards in EPA's implementation of Circular A–110.

(2) The procurement is expected to exceed the small purchase threshold fixed at 41 U.S.C. 403 (11) (currently $100,000) and is to be awarded without competition or only one bid or offer is received in response to a solicitation.

(3) The procurement, which is expected to exceed the small purchase threshold, specifies a ''brand name'' product.

(4) The proposed award over the small purchase threshold is to be awarded to other than the apparent low bidder under a sealed bid procurement.

(5) A proposed contract modification changes the scope of a contract or

increases the contract amount by more than the amount of the small purchase threshold.

§ 30.45 Cost and price analysis.

Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

§ 30.46 Procurement records.

Procurement records and files for purchases in excess of the small purchase threshold shall include the following at a minimum: Basis for contractor selection; justification for lack of competition when competitive bids or offers are not obtained; and basis for award cost or price.

§ 30.47 Contract administration.

A system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all purchases. Recipients shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.

§ 30.48 Contract provisions.

The recipient shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. The following provisions shall also be applied to subcontracts.

(a) Contracts in excess of the small purchase threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.

(b) All contracts in excess of the small purchase threshold shall contain suitable provisions for termination by the recipient, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(c) Except as otherwise required by statute, an award that requires the contracting (or subcontracting) for construction or facility improvements shall provide for the recipient to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds $100,000. For those contracts or subcontracts exceeding $100,000, EPA may accept the bonding policy and requirements of the recipient, provided EPA has made a determination that the Federal Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows.

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The ''bid guarantee'' shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A ''performance bond'' is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A ''payment bond'' is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.

(4) Where bonds are required in the situations described herein, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, ''Surety Companies Doing Business with the United States.''

(d) All negotiated contracts (except those for less than the small purchase threshold) awarded by recipients shall include a provision to the effect that the recipient, EPA, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

(e) All contracts, including small purchases, awarded by recipients and their contractors shall contain the procurement provisions of the Appendix to Circular A–110, as applicable. Reports and Records.

§ 30.50 Purpose of reports and records.

Sections 30.51 through 30.53 set forth the procedures for monitoring and reporting on the recipient's financial and program performance and the necessary standard reporting forms. They also set forth record retention requirements.

§ 30.51 Monitoring and reporting program performance.

(a) Recipients are responsible for managing and monitoring each project, program, subaward, function or activity supported by the award. Recipients shall monitor subawards to ensure subrecipients have met the audit requirements as delineated in § 30.26.

(b) EPA shall prescribe the frequency with which the performance reports shall be submitted. Except as provided in paragraph (f) of this section, performance reports shall not be required more frequently than quarterly or, less frequently than annually. Annual reports shall be due 90 calendar days after the grant year; quarterly or semi-annual reports shall be due 30 days after the reporting period. EPA may require annual reports before the anniversary dates of multiple year awards in lieu of these requirements. The final performance reports are due 90 calendar days after the expiration or termination of the award.

(c) If inappropriate, a final technical or performance report shall not be required after completion of the project.

(d) When required, performance reports shall generally contain, for each award, brief information on each of the following.

(1) A comparison of actual accomplishments with the goals and objectives established for the period, the findings of the investigator, or both. Whenever appropriate and the output of programs or projects can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.

(2) Reasons why established goals were not met, if appropriate.

(3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(e) Recipients shall not be required to submit more than the original and two copies of performance reports.

(f) Recipients shall immediately notify EPA of developments that have a significant impact on the award-supported activities. Also, notification shall be given in the case of problems, delays, or adverse conditions which materially impair the ability to meet the objectives of the award. This notification shall include a statement of

the action taken or contemplated, and any assistance needed to resolve the situation.

(g) EPA may make site visits, as needed.

(h) EPA shall comply with clearance requirements of 5 CFR part 1320 when requesting performance data from recipients.

§ 30.52 Financial reporting.

(a) The following forms or such other forms as may be approved by OMB are authorized for obtaining financial information from recipients.

(1) *SF–269 or SF–269A, Financial Status Report.* (i) EPA shall require recipients to use the SF–269 or SF–269A to report the status of funds for all nonconstruction projects or programs. However, EPA has the option of not requiring the SF–269 or SF–269A when the SF–270, Request for Advance or Reimbursement, or SF–272, Report of Federal Cash Transactions, is determined to provide adequate information to meet its needs, except that a final SF–269 or SF–269A shall be required at the completion of the project when the SF–270 is used only for advances.

(ii) EPA shall prescribe whether the report shall be on a cash or accrual basis. If EPA requires accrual information and the recipient's accounting records are not normally kept on the accrual basis, the recipient shall not be required to convert its accounting system, but shall develop such accrual information through best estimates based on an analysis of the documentation on hand.

(iii) EPA shall determine the frequency of the Financial Status Report for each project or program, considering the size and complexity of the particular project or program. However, the report shall not be required more frequently than quarterly or less frequently than annually. A final report shall be required at the completion of the agreement.

(iv) EPA shall require recipients to submit the SF–269 or SF–269A (an original and no more than two copies) no later than 30 days after the end of each specified reporting period for quarterly and semi-annual reports, and 90 calendar days for annual and final reports. Extensions of reporting due dates may be approved by EPA upon request of the recipient.

(2) *SF–272, Report of Federal Cash Transactions.* (i) When funds are advanced to recipients EPA shall require each recipient to submit the SF–272 and, when necessary, its continuation sheet, SF–272A. EPA shall use this report to monitor cash advanced to recipients and to obtain disbursement information for each agreement with the recipients.

(ii) EPA may require forecasts of Federal cash requirements in the ''Remarks'' section of the report.

(iii) When practical and deemed necessary, EPA may require recipients to report in the ''Remarks'' section the amount of cash advances received in excess of three days. Recipients shall provide short narrative explanations of actions taken to reduce the excess balances.

(iv) Recipients shall be required to submit not more than the original and two copies of the SF–272 15 calendar days following the end of each quarter. EPA may require a monthly report from those recipients receiving advances totaling $1 million or more per year.

(v) EPA may waive the requirement for submission of the SF–272 for any one of the following reasons:

(A) When monthly advances do not exceed $25,000 per recipient, provided that such advances are monitored through other forms contained in this section;

(B) If, in EPA's opinion, the recipient's accounting controls are adequate to minimize excessive Federal advances; or

(C) When the electronic payment mechanisms provide adequate data.

(b) When EPA needs additional information or more frequent reports, the following shall be observed.

(1) When additional information is needed to comply with legislative requirements, EPA shall issue instructions to require recipients to submit such information under the ''Remarks'' section of the reports.

(2) When EPA determines that a recipient's accounting system does not meet the standards in § 30.21, additional pertinent information to further monitor awards may be obtained upon written notice to the recipient until such time as the system is brought up to standard. EPA, in obtaining this information, shall comply with report clearance requirements of 5 CFR part 1320.

(3) EPA may shade out any line item on any report if not necessary.

(4) EPA may accept the identical information from the recipients in machine readable format or computer printouts or electronic outputs in lieu of prescribed formats.

(5) EPA may provide computer or electronic outputs to recipients when such expedites or contributes to the accuracy of reporting.

§ 30.53 Retention and access requirements for records.

(a) This section sets forth requirements for record retention and access to records for awards to recipients. EPA shall not impose any other record retention or access requirements upon recipients.

(b) Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, as authorized by EPA. The only exceptions are the following.

(1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

(2) Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.

(3) When records are transferred to or maintained by EPA, the 3-year retention requirement is not applicable to the recipient.

(4) Indirect cost rate proposals, cost allocations plans, etc. as specified in paragraph (g) of this section.

(c) Copies of original records may be substituted for the original records if authorized by EPA.

(d) EPA shall request transfer of certain records to its custody from recipients when it determines that the records possess long term retention value. However, in order to avoid duplicate recordkeeping, EPA may make arrangements for recipients to retain any records that are continuously needed for joint use.

(e) EPA, the Inspector General, Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained.

(f) Unless required by statute, EPA shall not place restrictions on recipients that limit public access to the records of recipients that are pertinent to an award, except when it can be demonstrated that such records shall be kept confidential and would have been

exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to EPA.

(g) Indirect cost rate proposals, cost allocations plans, etc. Paragraphs (g)(1) and (g)(2) of this section apply to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) *If submitted for negotiation*. If the recipient submits to EPA or the subrecipient submits to the recipient the proposal, plan, or other computation to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts on the date of such submission.

(2) *If not submitted for negotiation*. If the recipient is not required to submit to EPA or the subrecipient is not required to submit to the recipient the proposal, plan, or other computation for negotiation purposes, then the 3-year retention period for the proposal, plan, or other computation and its supporting records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

§ 30.54 Quality assurance.

If the project officer determines that the grantee's project involves environmentally related measurements or data generation, the grantee shall develop and implement quality assurance practices consisting of policies, procedures, specifications, standards, and documentation sufficient to produce data of quality adequate to meet project objectives and to minimize loss of data due to out-of-control conditions or malfunctions. The quality system must comply with the requirements of ANSI/ASQC E4, ''Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs'', which may be obtained from the National Technical Information Service (NTIS), 5885 Port Royal Road, Springfield, VA 22161.

Termination and Enforcement

§ 30.60 Purpose of termination and enforcement.

Sections 30.61 and 30.62 set forth uniform suspension, termination and enforcement procedures.

§ 30.61 Termination.

(a) Awards may be terminated in whole or in part only if paragraph (a)(1), (2) or (3) of this section applies.

(1) By EPA, if a recipient materially fails to comply with the terms and conditions of an award.

(2) By EPA with the consent of the recipient, in which case the two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.

(3) By the recipient upon sending to EPA written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if EPA determines in the case of partial termination that the reduced or modified portion of the grant will not accomplish the purposes for which the grant was made, it may terminate the grant in its entirety under either paragraph (a)(1) or (2) of this secion.

(b) If costs are allowed under an award, the responsibilities of the recipient referred to in § 30.71(a), including those for property management as applicable, shall be considered in the termination of the award, and provision shall be made for continuing responsibilities of the recipient after termination, as appropriate.

§ 30.62 Enforcement.

(a) *Remedies for noncompliance*. If a recipient materially fails to comply with the terms and conditions of an award, whether stated in a Federal statute, regulation, assurance, application, or notice of award, EPA may, in addition to imposing any of the special conditions outlined in § 30.14, take one or more of the following actions, as appropriate in the circumstances.

(1) Temporarily withhold cash payments pending correction of the deficiency by the recipient or more severe enforcement action by EPA.

(2) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

(3) Wholly or partly suspend or terminate the current award.

(4) Withhold further awards for the project or program.

(5) Take other remedies that may be legally available.

(b) *Hearings and appeals*. In taking an enforcement action, EPA shall provide the recipient an opportunity for hearing, appeal, or other administrative proceeding to which the recipient is entitled under any statute or regulation applicable to the action involved. EPA's Dispute Provisions found at 40 CFR part 31, subpart F, Disputes, are applicable to assistance awarded under the provisions of this Part.

(c) *Effects of suspension and termination*. Costs of a recipient resulting from obligations incurred by the recipient during a suspension or after termination of an award are not allowable unless EPA expressly authorizes them in the notice of suspension or termination or subsequently. Other recipient costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if paragraphs (c)(1) and (2) of this section apply.

(1) The costs result from obligations which were properly incurred by the recipient before the effective date of suspension or termination, are not in anticipation of it, and in the case of a termination, are noncancellable.

(2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(d) *Relationship to debarment and suspension*. The enforcement remedies identified in this section, including suspension and termination, do not preclude a recipient from being subject to debarment and suspension under Executive Orders 12549 and 12689 and EPA's implementing regulations (see § 30.13).

§ 30.63 Disputes.

(a) Disagreements should be resolved at the lowest possible level.

(b) If an agreement cannot be reached, the EPA disputes decision official will provide a written final decision. The EPA disputes decision official is the individual designated by the award official to resolve disputes concerning assistance agreements. If the dispute cannot be resolved the procedures outlined at 40 CFR part 31, subpart F, should be followed.

Subpart D—After-the-Award Requirements

§ 30.70 Purpose.

Sections 30.71 through 30.73 contain closeout procedures and other procedures for subsequent disallowances and adjustments.

§ 30.71 Closeout procedures.

(a) Recipients shall submit, within 90 calendar days after the date of completion of the award, all financial, performance, and other reports as required by the terms and conditions of the award. EPA may approve extensions when requested by the recipient.

(b) Unless EPA authorizes an extension, a recipient shall liquidate all obligations incurred under the award not later than 90 calendar days after the funding period or the date of completion as specified in the terms and conditions of the award or in agency implementing instructions.

(c) EPA shall make prompt payments to a recipient for allowable reimbursable costs under the award being closed out.

(d) The recipient shall promptly refund any balances of unobligated cash that EPA has advanced or paid and that is not authorized to be retained by the recipient for use in other projects. OMB Circular A–129 governs unreturned amounts that become delinquent debts.

(e) When authorized by the terms and conditions of the award, EPA shall make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.

(f) The recipient shall account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with §§ 30.31 through 30.37.

(g) In the event a final audit has not been performed prior to the closeout of an award, EPA shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

§ 30.72 Subsequent adjustments and continuing responsibilities.

(a) The closeout of an award does not affect any of the following.

(1) The right of EPA to disallow costs and recover funds on the basis of a later audit or other review.

(2) The obligation of the recipient to return any funds due as a result of later refunds, corrections, or other transactions.

(3) Audit requirements in § 30.26.

(4) Property management requirements in §§ 30.31 through 30.37.

(5) Records retention as required in § 30.53.

(b) After closeout of an award, a relationship created under an award may be modified or ended in whole or in part with the consent of EPA and the recipient, provided the responsibilities of the recipient referred to in § 30.73(a), including those for property management as applicable, are considered and provisions made for continuing responsibilities of the recipient, as appropriate.

§ 30.73 Collection of amounts due.

(a) Any funds paid to a recipient in excess of the amount to which the recipient is finally determined to be entitled under the terms and conditions of the award constitute a debt to the Federal Government. If not paid within a reasonable period after the demand for payment, EPA may reduce the debt by paragraph (a) (1), (2) or (3) of this section.

(1) Making an administrative offset against other requests for reimbursements.

(2) Withholding advance payments otherwise due to the recipient.

(3) Taking other action permitted by statute.

(b) Except as otherwise provided by law, EPA shall charge interest on an overdue debt in accordance with 4 CFR Chapter II, ''Federal Claims Collection Standards.''

Appendix to Part 30—Contract Provisions

All contracts awarded by a recipient, including small purchases, shall contain the following provisions as applicable:

1. Equal Employment Opportunity—All contracts shall contain a provision requiring compliance with Executive Order 11246, ''Equal Employment Opportunity,'' as amended by Executive Order 11375, ''Amending Executive Order 11246 Relating to Equal Employment Opportunity,'' and as supplemented by regulations at 41 CFR part 60, ''Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.''

2. Copeland ''Anti-Kickback'' Act (18 U.S.C. 874 and 40 U.S.C. 276c)—All contracts and subgrants in excess of $100,000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland ''Anti-Kickback'' Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, ''Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States''). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to EPA.

3. Davis-Bacon Act, as amended (40 U.S.C. 276a to a–7)—When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than $2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a–7) and as supplemented by Department of Labor regulations (29 CFR part 5, ''Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction''). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to EPA.

4. Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333)—Where applicable, all contracts awarded by recipients in excess of $100,000 for construction contracts and in excess of $2500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by Department of Labor regulations (29 CFR part 5). Under section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. Rights to Inventions Made Under a Contract or Agreement—Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,'' and any implementing regulations issued by EPA.

6. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended—Contracts and subgrants of amounts in excess of $100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Regional Office of the Environmental Protection Agency (EPA).

7. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors who apply or bid for an award of more than $100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal

contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

8. Debarment and Suspension (Executive Orders 12549 and 12689)—No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with Executive Orders 12549 and 12689, ''Debarment and Suspension.'' This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

[FR Doc. 96–2502 Filed 2–14–96; 8:45 am]

BILLING CODE 6560–50–P

federal register

Thursday
February 15, 1996

Part III

Department of Education

Intent to Award Grantback Funds: Connecticut; Notice

DEPARTMENT OF EDUCATION

Intent To Repay to the Connecticut Board of Education and Services for the Blind Funds Recovered as a Result of a Final Audit Determination

AGENCY: Department of Education.

ACTION: Notice of intent to award grantback funds.

SUMMARY: Notice is given that under section 459 of the General Education Provisions Act (GEPA), 20 U.S.C. 1234h, the U.S. Secretary of Education (Secretary) intends to repay to the State of Connecticut Board of Education and Services for the Blind (State agency), under a grantback arrangement, an amount equal to 75 percent of the funds recovered by the U.S. Department of Education (Department) as a result of a final action taken by the Department on March 17, 1993 on an audit determination. This notice describes the State agency's plans for the use of the repaid funds and the terms and conditions under which the Secretary intends to make those funds available. This notice invites comments on the proposed grantback.

DATES: All comments must be received on or before March 18, 1996.

ADDRESSES: Comments concerning the grantback should be addressed to Peg Covello, U.S. Department of Education, 600 Independence Avenue SW., Room 3223, Switzer Building, Washington, D.C. 20202–2735.

FOR FURTHER INFORMATION CONTACT: Peg Covello. Telephone: (202) 205–9357. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

A. Background

The Department has recovered $168,940 (the $159,755 disallowance plus interest) from the State of Connecticut Board of Education and Services for the Blind in response to a claim arising from an audit conducted by the Connecticut Office of Auditors of Public Accounts. The audit period was July 1, 1985 through June 30, 1987.

The claim involved the State agency's administration of the State Vocational Rehabilitation Services Program (CFDA No. 84.126), the Independent Living Services for Older Individuals Who Are Blind program (CFDA No. 84.177), and the Education of Children with Disabilities in State Operated or Supported Schools (Chapter 1 Handicapped program) (CFDA No. 84.009).

The final audit determination of the Regional Commissioner and the Assistant Secretary, which was issued on September 29, 1992, found that during the audit period the State agency had—

(a) Overexpended $110,085 in payroll costs associated with funds under section 110 of the Rehabilitation Act of 1973, as amended (the Act), for the Federal fiscal year (FY) that ended September 30, 1986. Although State funds were available to adjust grant charges to the proper funding levels between Federal and State match accounts, the State Office of Policy and Management would not permit the charging of Federal program salaries to State budgeted appropriation accounts. As a result, the agency carried forward the $110,085 in payroll costs and reported them as expenditures for the Federal fiscal year that ended September 30, 1987. For these Federal fiscal years, grantees were required to expend Federal funds for programs authorized by section 110 of the Act, which do not include reallotted funds, in the same Federal fiscal year for which they were appropriated by Congress. In addition, 34 CFR 76.707 requires that obligations for personal services by an employee of the State must be made when the services are performed. Because the State agency had no authority to charge salaries and wages of employees earned in one Federal fiscal year to a subsequent Federal fiscal year, the Department sought recovery of $88,068 (the Federal 80 percent share of the $110,085);

(b) Rolled over an unexpended and unobligated balance of $32,687 in Independent Living Services for Older Individuals Who Are Blind program funds for the Federal fiscal year that ended September 30, 1987, into the Federal fiscal year that ended September 30, 1988, for expenditure without proper Federal authorization. The Education Department General Administrative Regulations (EDGAR), 34 CFR 75.703, states that a grantee may use grant funds only for obligations it makes during the grant period. Because the State agency expended these FY 1987 funds in FY 1988, the Department sought recovery of the $32,687; and

(c) Charged to the Chapter 1 Handicapped program the total salary for one mobility instructor without the substantiation of time and effort reporting. Section 435(b)(5) of GEPA requires the State to use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Chapter 1 Handicapped program funds. Moreover, section 437(a) of GEPA requires each recipient of Federal funds under any applicable program to keep records that fully disclose the amount and disposition by the recipient of those funds, the total cost of the activity for which the funds are used, the share of that cost provided from other sources, and any other records that will facilitate an effective audit. The Department sought return of those unsupported expenditures of $39,000 within the statutory period.

The final determination sought the recovery of a total of $159,755 from the State agency.

The State agency appealed the final determination to the Department's Office of Administrative Law Judges (OALJ) (Application of the State of Connecticut: Docket No. 92–120–R) on November 9, 1992, 10 days after expiration of the 30-day appeal limit. In an Initial Decision issued January 29, 1993, the OALJ dismissed the application because of failure to file the Application for Review on time. On March 17, 1993 the Secretary of Education affirmed the Initial Decision. On March 9, 1995 the State agency made the final repayment for a total recovery, with interest, of $168,940.

The Connecticut Board of Education and Services for the Blind has submitted a request for a grantback of $119,816 (75 percent of the $159,755 recovered by the Department of Education). In its request the State agency provided documentation of the actions taken to correct the practices that resulted in the final audit determination. In October 1994, the Department conducted a comprehensive on-site State Agency Financial Administrative Review (SAFAR) of the State agency. The review confirmed that all of the audit recommendations had been implemented and that the agency was in full compliance with the applicable laws and regulations.

B. Authority for Awarding a Grantback

Section 459(a) of GEPA, 20 U.S.C. 1234h(a), provides that, whenever the Secretary has recovered program funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available for the program and may arrange to repay to the State agency affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this so-called ''grantback'' arrangement if the Secretary determines that the—

(1) Practices or procedures of the State agency that resulted in the final audit determination have been corrected, and

the State agency is, in all other respects, in compliance with requirements of the applicable program;

(2) State agency has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement that meets the requirements of the program and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and

(3) Use of funds to be awarded under the grantback arrangement in accordance with the State agency's plan would serve to achieve the purposes of the program under which funds were originally granted.

C. Plan for Use of Funds Awarded Under a Grantback Arrangement

In accordance with section 459(a)(2) of GEPA, the State agency submitted a plan for the proposed use of the funds in its April 10, 1995 request for a grantback. In its plan, the State agency proposes to use the grantback of $66,051 plus the required State matching funds in the amount of $17,877 to supplement current State Vocational Rehabilitation Services Program activities.

Over the last two years new intake procedures have been instituted that have resulted in an increase in intakes, clients being served, and individuals being placed in competitive jobs. In FY 1992, 701 clients were served, with 108 placed into competitive jobs. In FY 1993, 1,014 individuals were served, with 170 placed into competitive jobs. In FY 1994, 1,098 were served, with 177 placed into competitive jobs. Over this same three-year period the agency has received level or marginal funding increases at both the State and Federal levels. At the same time, program costs have increased each year in the areas of: (1) Adaptive technology, 31 percent of the FY 1995 budget commitments, with an 11 percent increase in costs over FY 1994; (2) College training, 21 percent of the FY 1995 budget commitments, with a 35 percent increase in costs over FY 1994; (3) Employment related training, 20 percent of the FY 1995 budget, with an 81 percent increase in costs over FY 1994; and (4) Personal adjustment training, which shows a 200 percent increase over FY 1994. All of these factors combined have strained the available funds to meet program goals, and a grantback authorization would have a very positive impact on the agency's ability to continue increasing its number of competitive placement outcomes.

In its plan the State agency proposes to use the grantback of $24,515 plus the required State matching funds in the amount of $2,724 to supplement current Independent Living Services for Older Individuals Who are Blind activities. The grantback funds would be used specifically to design, pilot-test, and print a train-the-trainer guide.

The guide would be used by key service providers, senior center staff, day care staff, independent living staff, and other community services personnel. Emphasis would be placed on improving the daily independence of older visually impaired individuals.

The State agency would direct its outreach activities toward older individuals who are unserved and underserved by traditional agencies in the field of blindness.

In its plan the State agency proposes to use the grantback of $29,250 (no State match required) to supplement current activities authorized under Part B of IDEA that were previously authorized and funded under the Chapter 1 Handicapped program, which was terminated effective FY 1995. The funds will be used specifically to provide Computer Camp and Social and Recreational Camp experiences for legally blind children in State operated or supported schools. The children will learn applications of advanced technology to produce braille, large print, and synthesized speech. The summer camps also provide recreational and social skill development, low-vision evaluations, aids and devices, and follow-up training.

D. The Secretary's Determinations

The Secretary has reviewed the State agency's request for a grantback of funds, the State agency's plan (as outlined in the preceding section of this notice), and other information submitted by the State agency. Based upon that review, the Secretary has determined that the conditions contained in section 459 of GEPA have been met.

The determinations are based upon the best information available to the Secretary at the present time. If, at a later date, this information is discovered to have been inaccurate or incomplete, the Secretary will not be precluded from taking appropriate administrative action at that time. In finding that the conditions of section 459 of GEPA have been met, the Secretary makes no determination concerning any pending audit recommendation or final audit determination.

E. Notice of the Secretary's Intent To Enter Into a Grantback Arrangement

Section 459(d) of GEPA requires that, at least 30 days prior to entering into an arrangement to award funds under a grantback, the Secretary publish in the Federal Register a notice of intent to do so, and the terms and conditions under which the payment will be made.

In accordance with section 459(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to the Connecticut Board of Education and Services to the Blind under a grantback arrangement, as authorized by section 459. The grantback award will be in the amount of $119,816. This amount is 75 percent—maximum percentage authorized by section 459—of the amount of funds recovered by the Department. The Secretary's intent to award the maximum amount of grantback funds possible under section 459 is based upon the determinations outlined in section D of this notice.

F. Terms and Conditions Under Which Payments Under a Grantback Arrangement Will Be Made

The State agency agrees to comply with the following terms and conditions under which payments under a grantback arrangement will be made:

(a) The funds awarded under the grantback and the required State matching funds must be expended in accordance with—

(1) All applicable statutory and regulatory requirements of The State Vocational Rehabilitation Services Program, including those provisions relating to an order of selection if such an order is in effect during the grantback period, the Independent Living Services for Older Individuals Who Are Blind program, and Part B of IDEA, as appropriate;

(2) The plan and the request for the grantback that were submitted on April 10, 1995, and any other amendments to that plan that are approved in advance of the grantback award by the Secretary; and

(3) The budget that was submitted with the plan and any amendments to the budget that are approved in advance by the Secretary.

(b) Pursuant to section 459(c) of GEPA, all funds received under this grantback arrangement must be obligated no later than September 30, 1996.

(c) The State agency must submit two annual reports (not later than December 31, 1995 and December 31, 1996 respectively) to the Secretary that—

(1) Indicate how the funds awarded under the grantback and the State matching funds have been expended in accordance with the proposed plan; and

(2) Describe the results and effectiveness of the project for which the funds were expended.

(d) The State matching funds expended under the grantback arrangement in accordance with The State Vocational Rehabilitation Services Program will be counted for maintenance of effort purposes under The State Vocational Rehabilitation Services Program.

(e) Separate accounting records must be maintained documenting the expenditure of all funds under the grantback arrangement.

(f) Before funds will be repaid pursuant to this notice, the State agency must repay to the Department any debts that become overdue or enter into a repayment agreement for those debts.

(Catalog of Federal Domestic Assistance Numbers 84.126 The State Vocational Rehabilitation Services Program; 84.177 Independent Living Services for Older Individuals Who Are Blind; and 84.027 Assistance to States for Education of Children With Disabilities)

Dated: February 9, 1996.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–3451 Filed 2–14–96; 8:45 am]

BILLING CODE 4000–01–P

federal register

Thursday
February 15, 1996

Part IV

The President

Executive Order 12989—Economy and Efficiency in Government Procurement Through Compliance With Certain Immigration and Naturalization Act Provisions

Federal Register
Vol. 61, No. 32
Thursday, February 15, 1996

Presidential Documents

Title 3—

The President

Executive Order 12989 of February 13, 1996

Economy and Efficiency in Government Procurement Through Compliance With Certain Immigration and Naturalization Act Provisions

This order is designed to promote economy and efficiency in Government procurement. Stability and dependability are important elements of economy and efficiency. A contractor whose work force is less stable will be less likely to produce goods and services economically and efficiently than a contractor whose work force is more stable. It remains the policy of this Administration to enforce the immigration laws to the fullest extent, including the detection and deportation of illegal aliens. In these circumstances, contractors cannot rely on the continuing availability and service of illegal aliens, and contractors that choose to employ unauthorized aliens inevitably will have a less stable and less dependable work force than contractors that do not employ such persons. Because of this Administration's vigorous enforcement policy, contractors that employ unauthorized alien workers are necessarily less stable and dependable procurement sources than contractors that do not hire such persons. I find, therefore, that adherence to the general policy of not contracting with providers that knowingly employ unauthorized alien workers will promote economy and efficiency in Federal procurement.

NOW, THEREFORE, to ensure the economical and efficient administration and completion of Federal Government contracts, and by the authority vested in me as President by the Constitution and the laws of the United States of America, including 40 U.S.C. 486(a) and 3 U.S.C. 301, it is hereby ordered as follows:

Section 1. (a) It is the policy of the executive branch in procuring goods and services that, to ensure the economical and efficient administration and completion of Federal Government contracts, contracting agencies should not contract with employers that have not complied with section 274A(a)(1)(A) and 274A(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(1)(A), 1324a(a)(2)) (the ''INA employment provisions'') prohibiting the unlawful employment of aliens. All discretion under this Executive order shall be exercised consistent with this policy.

(b) It remains the policy of this Administration to fully and aggressively enforce the antidiscrimination provisions of the Immigration and Nationality Act to the fullest extent. Nothing in this order relieves employers from their obligation to avoid unfair immigration-related employment practices as required by the antidiscrimination provisions of section 1324(b) of the INA (8 U.S.C. 1324b) and all other antidiscrimination requirements of applicable law, including the requirements of 8 U.S.C. 1324b(a)(6) concerning the treatment of certain documentary practices as unfair immigration-related employment practices.

Sec. 2. Contractor, as used in this Executive order, shall have the same meaning as defined in subpart 9.4 of the Federal Acquisition Regulation.

Sec. 3. Using the procedures established pursuant to 8 U.S.C. 1324a(e), the Attorney General: (a) may investigate to determine whether a contractor or an organizational unit thereof is not in compliance with the INA employment provisions;

(b) shall receive and may investigate complaints by employees of any entity covered under section 3(a) of this order where such complaints allege noncompliance with the INA employment provisions; and

(c) shall hold such hearings as are required under 8 U.S.C. 1324a(e) to determine whether an entity covered under section 3(a) is not in compliance with the INA employment provisions.

Sec. 4. (a) Whenever the Attorney General determines that a contractor or an organizational unit thereof is not in compliance with the INA employment provisions, the Attorney General shall transmit that determination to the appropriate contracting agency and such other Federal agencies as the Attorney General may determine. Upon receipt of such determination from the Attorney General, the head of the appropriate contracting agency shall consider the contractor or an organizational unit thereof for debarment as well as for such other action as may be appropriate in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation.

(b) The head of the contracting agency may debar the contractor or an organizational unit thereof based on the determination of the Attorney General that it is not in compliance with the INA employment provisions. The Attorney General's determination shall not be reviewable in the debarment proceedings.

(c) The scope of the debarment generally should be limited to those organizational units of a Federal contractor that the Attorney General finds are not in compliance with the INA employment provisions.

(d) The period of the debarment shall be for 1 year and may be extended for additional periods of 1 year if, using the procedures established pursuant to 8 U.S.C. 1324a(e), the Attorney General determines that the organizational unit of the Federal contractor continues to be in violation of the INA employment provisions.

(e) The Administrator of General Services shall list a debarred contractor or an organizational unit thereof on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs and the contractor or an organizational unit thereof shall be ineligible to participate in any procurement or nonprocurement activities.

Sec. 5. (a) The Attorney General shall be responsible for the administration and enforcement of this order, except for the debarment procedures. The Attorney General may adopt such additional rules and regulations and issue such orders as may be deemed necessary and appropriate to carry out the responsibilities of the Attorney General under this order. If the Attorney General proposes to issue rules, regulations, or orders that affect the contracting departments and agencies, the Attorney General shall consult with the Secretary of Defense, the Secretary of Labor, the Administrator of General Services, the Administrator of the National Aeronautics and Space Administration, the Administrator for Federal Procurement Policy, and such other agencies as may be appropriate.

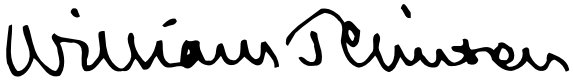
(b) The Secretary of Defense, the Administrator of General Services, and the Administrator of the National Aeronautics and Space Administration shall amend the Federal Acquisition Regulation to the extent necessary and appropriate to implement the debarment responsibility and other related responsibilities assigned to heads of contracting departments and agencies under this order.

Sec. 6. Each contracting department and agency shall cooperate with and provide such information and assistance to the Attorney General as may be required in the performance of the Attorney General's functions under this order.

Sec. 7. The Attorney General, the Secretary of Defense, the Administrator of General Services, the Administrator of the National Aeronautics and Space Administration, and the heads of contracting departments and agencies may delegate any of their functions or duties under this order to any officer or employee of their respective agencies.

Sec. 8. This order shall be implemented in a manner intended to least burden the procurement process. This order neither authorizes nor requires any additional certification provision, clause, or requirement to be included in any contract or contract solicitation.

Sec. 9. This order is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees. This order is not intended, however, to preclude judicial review of final agency decisions in accordance with the Administrative Procedure Act, 5 U.S.C. 701 *et seq.*



THE WHITE HOUSE,
February 13, 1996.

[FR Doc. 96–3646
Filed 2–14–96; 8:45 am]
Billing code 3195–01–P

Reader Aids

Federal Register

Vol. 61, No. 32

Thursday, February 15, 1996

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids	**202–523–5227**
Public inspection announcement line	**523–5215**

Laws

Public Laws Update Services (numbers, dates, etc.)	**523–6641**
For additional information	**523–5227**

Presidential Documents

Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**

Other Services

Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
TDD for the hearing impaired	**523–5229**

ELECTRONIC BULLETIN BOARD

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

FAX-ON-DEMAND

You may access our Fax-On-Demand service. You only need a fax machine and there is no charge for the service except for long distance telephone charges the user may incur. The list of documents on public inspection and the daily Federal Register's table of contents are available using this service. The document numbers are 7050-Public Inspection list and 7051-Table of Contents list. The public inspection list will be updated immediately for documents filed on an emergency basis.

NOTE: YOU WILL ONLY GET A LISTING OF DOCUMENTS ON FILE AND NOT THE ACTUAL DOCUMENT. Documents on public inspection may be viewed and copied in our office located at 800 North Capitol Street, N.W., Suite 700. The Fax-On-Demand telephone number is: **301–713–6905**

FEDERAL REGISTER PAGES AND DATES, FEBRUARY

3539–3776 1
3777–4206 2
4207–4348 5
4349–4584 6
4585–4734 7
4735–4848 8
4849–5270 9
5271–5500 12
5501–5668 13
5669–5920 14
5921–6094 15

CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR
Ch. III 3539

3 CFR
Proclamations:
6863 3777
6864 4347
6865 5269
Executive Orders:
12778 (Revoked by EO 12988) 4729
12866 (See EO 12988) 4729
12964 (Amended by EO 12987) 4205
12987 4205
12988 4729
12989 6091
Administrative Orders:
Memorandum:
February 5, 1996 5669
Presidential Determination:
No. 96–9 of January 22, 1996 4207

5 CFR
Ch. XXX 4349
530 3539
531 3539
532 ..... 5921, 5922
534 3539
550 3539
575 3539
581 3539
582 3539
630 3539
950 4585
1201 4585
4001 4349
Proposed Rules:
532 4940

7 CFR
Ch. XLII 3779
250 5271
300 5923
318 5923
905 3544
944 3544
945 3546
966 5924
1485 3548
1901 3779
1940 3779
1951 3779
2003 3779
2903 4209
4001 3787
4284 3779
Proposed Rules:
723 5316
920 3604
980 4941
999 3606
1464 5317
1755 4754
1944 4814
1980 3853
4279 3853
4287 3853

8 CFR
Proposed Rules:
212 4374
264 4374
274a 4378

9 CFR
310 4849
Proposed Rules:
1 5524
2 5524
3 5524

10 CFR
170 5064
171 5064
830 4209
835 4209
Proposed Rules:
2 4378
35 4754
50 5318
72 3619
1035 3877
1036 3877

11 CFR
100 ..... 3549, 4302
102 4302
104 3549
105 3549
106 4302
109 ..... 3549, 4302
110 4302
114 ..... 3549, 4302
9034 4849
9038 4849
Proposed Rules:
100 3621
110 3621
114 3621

12 CFR
7 4849
21 4332
31 4849
201 5926
208 4338
211 4338
225 4338
303 5926
346 5671
359 5926
701 ..... 3788, 4213
709 3788
741 3788
1401 4349
Proposed Rules:
336 5956
701 4238
705 4238
741 4236

14 CFR
1 5171
23 ..... 5130, 5138, 5151, 5171
25 5218
39 ..... 3550, 3792, 3793, 5275, 5277, 5279, 5280, 5281, 5284, 5501, 5675
71 ..... 4587, 4870, 5503, 5504,

5934, 5935, 5937
91.....5151, 5492
97 .....3552, 3795, 3796, 3797
135.....5938

Proposed Rules:
Ch. I.....4942
217.....5963
39 .....3882, 4756, 4943, 5326, 5329, 5331, 5334, 5524
241.....5963
71 .....4379, 4380, 4381, 5960, 5962
73.....3884

15 CFR
771.....3555, 5677
776.....5677
799 .....3555, 5677, 6064

Proposed Rules:
922.....5335, 5969

16 CFR
22.....3799
305.....5679

Proposed Rules:
303.....5340
409.....4382
436.....5969

17 CFR
200.....5939

Proposed Rules:
400.....4944
420.....4944

18 CFR

Proposed Rules:
Ch. I.....3799, 4596

19 CFR
4.....3568
132.....3569
148.....3569

Proposed Rules:
351.....4826
353.....4826
354.....4826
355.....4826

20 CFR
401.....5939
404.....5939
416.....5939, 5943
422.....5943
423.....5943

Proposed Rules:
209.....5970
404.....4389

21 CFR
80.....3571
173.....4871
189.....4816
331.....4822
510.....4735, 5505
520.....4874, 5505
522.....4874, 5505
524.....5505
558.....4349, 4874

Proposed Rules:
101.....3885, 5349
201.....5912
333.....5918
369.....5912
1220.....4597

22 CFR
9b.....3800

Proposed Rules:
228.....4240

24 CFR
Ch. XI.....5198
Ch. XV 5198
0.....5198
4.....5198
5.....5198, 5662
8.....5198
12.....5198
15.....5198
16.....5198
17.....5198
27.....5198
28.....5198
30.....5198
35.....5198
40.....5198
51.....5198
52.....5198
86.....4875
91.....5198
92.....5198
100.....5198
103.....5198
104.....5198
107.....5198
109.....5198
110.....5198
111.....5198
125.....5198
135.....5198
146.....5198
200.....5198
201.....5198
203.....5198
206.....5198
213.....5198
215.....5198
219.....5198
220.....5198
221.....5198
231.....5198
232.....5198
234.....5198
235.....5198
236.....5198
237.....5198
248.....5198
260.....5198
261.....5198
265.....5198
280.....5198
290.....4580, 5198
291.....5198
511.....5198
570.....5198
572.....5198
574.....5198
576.....5198
582.....5198
583.....5198
585.....5198
590.....5198
594.....5198
597.....5198
700.....5198
750.....5198
760.....5198
791.....5198
792.....5198
799.....5198
811.....5198
812.....5662
813.....5198
850.....5198
880.....5198
881.....5198
882.....5198, 5850
883.....5198
884.....5198
885.....5198
886.....5198
887.....5198
889.....5198
890.....5198
899.....5198
901.....5198
904.....5198
912.....5662
913.....5198
941.....5198
942.....5198
945.....5198
950.....5662
960.....5198
961.....5198
962.....5198
963.....5198
964.....5198
965.....5198
968.....5198
982.....5662
999.....5198
3280.....5198
3282.....5198

25 CFR

Proposed Rules:
Ch. VI.....3623

26 CFR
1.....4349, 4876
602.....4876

28 CFR
2.....4350

Proposed Rules:
35.....4389
540.....5846

29 CFR
1910.....5507
1915.....5507
1917.....5507
1918.....5507
1919.....5507
1926.....5507
1928.....5507
2619.....5945
2676.....5945

Proposed Rules:
Ch. XIV 3624
103.....4246
1904.....4030
1952.....4030

30 CFR
202.....5448
206.....3800, 5448
260.....3800

Proposed Rules:
Ch. II 4390
931.....3625
943.....3628

31 CFR
103.....4326
351.....5510
595.....3805

32 CFR
290.....4885, 5510
311.....3813
321.....3814
835.....4351
838.....4351
843.....4351
848.....4352

Proposed Rules:
838.....4390

33 CFR
100.....4885, 5680
117.....4886

Proposed Rules:
165.....4945

34 CFR
668.....3776
690.....3776

Proposed Rules:
Ch. VI.....4198
201.....3772
361.....4390
646.....4758

36 CFR
223.....5684
242.....5685
1206.....5656
1210.....5660

Proposed Rules:
7.....5354
17.....5356
1190.....5723
1191.....5723

37 CFR
202.....5445

38 CFR

Proposed Rules:
21.....5357

40 CFR
30.....6066
33.....6066
51.....4588
52 .....3572, 3575, 3578, 3579, 3581, 3582, 3584, 3586, 3588, 3589, 3591, 3815, 3817, 3819, 3821, 3824, 4215, 4216, 4217, 4352, 4353, 4887, 4890, 4892, 4895, 4897, 4899, 4901, 5285, 5288, 5291, 5295, 5297, 5299, 5303, 5306, 5307, 5511, 5514, 5515, 5689, 5690, 5694, 5696, 5699, 5701, 5704
63.....4902
70 .....3827, 4217, 4220, 5705
80.....3832
81 .....3591, 4357, 5707
82.....4736
85.....5840
180 .....4591, 4592, 4593, 5711, 5712, 5714, 5716
194.....5224
262.....4903
264.....4903
265.....4903
270.....4903
271.....4742, 5718
281.....3591, 3599
282.....4224
300.....4747

Proposed Rules:
52 .....3631, 3632, 3633, 3634, 3635, 3891, 3892, 4246, 4391, 4392, 4598, 4946, 4947, 4948, 4949, 5358, 5359, 5360, 5362, 5263, 5526, 5527, 5723, 5724, 5725
70.....3893, 4248
76.....3893
80.....3894
81 .....3635, 4392, 5363
89.....4600
90.....4600
91.....4600
180 .....4621, 4623, 5726, 5728
261.....5528
268.....4758
271.....4758, 5528
302.....4758, 5528
440.....5364

41 CFR
302–11.....3838

Proposed Rules:
60-741.....5902

42 CFR

Proposed Rules:
100.....4249

43 CFR
3100.....4748
4100.....4227

Public Land Orders:
3689 (Revoked in part by PLO 7182).....4359
7183.....4752

7184 5719

44 CFR
10 4227
64 5947

Proposed Rules:
62 3635

46 CFR
Ch. III 5720
150 5518
401 5720
402 5720
514 5308

Proposed Rule:
108 4132
110 4132
111 4132
112 4132
113 4132
161 4132

47 CFR
0 ....4359, 4916
1 ....4359, 4916
15 3600
17 4359
21 4359
22 4359
23 4359
24 4359
25 4359
43 4918
63 4937
73 ....4232, 4233, 4234, 4359, 5721, 5722
74 4359
78 4359
80 4359
87 4359
90 ....3600, 3841, 4234, 4359
94 4359
95 4359
97 4359

Proposed Rules:
20 3644
61 3644
69 3644
73 ....4392, 4393, 4950
76 3657

48 CFR
228 3600
252 3600
1403 5519
1425 5519
1452 5519
1815 5312
1816 5312
1819 5312
1823 5312
1827 5312
1835 5312
1837 5312
1852 5312
3509 3846
9904 5520

Proposed Rules:
Ch. 53 4393
909 3877

49 CFR
199 5722
251 4937
258 4937
531 4369
571 ....4370, 4938, 5949

Proposed Rules:
525 4249
541 4249
555 4249
571 ....4249, 4624, 5370, 5730
575 5730
581 4249

50 CFR
14 3849
17 4372
100 5685
217 6064
227 6064
229 3851
611 ....4304, 4311
620 3602
672 ....3602, 4304, 4594, 5608
675 ....4311, 5608
676 ....4304, 4311

Proposed Rules:
17 ....4394, 4401, 5971
23 3894
285 3666
424 4710
641 4950

REMINDERS

The rules and proposed rules in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT TODAY

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Medical devices:

Class II generic devices reclassification into class I, etc.; premarket notification exemptions; published 1-16-96

NUCLEAR REGULATORY COMMISSION

Byproduct, source, and special nuclear materials; domestic licensing:

One-time five-year license extension; published 1-16-96

PERSONNEL MANAGEMENT OFFICE

Prevailing rate systems; published 2-15-96

SECURITIES AND EXCHANGE COMMISSION

Organization, functions, and authority delegations:

Secretary; published 2-15-96

SOCIAL SECURITY ADMINISTRATION

Authority citation revisions; published 2-15-96

Supplemental security income:

Aged, blind, and disabled--

Natural disasters; lost, damaged or destroyed excluded resources repair or replacement funds; time period for not counting as resources, extension; published 2-15-96

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Class B airspace; published 2-15-96

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Spearmint oil produced in Far West; comments due by 2-23-96; published 1-24-96

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:

Horses from contagious equine metritis-affected countries; States authorized to receive; comments due by 2-22-96; published 1-23-96

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Allowable cost and payment clause; comments due by 2-20-96; published 12-21-95

Contractors' purchasing systems reviews; comments due by 2-20-96; published 12-21-95

EDUCATION DEPARTMENT

Postsecondary education:

Student support services program; comment period extension; comments due by 2-20-96; published 2-8-96

Special education and rehabilitative services:

State vocational rehabilitation services program; comments due by 2-23-96; published 12-15-95

State vocational rehabilitation services program--

Meetings; comments due by 2-23-96; published 2-6-96

ENVIRONMENTAL PROTECTION AGENCY

Air programs:

Fuel and fuel additives--

Prohibition on gasoline containing lead or lead additives for highway use; comments due by 2-20-96; published 2-2-96

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 2-22-96; published 1-23-96

Delaware; comments due by 2-23-96; published 1-24-96

Ohio; comments due by 2-22-96; published 1-23-96

Virginia; comments due by 2-23-96; published 1-24-96

Hazardous waste:

Hazardous waste management system, identification and listing--

Petroleum refining process wastes; land disposal restrictions; comments due by 2-20-96; published 11-20-95

Identification and listing--

Constituent-specific exit levels for low-risk solid wastes; comments due by 2-20-96; published 12-21-95

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Chlorothalonil; comments due by 2-23-96; published 1-24-96

FEDERAL RESERVE SYSTEM

Conflict of interests; comments due by 2-20-96; published 12-19-95

Reimbursement for providing financial records (Regulation S):

Recordkeeping requirements for certain financial records; comments due by 2-20-96; published 12-20-95

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):

Allowable cost and payment clause; comments due by 2-20-96; published 12-21-95

Contractors' purchasing systems reviews; comments due by 2-20-96; published 12-21-95

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food additives:

Adjuvants, production aids, and sanitizers--

2-[[2,4,8,10-tetrakis(1,1-dimethylethyl)dibenzo [d,f][1,3,2], etc.; comments due by 2-23-96; published 1-24-96

Disodium decanedioate; comments due by 2-23-96; published 1-24-96

Tri[2(or 4)-C9-10-branched alkylphenyl] phosphorothioate; comments due by 2-22-96; published 1-23-96

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

Indiana; comments due by 2-21-96; published 1-22-96

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):

Allowable cost and payment clause; comments due by 2-20-96; published 12-21-95

Contractors' purchasing systems reviews; comments due by 2-20-96; published 12-21-95

PERSONNEL MANAGEMENT OFFICE

Employment:

Suitability, national security positions, and personnel investigations; comments due by 2-20-96; published 1-5-96

RAILROAD RETIREMENT BOARD

Railroad Retirement Act:

Retirement annuities; finality of decisions; comments due by 2-20-96; published 12-21-95

SECURITIES AND EXCHANGE COMMISSION

Investment companies:

Registered open-end management investment companies; shares distribution; comments due by 2-22-96; published 1-19-96

TRANSPORTATION DEPARTMENT

Coast Guard

Drawbridge operations:

New Jersey; comments due by 2-20-96; published 12-20-95

Federal regulatory review:

Industry standards; miscellaneous amendments; comments due by 2-20-96; published 12-20-95

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Aerospatiale; comments due by 2-20-96; published 1-11-96

Airbus; comments due by 2-20-96; published 1-11-96

Airbus Industrie; comments due by 2-21-96; published 1-19-96

Bracket Aircraft Co., Inc.; comments due by 2-20-96; published 12-18-95

Fokker; comments due by 2-21-96; published 1-19-96

New Piper Aircraft, Inc.; comments due by 2-21-96; published 12-7-95

Saab; comments due by 2-20-96; published 1-9-96

Sikorsky; comments due by 2-20-96; published 12-20-95

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Fuel economy standards:

Light trucks--

1998 model year; correction; comments due by 2-20-96; published 1-25-96

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration

Hazardous materials:

Hazardous materials transportation--

Miscellaneous amendments; comments due by 2-22-96; published 12-19-95

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau

Alcohol; viticultural area designations:

Malibu-Newton Canyon, CA; comments due by 2-20-96; published 12-22-95

Alcoholic beverages:

Wine; labeling proceedings--

Certificates of label approval, exemption from label approval, and distinctive liquor bottle approvals; comments due by 2-21-96; published 1-22-96

TREASURY DEPARTMENT

Comptroller of the Currency

Investment securities; Federal regulatory review; comments due by 2-20-96; published 12-21-95

Practice and procedure:

National banks; fiduciary activities; comments due by 2-20-96; published 12-21-95

Securities transactions; recordkeeping and confirmation requirements; comments due by 2-20-96; published 12-22-95

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

S corporations and their shareholders--

Treatment of gain from disposition of interest in certain natural resource recapture property; comments due by 2-20-96; published 12-21-95

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. 2353/P.L. 104–110

To amend title 38, United States Code, to extend the authority of the Secretary of Veterans Affairs to carry out certain programs and activities, to require certain reports from the Secretary of Veterans Affairs, and for other purposes. (Feb. 13, 1996; 110 Stat. 768)

H.R. 2657/P.L. 104–111

To award a congressional gold medal to Ruth and Billy Graham. (Feb. 13, 1996; 110 Stat. 772)

Last List February 14, 1996